

# **THABAZIMBI LOCAL UNICIPALITY**



## **SUPPLY CHAIN MANAGEMENT POLICY**

**2019-20**

## **PREAMBLE**

The Municipal Manager of the Thabazimbi Local Municipality (hereinafter referred to as “the Municipality”), being responsible for managing the financial administration of the Municipality hereby, in terms of the provisions of section 62(1)(f)(iv), read with section 111 of the Local Government: Municipal Finance Management Act, Act 56 of 2003 (hereinafter referred to as the “MFMA”), and in order to give effect to section 217(1) of the Constitution of the Republic of South Africa, 1996 (hereinafter referred to as “the Constitution”), establishes the Supply Chain Management Policy of the Municipality (also hereinafter referred to as “the SCM Policy”), as approved by its Council and which came into operation on and is to be implemented as such from the date of acceptance by the Council.

The SCM Policy of the Municipality will be one of the Municipality’s budget related policies, as referred to in the provisions of regulation 7 of the Municipal Budget & Reporting Regulations, 2008 and section 17(3)(e), section 21(1)(b)(ii)(bb), section 22(a)(i) and section 24(2)(c)(v) of the MFMA, and accordingly the Municipality will annually revise this policy and this policy, or any amendments thereto will be approved by the Council of the Municipality during the process in terms of which the Municipality adopts its budget, as described in section 24 of the MFMA.

# SUPPLY CHAIN MANAGEMENT POLICY

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## CHAPTER 1

### ESTABLISHMENT AND IMPLEMENTATION OF THE SUPPLY CHAIN MANAGEMENT POLICY

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#### 1. DEFINITIONS

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In this policy, except where the context otherwise indicates or it is expressly stipulated otherwise, the following words, expressions and/or abbreviations shall have the respective meanings assigned to them hereunder and words or expressions to which a meaning has been assigned in terms of the provisions of section 1 of the MFMA will have the corresponding meaning assigned thereto in terms of such section. Some of these words, expressions and/or abbreviations may not occur in the Policy, but are included for the sake of completeness. All headings are included for convenience only and shall not be used in the interpretation of any of the provisions of this policy.

NO	WORD/EXPRESSION	DEFINITION
<b>“A”</b>		
1.1	<b>“Accounting Officer”</b>	The Municipal Manager of the Municipality as referred to the definition of “Accounting Officer” as defined in terms of the provisions of section 1 of the MFMA and referred to in section 60 of the MFMA and includes a person acting as an Accounting Officer, or the person to whom the Accounting Officer has delegated his/her authority to act. Also refer to the definition of Municipal Manager below.
1.2	<b>“adjudication points”</b>	The points referred to in the Preferential Procurement Policy Framework Act, Act 5 of 2000: Preferential Procurement Regulations, 2011, and the preferential procurement section of this policy, also referred to as “evaluation points” or “preference points”.
1.3	<b>“all applicable taxes”</b>	Includes value added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies.
1.4	<b>“Auditor-General”</b>	The person appointed as Auditor-General in terms of section 193 of the Constitution, and includes a person acting as Auditor-General, acting in terms of a delegation by the Auditor-General or designated by the Auditor-General to

		exercise a power or perform a duty of the Auditor-General.
1.5	<b>“authority”</b>	A right or power attached to a rank or position permitting the holder thereof to make decisions, to execute such decisions or to have such decisions executed, take command or to demand action by others.
<b>“B”</b>		
1.6	<b>“B-BBEE”</b>	The Broad Based Black Economic Empowerment as defined in terms of the provisions of section 1 of the Broad-Based Black Economic Empowerment Act, Act 53 of 2003.
1.7	<b>“B-BBEE status level of contributor”</b>	The B-BBEE status awarded to a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of the provisions of section 9(1) of the Broad-Based Black Economic Empowerment Act, Act 53 of 2003.
1.8	<b>“bid”</b>	Includes a responsive tender, quotation, expression of interest, proposal, or any other proposition for doing business with the Municipality, whether solicited or not, or a written offer in a prescribed or stipulated form in response to an invitation by the Municipality for the provisions of goods and services.
1.9	<b>“bidder”</b>	Any person or entity submitting a bid.
<b>“C”</b>		
1.10	<b>“capital asset”</b>	Any immovable asset such as land, property or buildings or any movable asset that can be used continuously or repeatedly for more than one year in the production or supply of goods or services, for rental to others or for administrative purposes, and from which future economic or social benefit can be derived, such as plant, machinery and equipment.
1.11	<b>“Chief Financial Officer”</b>	A person appointed by the Council and designated by the Municipal Manager to manage the financial administration of the Municipality and who remains directly accountable to the Municipal Manager as contemplated in terms of the provisions of section 80(2)(a) read with section 1 and section 81 of the MFMA.
1.12	<b>“close family member”</b>	A spouse, child or parent of a person.

1.13	<b>“closing time”</b>	The time and date specified in bid documentation as the closing time for submission of bids after which no more bids may be submitted to or be accepted by the Municipality.
1.14	<b>“community based vendor”</b>	A supplier of goods and/or services who resides in a target area or community, who/which meets the criteria for community based vendors as determined by the Municipality from time to time, and who/which is registered on the list of the Municipality as an accredited prospective provider of goods and/or services.
1.15	<b>“comparative price”</b>	The price after the factors of a non-firm price and all unconditional discounts that can be utilised have been taken into consideration. A “non-firm price” means all prices other than a “firm price”.
1.16	<b>“competitive bid”</b>	A responsive bid in terms of a competitive bidding process.
1.17	<b>“competitive bidding process”</b>	A competitive bidding process referred to in regulation 12(1)(d) of the SCMR and this policy.
1.18	<b>“consortium or joint venture”</b>	An association of persons or entities formed for the purpose of combining the expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract or contracts. The joint venture or consortium must be formalised by agreement between the parties thereto.
1.19	<b>“Construction Industry Development Board” or “CIDB”</b>	The Construction Industry Development Board established by section 2 of the Construction Industry Development Board Act.
1.20	<b>“Construction Industry Development Board Act”</b>	The Construction Industry Development Board Act, Act 38 of 2000.
1.21	<b>“construction works”</b>	The provision of a combination of goods and services arranged for the development, extension, installation, repair, maintenance, renewal, removal, renovation, alteration, dismantling or demolition of a fixed asset including building and engineering infrastructure.
1.22	<b>“consultant”</b>	A person or entity providing labour and knowledge based expertise which is applied with reasonable skill, care and diligence.
1.23	<b>“contract”</b>	A written agreement resulting from the acceptance of a bid or

		quotation from a bidder by the Municipality and as contemplated in the provisions of section 116 of the MFMA.
1.24	<b>“contractor”</b>	A person or entity whose/which bid or quotation has been accepted by the Municipality and “service provider” has a corresponding meaning.
1.25	<b>“Council”</b>	The Municipal Council of the Municipality, its legal successors in title and its delegates.
<b>“D”</b>		
1.26	<b>“days”</b>	Calendar days, unless the context indicates otherwise.
1.27	<b>“demand management”</b>	A system which insures that the resources required to support the strategic and operational commitments of the Municipality are delivered at the correct time, at the right price, and at the right location, and that the quantity and quality satisfy the needs of the Municipality.
1.28	<b>“designated sector”</b>	A sector, sub-sector or industry that has been designated by the Department of Trade and Industry in line with national development and industrial policies for local production, where only locally produced goods and/or services or locally manufactured goods meet the stipulated minimum threshold for local production and content.
1.29	<b>“disability”</b>	In respect of a person means a permanent impairment of a physical, intellectual or sensory function, which results in restricted, or lack of, ability to perform an activity in the manner or in the range considered normal for a human being.
1.30	<b>“Disciplinary Regulations”</b>	Local Government: Disciplinary Regulations for Senior Managers, published under GN 344 in GG 34213 of 21 April 2011
1.31	<b>“disposal”</b>	A process of preparing, negotiating and concluding a written contract which involves the alienation of a capital asset of the Municipality, including a capital asset no longer needed by the Municipality or rights in respect thereof, by means of a sale or a donation, and “dispose” has a similar meaning.
1.32	<b>“disposal management”</b>	The system of the Municipality for the disposal or letting of assets, including unserviceable, redundant or obsolete assets in a cost-effective, but transparent and responsible manner, and also entails the maintenance of records and documents.

<b>“E”</b>		
1.33	<b>“engineering and construction works”</b>	The provision of a combination of goods and services, arranged for the development and provision of an asset including construction works and engineering infrastructure, or for the refurbishment of an existing asset.
1.34	<b>“evaluation points”</b>	Refer to “adjudication points” and/or “preference points”.
1.35	<b>“exempted capital asset”</b>	A municipal capital asset which is exempted by section 14(6) of the MFMA from the other provisions of that section, read with regulation 1 of the MATR.
<b>“F”</b>		
1.36	<b>“final award”</b>	The final decision on which bid or quote to accept.
1.37	<b>“firm price”</b>	The price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change in position, or abolition of customs or excise duty and any other duty, levy, or tax, which, in terms of a law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of a contract.
1.38	<b>“formal written price quotation”</b>	Quotations referred to in this policy and in regulation 12(1)(c) of SCMR and includes an electronic offer to the Municipality in response to an invitation to submit such a quotation.
1.39	<b>“functionality”</b>	The measurement according to predetermined norms and/or criteria, as set out in the bid documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a bidder.
<b>“G”</b>		
1.40	<b>“general conditions of contract”</b>	The general conditions of contract as set out in the bid documentation applicable to the said bid and not limited to the General Conditions of Contract for Construction Contracts, 2010 of the South African Institute of Civil Engineers.
1.41	<b>“goods and/or services”</b>	Apart from the normal grammatical meaning, also includes

		engineering and construction works and consultant works.
1.42	<b>“green procurement”</b>	Taking into account environmental criteria for goods and services to be purchased in order to ensure that the related environmental impact is minimised.
<b>“H”</b>		
1.43	<b>“historically disadvantaged individual” or “HDI”</b>	A South African citizen who, due to the apartheid policy that had been in place, had no franchise in national elections prior to the introduction of the Constitution or the Constitution of the Republic of South Africa, Act 200 1993 (“the Interim Constitution”); and/or who is a female, and/or who has a disability, provided that a person who obtained South African citizenship on or after the coming to effect of the Interim Constitution, is deemed not to be an HDI.
<b>“I”</b>		
1.44	<b>“improper conduct”</b>	Conduct which is tantamount to fraud, corruption, favouritism, unfair, irregular and unlawful practices, misrepresentation of information submitted in bid documents for the purposes of procuring a contract with the Municipality, misrepresentation regarding the contractor’s expertise and capacity to perform in terms of a contract procured via the Supply Chain Management System, breach of a contract procured via the Supply Chain Management System and failure to comply with the Supply Chain Management System.
1.45	<b>“in the service of the state”</b>	Means to be: (a) a member of: (i) any municipal council; (ii) any provincial legislature; or (iii) the National Assembly or the National Council of provinces; (b) a member of the board of directors of any municipal entity; (c) an official of any municipality or municipal entity; (d) an employee of any national or provincial department, national or provincial public entity or constitutional

		<p>institution with the meaning of the Public Finance Management Act, Act 1 of 1999;</p> <p>(e) a member of the accounting authority of any national or provincial public entity; or</p> <p>(f) an employee of Parliament or a provincial legislature.</p>
1.46	<b>“information technology” or “IT”</b>	The acquisition, processing, storage and dissemination of vocal, pictorial, textual and numerical information by a microelectronics-based combination of computing and telecommunications.
1.47	<b>“Integrated Development Plan” or “IDP”</b>	The plan envisaged in terms of the provisions of section 25 of the MSA.
<b>“L”</b>		
1.48	<b>“list of accredited prospective providers”</b>	The list of accredited prospective providers that a Municipality must keep in terms of regulation 14 of the SCMR.
1.49	<b>“local business”</b>	Service providers with active offices within the municipal area of the Municipality, which shall be interpreted on the basis of whether the offices are utilised for the goods and/or services to be procured, and whether the majority of staff is local.
1.50	<b>“Local Government: Municipal Finance Management Act” or “MFMA”</b>	The Local Government: Municipal Finance Management Act, Act 56 of 2003.
1.51	<b>“Local Government: Municipal Systems Act” or “MSA”</b>	The Local Government: Municipal Systems Act, Act 32 of 2000.
1.52	<b>“Structures Act” or “MSTA”</b>	The Local Government: Municipal Structures Act, Act 117 of 1998.
1.53	<b>“long term contract”</b>	A contract with a duration period exceeding 1 (one) year.
<b>“M”</b>		
1.54	<b>“Municipal Asset Transfer Regulations” or “MATR”</b>	The Asset Transfer Regulations, 2008, published under GN R878 in GG 31346 of 22 August 2008 (with effect from 1 September 2008) and promulgated in terms of the provisions

		of section 168 of the MFMA.
1.55	<b>“Municipal Budget &amp; Reporting Regulations, 2008”</b>	The Municipal Budget & Reporting Regulations, 2008, published under GN R393 in GG 32141 of 17 April 2009 (with effect from 1 July 2009) and promulgated in terms of the provisions of section 168 of the MFMA.
1.56	<b>“municipal entity”</b>	Means: <ul style="list-style-type: none"> <li>(a) a private company referred to in section 86B(1)(a) of the MSA;</li> <li>(b) a service utility; or</li> <li>(c) a multi-jurisdictional service utility;</li> </ul> as contemplated in terms of the provisions of the MSA.
1.57	<b>“Municipality”</b>	Means the THABAZIMBI LOCAL MUNICIPALITY, a local government and legal entity with full legal capacity as contemplated in section 2 of the Systems Act read with the provisions of Chapter 7 of the Constitution and sections 12 and 14 of the Structures Act, with its main place of business and the offices of the Municipal Manager, as envisaged in terms of the provisions of section 115(3) of the Systems Act, at: c/o University Drive and Hector Peterson Street, THABAZIMBI, NORTH WEST PROVINCE, and may, depending on the context, include: <ul style="list-style-type: none"> <li>(a) its successor in title; or</li> <li>(b) a functionary, employee or official exercising a delegated power or carrying out an instruction, in the event of any power being delegated as contemplated in terms of the provisions of section 59 of the Systems Act, or exercising any lawful act in the furtherance of the Municipality’s duties, functions and powers; or</li> <li>(c) an authorised service provider fulfilling a responsibility assigned to it by the Municipality through a service delivery agreement.</li> </ul>
1.58	<b>“Municipal Manager”</b>	The person appointed in terms of the provisions of section 54A of the MSA, and Accounting Officer of the Municipality.
1.59	<b>“Municipal Public-</b>	The Municipal Public-Private Partnership Regulations,



	<b>Private Partnership Regulations</b>	published under GN R309 in GG 27431 of 1 April 2005 (with effect from 1 April 2005) and promulgated in terms of the provisions of section 168 of the MFMA.
1.60	<b>“Municipality’s Register of Tender and Contract Defaulters”</b>	The list compiled by the Municipality for purposes of the combating of abuse of the Supply Chain Management System in terms of which the persons reflected on the list are prohibited from being awarded any contract by the Municipality for the specified period reflected on the list.
<b>“N”</b>		
1.61	<b>“non-exempted capital asset”</b>	A municipal capital asset which is not exempted in terms of the provisions of section 14(6) of the MFMA from the other provisions of that section.
<b>“O”</b>		
1.62	<b>“obsolete”</b>	As asset of the Municipality which is no longer in use or out of date, or which has become obsolete by reason of it being replaced with something new.
1.63	<b>“official”</b>	In relation to the Municipality or municipal entity, means: (a) an employee of a Municipality or municipal entity; (b) a person seconded to a Municipality or municipal entity to work as a member of the staff of the Municipality or municipal entity; or (c) a person contracted by a Municipality or municipal entity to work as a member of the staff of the Municipality or municipal entity otherwise than as an employee.
1.64	<b>“organ of state”</b>	Means: (a) any department of state or administration in the national, provincial or local sphere of government; or (b) any other functionary or institution: (i) exercising a power or performing a function in terms of the Constitution or a provincial constitution; or (ii) exercising a public power or performing a public function in terms of any legislation, but does not include a court or a judicial officer.

1.65	<b>“other applicable legislation”</b>	Any other legislation applicable to the supply chain management of the Municipality, including but not limited to the Preferential Procurement Policy Framework Act, the Broad-Based Black Economic Empowerment Act, the Construction Industry Development Board Act and the Consumer Protection Measures Act, Act 68 of 2008.
<b>“P”</b>		
1.66	<b>“planned project work”</b>	As opposed to term bids for the supply of goods and/or services that is of an ad-hoc or repetitive nature for a predetermined period of time.
1.67	<b>“this policy”</b>	This Supply Chain Management Policy of the Municipality.
1.68	<b>“preference points”</b>	Refer to “adjudication points” and/or “evaluation points”.
1.69	<b>“Preferential Procurement Policy Framework Act” or “PPPFA”</b>	The Preferential Procurement Policy Framework Act, Act 5 of 2000.
1.70	<b>“Preferential Procurement Regulations” or “PPR”</b>	The regulations published in terms of the provisions of section 5 of the PPPFA, specifically the Preferential Procurement Regulations, 2011 published under Government Gazette No. 34350 of 8 June 2011.
1.71	<b>“Prevention and Combating of Corrupt Activities Act” or “PCCAA”</b>	The Prevention and Combating of Corrupt Activities Act, Act 12 of 2004.
1.72	<b>“prime contractor”</b>	The person or entity with whom the Municipality contracts, as opposed to sub-contractors, suppliers, manufacturers or service providers who contract with the prime contractor.
1.73	<b>“prime cost item(s)”</b>	An item in a bid, the price of which cannot be fixed at the time of bidding, and which may only relate to the supply of materials and not to the carrying out of works.
1.74	<b>“provisional sum(s)”</b>	An amount allocated for specialised work, to be executed by a specialised service provider and for which the details are not available at the time of bidding.
1.75	<b>“Promotion of Access to Information Act” or</b>	The Promotion of Access to Information Act, Act 2 of 2000.

	<b>“PAIA”</b>	
1.76	<b>“Public-Private Partnership” or “PPP”</b>	Refers to the definition of “public-private partnership” as defined in terms of the provisions of Regulation 1 of the Municipal Public-Private Partnership Regulations, published under GN R309 in GG 27431 of 1 April 2005 and promulgated in terms of the provisions of section 168 of the MFMA.
<b>“Q”</b>		
1.77	<b>“quality”</b>	The measure according to predetermined criteria, of the suitability of a proposal, design or product for the use for which it is intended, and may also include the measure of the competency of a supplier.
<b>“R”</b>		
1.78	<b>“rand value”</b>	The total estimated value of a contract in South African Rands, calculated at the time of quotation and bid invitations and includes all applicable taxes and excise duties.
1.79	<b>“Republic”</b>	The Republic of South Africa.
1.80	<b>“responsible agent”</b>	Internal project managers being officials of the Municipality, or external consultants appointed by the Municipality to oversee the implementation of a project or contract.
1.81	<b>“risk management”</b>	The identification, measurement and economic control of risks that threaten the assets and income/earnings of person or entity or business or other enterprise.
<b>“S”</b>		
1.82	<b>“single-source selection”</b>	The procuring of services or goods from one single source as a result of the specialised or unique characteristics of the goods or services procured.
1.83	<b>“SITA”</b>	State Information Technology Agency.
1.84	<b>“small, medium and micro enterprises” or “SMME”</b>	Refers to “small enterprise” as defined in terms of the provisions of section 1 of the National Small Enterprise Act, Act 102 of 1996.
1.85	<b>“sub-contract”</b>	The agreement in terms of which or the act of a primary contractor appointing a sub-contractor.
1.86	<b>“sub-contractor”</b>	Any person or entity that is employed, assigned, or contracted by the prime contractor to carry out work in

		support of the prime contractor in the execution of a contract.
1.87	<b>“Supply Chain Management Policy”</b>	This Supply Chain Management Policy of the Municipality.
1.88	<b>“Supply Chain Management Regulations” or “SCMR”</b>	The Municipal Supply Chain Management Regulations, published under GN 868 in GG 27636 of 30 May 2005 and promulgated in terms of the provisions of section 168 of the MFMA.
1.89	<b>“Supply Chain Management Unit” or “SCMU”</b>	The Supply Chain Management Unit which functions under the management and control of the Municipal Manager of the Municipality, which unit is responsible for the implementation and management of this policy, as well as any and all other issues related to supply chain management which may be assigned to them by the Municipality.
<b>“T”</b>		
1.90	<b>“tender”</b>	Means bid in the context of procurement.
1.91	<b>“term bid”</b>	A rates-based bid for the ad hoc or repetitive supply of goods, services or construction works, where the individual rates are approved for use over a specified period.
1.92	<b>“total cost of ownership” or “TCO”</b>	The sum of direct spend, related spend, process spend and opportunity cost associated within a specific commodity and service to the owner.
1.93	<b>“treasury guidelines”</b>	Any guidelines on supply chain management issued by the Minister in terms of the provisions of section 168 of the MFMA.
1.94	<b>“trust”</b>	The arrangement through which the property of one person is made over of bequeathed to a trustee to administer such property for the benefit of another person.
<b>“U”</b>		
1.95	<b>“unserviceable”</b>	The condition of an asset which is no longer suitable for use and cannot be economically repaired.
1.96	<b>“unsolicited bid”</b>	An offer submitted by any person or entity at its own initiative, without having been invited by the Municipality to do so as envisaged by section 113 of the MFMA read together with Regulation 37 of the SCMR.

## **2. INTRODUCTION**

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- (1) Section 111 of the MFMA requires each Municipality to adopt and implement a Supply Chain Management Policy which gives effect to the requirements of the MFMA, and section 217(1) of the Constitution. In addition, the PPPFA requires an Organ of State to determine its preferential procurement policy and to implement it within the framework prescribed. These requirements are given effect to herein.
  
- (2) The Supply Chain Management System of the Municipality, contained in this policy, provides a mechanism to ensure fair, equitable, transparent, competitive and cost effective procurement and, sustainable and accountable supply chain management within the Municipality whilst promoting black economic empowerment, which includes general principles for achieving the following socio-economic objectives:
  - (a) to stimulate and promote local economic development in a targeted and focused manner;
  - (b) to promote resource efficiency and “green procurement”;
  - (c) to facilitate creation of employment and business opportunities for the people of the Municipality with particular reference to HDI’s;
  - (d) to promote the competitiveness of local businesses;
  - (e) to increase the small business sector access, in general, to procurement business opportunities created by Council;
  - (f) to increase participation by small, medium and micro enterprises; and
  - (g) to promote joint venture or consortium partnerships.

## **3. TITLE AND APPLICATION OF THE POLICY**

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- (1) This policy shall be known as the Municipality’s Supply Chain Management Policy, and shall be applicable to the municipal area of the Municipality as determined by the

Municipal Demarcation Board, and promulgated in terms of the provisions of section 12(1) and section 12(3)(c) of the Structures Act.

- (2) This policy applies to:
  - (a) the procuring of goods and/or services;
  - (b) the disposal by Council of goods no longer needed;
  - (c) the selection of contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the MSA applies; and
  - (d) the selection of external mechanisms referred to in section 80(1)(b) of the MSA for the provisions of municipal services in circumstances contemplated in section 83 of that Act.
  
- (3) Unless specifically stated otherwise herein or in the SCMR, this policy does not apply where the Municipality contracts with another organ of state for:
  - (a) the provision of goods and/or services to the Municipality; or
  - (b) the provision of a municipal service or assistance in the provision of a municipal service; or
  - (c) the procurement of goods and services under a contract secured by that organ of state, provided that the relevant supplier has agreed to such procurement and the process is compliant to the provisions of this policy; or
  
- (4) Where the Municipality wishes to contract with another organ of state as envisaged in sub-paragraph (3), a report must nevertheless be submitted to the bid adjudication committee seeking authority to contract with another organ of state, including, water from the Department of Water Affairs or a public entity, another municipality or municipal entity and electricity from Eskom or another public entity, another municipality or municipal entity and approval must be given by the Municipal Manager in writing.

- (5) The Municipality and all private person/s and/or entities must adhere to the principles, provisions, rules and requirements contained in this policy when dealing with any matter connected with and/or contained herein.

#### **4. AIM AND PURPOSE OF THE SUPPLY CHAIN MANAGEMENT SYSTEM**

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- (1) The aim and the purpose of the Supply Chain Management System is to have and maintain an efficient, fair, equitable, transparent, competitive and cost-effective supply chain system when sourcing and procuring goods and/or services, selling or letting of assets, which conforms to constitutional and legislative principles and maximises the benefits from the Municipality's consolidated buying power in the market place.
- (2) The Municipality must manage its financial and administrative resources in such a manner as to meet and sustain statutory or social obligations.

#### **5. OBJECTIVES OF THIS POLICY**

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- (1) The objectives of this policy are to implement the legislative provisions relating to the supply chain management of the Municipality, that:
- (a) gives effect to:
    - (i) section 217 of the Constitution; and
    - (ii) Part 1 of Chapter 11 and other applicable provisions of the MFMA;
  - (b) is fair, equitable, transparent, competitive and cost effective;
  - (c) complies with:
    - (i) the regulatory framework prescribed in Chapter 2 of the SCMR; and
    - (ii) any minimum norms and standards that may be prescribed by means of regulations or guidelines as envisaged by the provisions of section 168 of the MFMA;
  - (d) is consistent with other applicable legislation;
  - (e) does not undermine the objective for uniformity in Supply Chain Management Systems between organs of state in all spheres; and

- (f) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.
- (2) The Municipality may not act otherwise than in accordance with this Supply Chain Management Policy when:
- (a) procuring goods and/or services;
  - (b) disposing of goods no longer needed;
  - (c) selecting contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the MSA applies; or
  - (d) in the case of the Municipality selecting external mechanisms referred to in section 80(1)(b) of the MSA for the provision of municipal services in circumstances contemplated in section 83 of that Act.
- (3) To assure the creation of an environment where business can be conducted with integrity and in a fair, reasonable and accountable manner, this policy will ensure that the Municipal Manager and all officials of the Municipality involved in supply chain management activities must act with integrity, accountability, transparency and with the highest of ethical standards and free of favouritism, nepotism and corruption of any kind. The officials of the Municipality involved in supply chain management activities must adhere to the code of ethical standards contained in this policy, together with the Code of Conduct for Municipal Staff Members as contained in Schedule 2 of the MSA.

## **6. DELEGATED AUTHORITY OF SUPPLY CHAIN MANAGEMENT POWERS AND DUTIES**

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- (1) The Council has, in terms of its delegation of powers and functions in terms of the provisions of section 59 of the MSA, delegated such additional powers and duties to the Municipal Manager so as to enable the Municipal Manager:
- (a) to discharge the supply chain management responsibilities conferred on Accounting Officers in terms of:
    - (i) Chapter 8 of the MFMA; and
    - (ii) this policy;



- (b) to maximise administrative and operational efficiency in the implementation of the Supply Chain Management System;
  - (c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of the Supply Chain Management System; and
  - (d) to comply with his/her responsibilities in terms of section 115 and other applicable provisions of the MFMA.
- (2) Section 79 of the MFMA applies to the sub-delegation of powers and duties delegated to the Municipal Manager in terms of sub-paragraph (1) above.
- (3) Neither the Council, nor the Municipal Manager may delegate or sub-delegate any supply chain management powers or duties:
- (a) to a person who is not an official of the Municipality; or
  - (b) to a committee which is not exclusively composed of officials of the Municipality; or
  - (c) other than as provided for in the Municipality's system of delegations.
- (4) This paragraph may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in this policy.
- (5) No decision-making in terms of any supply chain management powers and duties may be delegated or sub-delegated to an external advisor or consultant. Consultants may however be engaged to advise or assist the officials and any committee of the Municipality with any functions or advice.
- (6) Delegations and/or sub-delegations of authority:
- (a) must be in accordance with pre-established levels of authority to ensure control and division of responsibility;
  - (b) must be in terms of the Municipality's system of delegations;
  - (c) must be in writing;
  - (d) must be made to a specific position and not to a named individual;
  - (e) may be confirmed, varied or revoked by the person who made such delegation or sub-delegation, but no such variation or revocation may detract from any right which may have accrued as a result of the delegation or sub-delegation; and

- (f) does not divest the Municipal Manager of the responsibility and/or accountability concerning the exercise of the delegated power or the performance of the delegated duty.
- (7) The Municipal Manager may confirm, vary or revoke any decision taken in terms of a delegation or sub-delegation, provided that no such variation or revocation may detract from any right which may have accrued as a result of such decision.
- (8) The Municipal Manager of the Municipality must develop and review, annually, a practical and efficient system of delegation and sub-delegation that will both maximise administrative and operational efficiency and provide adequate checks and balances in the financial administration of the Municipality.

## **6.1 Sub-delegations**

- (1) The Municipal Manager may, in terms of the provisions of section 79 of the MFMA sub-delegate any supply chain management powers and duties, including those delegated to the Municipal Manager in terms of sub-paragraph 6(1) above, but any such sub-delegation must be consistent with the provisions of the MSA, the MFMA, the system of delegations adopted by the Municipality and this policy.
- (2) The power to make a final award:
  - (a) above R10 million (including VAT) may not be sub-delegated by the Municipal Manager;
  - (b) above R2 million (including VAT), but not exceeding R10 million (including VAT), may be sub-delegated but only to:
    - (i) the Chief Financial Officer;
    - (ii) a director/senior manager, appointed in terms of the provisions of section 56 of the MSA; or
    - (iii) the bid adjudication committee of which the Chief Financial Officer or a director/senior manager is a member; or
  - (c) not exceeding R2 million (including VAT) may be sub-delegated but only to:
    - (i) the Chief Financial Officer;
    - (ii) a director/senior manager, appointed in terms of the provisions of section 56 of the MSA;

- (iii) a manager directly accountable to the Chief Financial Officer or a director/senior manager; or
  - (iv) the bid adjudication committee.
  
- (3) An official or bid adjudication committee to which the power to make final awards has been sub-delegated in accordance with sub-paragraph (2) above, must within 5 (five) days of the end of each month submit to the official referred to in sub-paragraph (4) below, a written report containing particulars of each final award made by such official or committee during that month, including:
  - (a) the amount of the award;
  - (b) the name of the person to whom the award was made; and
  - (c) the reason why the award was made to that person.
  
- (4) A written report referred to in sub-paragraph (3) above must be submitted:
  - (a) to the Municipal Manager, in the case of an award by:
    - (i) the Chief Financial Officer;
    - (ii) a director/senior manager, appointed in terms of the provisions of section 56 of the MSA; or
    - (iii) the bid adjudication committee of which the Chief Financial Officer or a director/senior manager is a member; or
  - (b) to the Chief Financial Officer or the director/senior manager responsible for the relevant bid, in the case of an award by:
    - (i) a director/manager referred to in sub-paragraph (2)(c)(iii) above; or
    - (ii) the bid adjudication committee of which the Chief Financial Officer or a director/senior manager is not a member.
  
- (5) Sub-paragraphs (3) and (4) above do not apply to procurements out of petty cash.
  
- (6) This paragraph may not be interpreted as permitting an official to whom the power to make final awards has been sub-delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in this policy.

## **6.2 Oversight role of the Municipality**

- (1) The Council must maintain oversight over the implementation of this policy by the Municipal Manager.
- (2) For the purposes of such oversight the Municipal Manager must:
  - (a)
    - (i) submit a report, as part of the annual report of the Municipality for a financial year and which shall be submitted to the Council, as referred to in section 121 of the MFMA, on the implementation of this policy;
    - (ii) whenever there are serious and material non-compliance, problems or deviations in the implementation of this policy, immediately submit a report on such matters to the Council.
- (3) The Municipal Manager must, within 10 (ten) days of the end of each quarter, submit a report on the implementation of this policy to the Executive Mayor of the Municipality.
- (4) The Executive Mayor must provide general political guidance over the fiscal and financial affairs of the Municipality and may monitor and oversee the exercise of responsibilities assigned to the Municipal Manager and Chief Financial Officer in terms of the MFMA. This role of the Executive Mayor is an oversight role only, and specifically excludes any interference or influence in or over a decision to award procurement contracts.

## **6.3 Supply Chain Management Units**

- (1) The Municipality must establish a Supply Chain Management Unit within the Budget and Treasury Office (BTO) to implement this policy.
- (2) The Supply Chain Management Unit must, where possible, operate under the direct supervision of the Chief Financial Officer, or an official to whom this duty has been delegated in terms of this paragraph.

## **7. COMPETENCY AND TRAINING OF SUPPLY CHAIN MANAGEMENT OFFICIALS**

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- (1) The Municipal Manager must ensure that all officials involved in the implementation of this policy meet the prescribed competency levels, and where necessary, shall provide or procure relevant training.
- (2) The training of officials involved in implementing this policy must be in accordance with any treasury guidelines on supply chain management training.

## **8. DUTIES AND RESPONSIBILITIES**

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### **8.1 General responsibilities of the officials of the Municipality**

- (1) Each official must carry out their activities within his/her area of responsibility.
- (2) Each official must take appropriate steps to prevent any unauthorised, irregular, fruitless and wasteful expenditure in his/her area of responsibility.
- (3) Each official responsible for a task must carry it out in accordance with the various supply chain requirements contained in this policy.
- (4) Any matter not specifically delegated or sub-delegated to an official, must be referred to the Municipal Manager for proper allocation thereof.
- (5) Each official is responsible for all assets of the Municipality within his/her area of responsibility.

### **8.2 Responsibilities of the Municipal Manager**

- (1) The Municipal Manager must:
  - (a) ensure strict adherence and compliance with the provisions of this policy and all relevant legislation;
  - (b) implement and comply with the provisions of this policy;
  - (c) review the targets and this policy annually or cause the targets and Policy to be so reviewed;
  - (d) appoint the members of the Bid committees after personally ensuring the competency and suitability of such members for the position;

- (e) ensure that the most favourable service providers are appointed in accordance with this policy and that any deviations from a proposal by the bid adjudication committee are, reported to the Council at the next available Council meeting;
- (f) establish a Supply Chain Management Unit within the financial directorate in order to assist the Municipal Manager to implement this policy;
- (g) review this policy at least annually or when the Municipal Manager considers it necessary, and submits proposals or amendments to this policy to the Council.

### **8.3 Responsibilities of the Directors/Manager appointed in terms of the provisions of section 56 of the MSA**

- (1) Each director/manager of the Municipality, appointed in terms of the provisions of section 56 of the MSA, is responsible and accountable for:
  - (a) exercising the powers, performing the functions and discharging the duties conferred or assigned to him in terms of this policy or any delegation from the Municipal Manager;
  - (b) implementing this policy and any procedural and/or other prescripts issued in terms of this policy and within his/her area of responsibility;
  - (c) ensure compliance with this policy and any procedural and/or other prescripts issued in terms of this policy and within his/her area of responsibility;
  - (d) developing draft specifications, or causing draft specifications to be developed, for the procurement by his/her directorate of goods or services that exceed an amount of R1 000.00 (including VAT);
  - (e) the management of asset utilisation in his/her area of responsibility;
  - (f) planning for and, in as far as is possible, accurately estimating the costs for the provision of services, works or goods for which offers are to be solicited;
  - (g) selecting the appropriate preference point system to be utilised in the solicitation and evaluation of bids;
  - (h) assuring that objectives and targets are achieved with regard to procurements and/or disposals by the Municipality; and
  - (i) proper contract and project management of every contract and/or project undertaken by his/her directorate.

## **8.4 Responsibilities of the Chief Financial Officer**

The Chief Financial Officer is the custodian of this policy and is responsible for:

- (1) reporting to the Municipal Manager on the progress regarding the implementation of this policy;
- (2) recommending improvements on the practical implementation of this policy and possible amendments;
- (3) the conducting of procurement audits of the entire Supply Chain Management System to identify successes and/or failures and/or unauthorised, irregular, fruitless and wasteful expenditure and to report on any findings which are not in accordance with the provisions of this policy to the Municipal Manager;
- (4) management of the quotation and competitive bidding process from the solicitation thereof to processing invoice payment;
- (5) promoting a corporate approach by encouraging standardisation of items purchased within the Municipality to realise and achieve economies of scale;
- (6) providing supplier interface on supplier performance issues;
- (7) ensuring that all procurement and/or disposals are effected in accordance with all relevant legislation;
- (8) managing procurement and/or disposals in order to ensure that the Supply Chain Management System and this policy are complied with;
- (9) ensuring that the procurement and/or disposal process followed by the Municipality adheres to the preference targets without compromising price, quality, service and developmental objectives;
- (10) ensuring that the officials of the Municipality who are involved in the supply chain management process receive the necessary training and are properly qualified to support the implementation of this policy;
- (11) specifying the amount to be paid by prospective service providers as a non-refundable deposit for enquiry documents issued by the Municipality;
- (12) the verification of applications from prospective service providers for possible inclusion in the Register;

- (13) submitting regular reports to the Municipal Manager and the relevant committee structure of the Municipality regarding progress and any matters of importance relating to this policy; and
- (14) authorising and designating officials to distribute bid documentation, and when required notices regarding supply chain management matters.

## **8.5 Responsibilities of the Supply Chain Management Unit**

- (1) The SCMU shall be subject to the management and control of, and accountable to the Chief Financial Officer.
- (2) The SCMU must consist of at least the following sections or designate persons responsible for:
  - (a) demand management;
  - (b) procurement/acquisition management;
  - (c) logistics;
  - (d) performance and contract management;
  - (e) disposal and asset management; and
  - (f) risk management.
- (3) The manager of the SCMU will be responsible and accountable for the day-to-day management of the SCMU.
- (4) The personnel of the SCMU are appointed by the Municipal Manager in consultation with the Chief Financial Officer.
- (5) The SCMU must issue, receive and finalise the appropriate documents for the procurement of goods and/or services by means of verbal, written or formal price quotations of a transaction value of over R2 000.00 (including VAT), up to R200 000.00 (including VAT), as well as all documents for procurement by means of a competitive bidding process of a transaction value of over R200 000.00 (including VAT).
- (6) All documents for the disposal of movable and/or immovable capital assets must be issued, received and dealt with by the SCMU.



## **9. COMMUNICATIONS**

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Any and all correspondence with regard to this policy must be addressed to the manager of the SCMU, and copied to the Municipal Manager.

## **CHAPTER 2**

### **FRAMEWORK OF THE SCM POLICY**

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#### **10. ESTABLISHMENT AND IMPLEMENTATION OF THE SUPPLY CHAIN MANAGEMENT SYSTEM**

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The Supply Chain Management System of the Municipality is an integrated system for the acquiring of goods, works and services on a fair, equitable, competitive and cost effective basis and consists of the following systems:

- (1) demand management system;
- (2) acquisition management system;
- (3) logistics management system;
- (4) disposal management system;
- (5) risk management system; and
- (6) performance management system.

#### **11. DEMAND MANAGEMENT**

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- (1) Demand management provides for an effective system to ensure that the resources required to support the strategic and operational commitments of the Municipality are delivered at the correct time, at the right price and at the right location, and that the quantity and quality satisfies the needs of the Municipality.
- (2) The Municipality's Integrated Development Plan (IDP) is a comprehensive strategy document setting out how the Municipality intends to address its development challenges in a financial year. The IDP determines how the resources of the Municipality will be allocated and is the planning device on which the budget is based.
- (3) In order to achieve effective demand management, the manager of the SCMU must continuously ensure:
  - (a) that efficient and effective provisioning and procurement systems and practices are implemented to enable the Municipality to deliver the required quantity and quality of services to the communities;

- (b) the establishment of uniformity in policies, procedures, documents and contract options and the implementation of sound systems of control and accountability;
  - (c) the development of a world-class professional Supply Chain Management System which results in continuing improvement in affordability and value for money, based on total cost of ownership and quality of procurement as competition amongst suppliers is enhanced; and
  - (d) in dealing with suppliers and potential suppliers that the Municipality responds promptly, courteously and efficiently to enquiries, suggestions and complaints.
- (4) Demand management lies at the beginning of the supply chain and the major activities associated with identifying demand are:
- (a) establishing requirements;
  - (b) determining needs; and
  - (c) deciding on appropriate procurement strategies.
- (5) Demand management accordingly involves the following activities:
- (a) understanding the future needs;
  - (b) identifying critical delivery dates;
  - (c) identifying the frequency of the need;
  - (d) linking the requirement to the budget;
  - (e) conducting expenditure analyses based on past expenditure;
  - (f) determining requirements;
  - (g) conducting commodity analysis in order to check for alternatives; and
  - (h) conducting industry analysis.
- (6) Each director/manager, appointed in terms of the provisions of section 56 of the MSA, must during the preparation of his/her directorate's estimates for the budget year:
- (a) determine which functions must be performed;
  - (b) determine the products and services it must provide in the performance of those functions;
  - (c) conduct a condition assessment of the assets managed by his/her directorate;
  - (d) on the basis of the analysis in terms of the above, make recommendations and determine the financial needs during the budget year for:

- (i) maintaining existing assets at an acceptable level calculated to ensure the continued productivity of the asset in question and minor repairs;
  - (ii) repairing existing assets;
  - (iii) refurbishing or renovating existing assets;
  - (iv) extensive repairing of existing assets;
  - (v) replacing existing assets; and
  - (vi) acquiring new assets.
- (7) The SCMU must, after consultation with each director/manager, compile a schedule of goods and services to be procured for capital projects in respect of each financial year, which schedule must be attached to the Municipality's budget implementation plan.
- (8) During the consultations between the SCMU and the directors/managers, all reasonable steps must be taken in order to determine:
- (a) the desired date and time at which a specific contract must be awarded;
  - (b) the desired date and time when specific goods must be delivered, services rendered or work executed including key milestones and deliverables so that performance can be monitored and evaluated;
  - (c) the place where any goods to be supplied shall be delivered;
  - (d) the quantity of any goods to be supplied; and
  - (e) any other relevant matter.

## **12. ACQUISITION MANAGEMENT**

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- (1) The acquisition management system provides the general conditions and procedures which are applicable, as amended from time to time, to all procurement, contracts and orders of the Municipality.
- (2) The acquisition management system of the Municipality must ensure that:
- (a) goods and/or services are procured by the Municipality in accordance with authorised processes incorporated herein;
  - (b) expenditure on goods and/or services is incurred and managed in terms of an approved budget;

- (c) the threshold values for the different procurement procedures are complied with;
  - (d) bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with the requirements of relevant legislation including the PPPFA and any conditions of the CIDBA (in as far as applicable); and
  - (e) procurement guidelines issued by National Treasury or the Provincial Treasury are properly taken into account.
- (3) The Municipality must make public the details of the nature of goods and/or services together with the name/s of the provider/s where the Municipality procures such goods and/or services from another organ of state or a public entity.
- (4) The Municipality must make public the fact that it procures goods and/or services otherwise than through its Supply Chain Management System, including:
  - (a) the kind/type of goods and/or services; and
  - (b) the name of the supplier.
- (5) Where appropriate the Municipal Manager may appoint a neutral and/or independent observer in order to ensure fairness and transparency in the application of the acquisition management system, or to assist and advise the SCMU in the execution of their functions and duties.
- (6) The Municipality may not enter into any contract which will impose financial obligations beyond the 3 (three) years covered in the annual budget for that financial year unless the requirements of section 33(1) of the MFMA have been fully complied with or proper provision has been made in such contract to so comply.
- (7) The following applies where the Municipality procures public-private partnership agreements:
  - (a) Part 2 of Chapter 11 of the MFMA; and
  - (b) section 33 of the same act where such agreement will have multi-year budgetary implications for the Municipality within the meaning of that section;
  - (c) the provisions of the Municipal Public-Private Partnership Regulations as published in terms of S 168 of the MFMA.
- (8) In respect of any contract relating to the publication of official and/or legal notices and/or advertisements in the press by or on behalf of the Municipality, a competitive bidding process need not be followed.

- (9) The manager of the SCMU may request quotations directly from community based vendors in a specific area or from a specific community for the procurement of goods and services for transaction amounts of a value less than R30 000.00 (including VAT).
- (10) This policy, save where the SCMR provides otherwise, does not apply in respect of the procurement of:
- (a) goods or services to the Municipality in terms of a contract with another organ of state;
  - (b) the provision of a municipal service in terms of a contract with another organ of state;
  - (c) goods and services under a contract secured by another organ of state provided that the supplier and that other organ of state has agreed and conserved in writing to such procurement and:
    - (i) the contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;
    - (ii) the Municipality on [reasonable enquiry] has no reason to believe that such contract was not validly procured;
    - (iii) there are demonstrable discounts or benefits for the Municipality to procure under such contract.

### **12.1 Range of procurement processes**

- (1) The procurement of goods and services must be done through the range of procurement processes set out in this paragraph, which are:
- (a) petty cash purchases up to, and including a transaction value of R2 000.00 (including VAT);
  - (b) written or verbal quotations for procurements of a transaction value exceeding R2 000.00, up to and including a transaction value of R10 000.00 (including VAT);
  - (c) formal written price quotations for procurements of a transaction value exceeding R10 000.00, up to and including a transaction value of R200 000.00 (including VAT); and
  - (d) a competitive bidding process for:

- (i) procurements where the estimated transaction value exceeds R200 000.00 (including VAT); and
  - (ii) the procurement of a long terms contract (exceeding one year in duration).
- (2) The Municipal Manager of the Municipality may:
  - (a) lower, but not increase, the different threshold values specified in this acquisition management system; or
  - (b) direct that:
    - (i) written or verbal quotations be obtained for any specific procurement of a transaction value lower than R2 000.00;
    - (ii) formal written price quotations be obtained for any specific procurement of a transaction value lower than R10 000.00; or
    - (iii) a competitive bidding process be followed for any specific procurement of a transaction value lower than R200 000.00.
- (3) Goods and/or services may not be deliberately divided into parts or items of a lesser value merely to avoid complying with the requirements of this policy and when transaction values are determined for procurements consisting of different parts or items it must, in as far as possible, be treated, dealt with and be calculated as a single transaction.

## **12.2 General preconditions for the consideration of written quotations or bids**

- (1) The Municipality may not consider a written quotation or bid unless the provider who submitted the quotation or bid:
  - (a) has furnished the Municipality with that provider's:
    - (i) full name;
    - (ii) identification number or company or other registration number;
    - (iii) tax reference number;
    - (iv) VAT registration number, if any; and
    - (v) a certificate of attendance at a compulsory site inspection, where applicable.

- (b) has submitted an original and valid tax clearance certificate from the South African Revenue Services (SARS) certifying that the provider's tax matters are in order;
  - (c) has authorised the Municipality to obtain a tax clearance from the South African Revenue Services (SARS) certifying that the provider's tax matters are in order, if deemed necessary; and
  - (d) has indicated:
    - (i) whether he/she or it is in the service of the state, or has been in the service of the state in the previous 12 (twelve) months;
    - (ii) if the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the state, or has been in the service of the state in the previous 12 (twelve) months; or
    - (iii) whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in sub-paragraph (ii) above, is in the service of the state, or has been in the service of the state in the previous 12 (twelve) months.
- (2) Chapter 3 of this policy applies *mutatis mutandis* to this paragraph.

### **12.3 Lists of accredited prospective providers**

- (1) The municipality shall on a yearly basis encourage and remind the service providers or suppliers within its area of jurisdiction to ensure that all requirements for the Central Supplier database are met. The Municipality may maintain its supplier database in line with the central supplier database which must be updated on an annual basis.
- (2) The municipality shall verify on-line through the Central Supplier Database before awarding tenders for the following:
  - a. Confirmation and status of Business Registration Documents;
  - b. Proof of Bank Account Registration;
  - c. Tax compliance status;



- d. Employee in the service of state as defined in the Municipal SCM Regulations with information only available in the PERSAL system at this time, namely National and Provincial officials;
  - e. Identity Documentation; and
  - f. Tender defaulters and restrictions status.
- (3) The following aspects are to be verified with the service providers directly until they are integrated into the National Treasury Central Supplier Database:
- a. BBBEE Status (not yet available, municipalities are required to continue with their current and existing process);
  - b. CIDB; and
  - c. Municipal Account status i.e. the suppliers must ensure that their municipal account are not overdue for more than 90days.
- (4) For quotations up to and including R200 000.00 (including VAT) and above, bidders are required to be registered on the National Treasury Central Database (CSD) on or before the closing date in order for their quotations to be responsive.
- (5) All parties to a consortium or joint venture must comply with the requirements of subparagraphs (6) and (7) above and the consortium or joint venture must be registered on National Treasury Central Supplier Database (CSD).

#### **12.4 Petty cash purchases**

- (1) Petty cash purchases may be made where goods and/or services which does not exceed a transaction value of R2 000.00 (including VAT) are required.
- (2) The Municipal Manager may delegate the petty cash procurement responsibilities to a manager reporting to the Municipal Manager on the terms and conditions set for delegations in this policy. The Manager may not in turn delegate the responsibility for petty cash purchases to any other official.
- (3) Each director/manager appointed in terms of the provisions of section 56 of the MSA must compile and submit a monthly reconciliation report to the Chief Financial Officer, which report must include the total amount of petty cash purchases for that months accompanied by the receipts and appropriate documents for each purchase.
- (4) Dividing any purchases into lesser transaction values in order to circumvent the written price quotation and/or formal written price quotation processes is prohibited.
- (5) The total number of petty cash purchases per directorate is limited to 10 (ten) per month.

## **12.5 Written or verbal quotations**

- (1) When the Municipality intends to procure by way of written or verbal quotations, goods and/or services which has a transaction value of over R2 000.00 (including VAT) up to and including R10 000.00 (including VAT), written price quotations must be obtained from at least 3 (three) different providers preferably from, but not limited to, providers whose names appear on the Central Supplier Database (CSD), provided that if quotations are obtained from providers who are not so listed, such providers must meet the listing criteria in terms of the provisions MFMA Circular 81 dated Mach 2016.
- (2) The Municipality must attempt to promote ongoing competition amongst providers of goods and/or services by inviting such providers to submit written or verbal quotations on a rotational basis.
- (3) To the extent feasible, providers must be requested to submit such quotations in writing.
- (4) If it is not possible to obtain at least 3 (three) written quotations, the reasons must be recorded and approved by the Chief Financial Officer who must, within 3 (three) days before the end of each month, report to the Accounting Officer and eventually to council on any such approvals given in this regard.
- (5) The Municipal Manager must record the names of the potential providers requested to provide quotations, together with their quoted prices.
- (6) If a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider.
- (7) Dividing required purchases into lesser transaction values in order to circumvent the written price quotation process is not permissible.
- (8) The Municipal Manager must take all reasonable steps to ensure that the procurement of goods and services through written or verbal quotations is not abused and that full and complete records of all such procurements are kept including the date of the procurement, the goods or services procured, the selected provider, the details and prices of the other providers and any other relevant information.
- (9) The Municipal Manager and the Chief Financial Officer must, on a monthly basis, be notified in writing of all written or verbal price quotations accepted by an official acting in terms of a sub-delegation.

## **12.6 Formal written price quotations**

- (1) When the Municipality intends to enter into any contract for the procurement of goods and/or services of a transaction value of over R10 000.00 (including VAT) up to and including R200 000.00 (including VAT), a minimum of 3 (three) formal written price quotations must be obtained from providers who are suitably qualified and experienced, who/which have the necessary resources and who/which are registered and verified on the Central Supplier Database (CSD).
- (2) The Municipality must attempt to promote ongoing competition amongst providers of goods and services by inviting such providers to submit formal written price quotations on a rotational basis.
- (3) Formal written price quotations may not be obtained from providers who are not registered on the Central Supplier Database.
- (4) Requests to submit formal written price quotations which are likely to be in excess of R30 000.00 (including VAT), must be advertised for at least 7 (seven) days on the official website of the Municipality as well as the official notice board of the Municipality.
- (5) If it is not possible to obtain at least 3 (three) formal written price quotations, the reasons must be recorded and approved by the Chief Financial Officer who must, within 3 (three) days before the end of each month, report to the Municipal Manager on any such approvals given in this regard.
- (6) The Municipal Manager must record the names of the potential providers requested to provide formal written price quotations, together with their quoted prices.
- (7) Notwithstanding the provisions of this paragraph, if formal written price quotations have been invited on the official website of the Municipality, no additional quotes need be obtained where the number of responses thereto are less than 3 (three).
- (8) The Municipal Manager must take all reasonable steps to ensure that the procurement of goods and services through formal written price quotations are not abused.
- (9) The Municipal Manager and the Chief Financial Officer must, on a monthly basis, be notified in writing of all formal written price quotations accepted by an official acting in terms of a sub-delegation.

## **12.7 Competitive bids and process for competitive bids**

- (1) Competitive bids must be called for any procurement of goods and/or services above a transaction value of R200 000.00 (including VAT), and/or for any long term contracts.
- (2) No requirement for goods and/or services above an estimated transaction value of R200 000.00 (VAT included), may be deliberately divided into parts or items of lesser value merely for the sake of circumventing the competitive bidding process and/or procuring such goods and/or services otherwise than through a competitive bidding process.
- (3) Goods and/or services to be procured which consist of different parts or items must, in as far as possible, be treated, dealt with and be calculated as a single transaction.

#### ***12.7.1 Bid documentation for competitive bids***

- (1) In addition to the contents of paragraph 12.2 of this policy, the compilation of bid documentation by the Municipality must:
  - (a) take into account and contain, where applicable:
    - (i) the General Conditions of Contract of National Treasury (July 2010, or as amended from time to time);
    - (ii) any treasury guidelines on bid documentation;
    - (iii) the requirements of the CIDB, including the general conditions of contract, in the case of a bid relating to construction works, upgrading or refurbishment of buildings or infrastructure;
    - (iv) supply chain management guidelines of National Treasury or the Provincial Treasury in respect of goods and/or services;
    - (v) the general conditions of contract, in as far as applicable; and in as far as the contents of the above referred to documents are in accordance and amplification of this policy, but in the event of any conflict between the contents of these documents and this policy, the provisions of this policy will prevail.
  - (b) include evaluation and adjudication criteria, including any criteria required by other applicable legislation, and in instances where functionality forms part of such criteria ensure that the bid documentation complies with the conditions set

pertaining to functionality as set out in the PPR and National Treasury's SCM Circular 53;

- (c) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;
- (d) if the value of the transaction is expected to exceed R10 million (including VAT), require bidders to furnish:
  - (i) their audited annual financial statements, if the bidder is required by law to prepare annual financial statements for auditing:
    - (aa) for the past 3 (three) years; or
    - (bb) since their establishment, if the bidder was established during the past 3 (three) years;
  - (ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a Municipality or other service provider in respect of which payment is overdue for more than 30 (thirty) days;
  - (iii) particulars of any contracts awarded to the bidder by an organ of state during the past 5 (five) years, including particulars of any material non-compliance or dispute concerning the execution of such contract; and
  - (iv) a statement indicating whether any portion of the goods and/or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the Municipality is expected to be transferred out of the Republic;
- (e) stipulate that disputes, objections, complaints and quires must be dealt with as prescribed in terms of this policy and the SCMR;
- (f) a clear indication of the terms and conditions of contract, specifications, criteria for evaluation and adjudication procedures to be followed where applicable, and include where, in exceptional circumstances, site inspections are compulsory;
- (g) an appropriate contract and/or delivery period specification for all contracts;
- (h) the requirements of the preferential procurement paragraph of this policy (Chapter 5) and be clearly set out in the bid documentation.

- (2) Bid documentation and evaluation criteria may not be aimed at hampering competition, but rather to ensure fair, equitable, transparent, competitive and cost effective bidding, as well as the protection or advancement of persons, or categories of persons, as embodied in the preferential procurement paragraph of this policy.
- (3) Bid documentation must compel a bidder to furnish the following:
- (a) Central Supplier Database (CSD) number and full name/s;
  - (b) identification number, company or other registration number;
  - (c) tax reference number;
  - (d) VAT registration number, if any;
  - (e) an original tax clearance certificate from SARS stating that the bidder's tax matters are in order;
  - (f) BBBEE certificate
  - (g) proof that the bidder's account and that of any member or director of the bidder for municipal rates and taxes and municipal service charges are not in arrears, or where the bidder does not have such an account, the person(s) managing or in control of the bidder; and
  - (h) disclosure as to whether:
    - (i) the bidder is listed on any government database of persons prohibited from doing business with the public sector; or
    - (ii) has failed to perform satisfactorily on a previous contract with the Municipality or any other municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;
    - (iii) the bidder or any of its members or directors has committed a corrupt or fraudulent act in competing for the particular contract;
    - (iv) the bidder or any of its members or directors:
      - (aa) has abused the Supply Chain Management System of the Municipality or has committed any improper conduct in relation to such system;
      - (bb) has been convicted of fraud or corruption during the past five years;

- (cc) has wilfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past 5 years; or
  - (dd) has been listed in the Register for Tender Defaulters in terms of S29 of the Prevention and Combating of Corrupt Activities Act, Act 12 of 2004.
- (4) A provision for the termination/cancellation of the contract in the case of no or under-performance must be included in the bid documentation.
- (5) Unless otherwise indicated in the bid documents, the Municipality will not be liable for any expenses incurred in the preparation and/or submission of a bid.
- (6) Bid documentation must state that the Municipality is not be obliged to accept the lowest bid, any alternative bid or any bid.
- (7) Bid documentation must compel bidders to declare any conflict/s of interest they may have in the transaction for which the bid is submitted.
- (8) The bid documentation must require bidders to disclose:
  - (a) whether he or she is in the service of the state, or has been in the service of the state within the previous 12 (twelve) months;
  - (b) if the bidder is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the state, or has been in the service of the state in the previous 12 (twelve) months; or
  - (c) whether a spouse, child or parent of the bidder or of a director, manager, shareholder or stakeholder referred to in sub-paragraph (8)(b) above, is or has been in the service of the state within the previous 12 (twelve) months.
- (9) Bid documentation for consultant services must require bidders to furnish to the Municipality particulars of all consultancy services, and any similar services (to the services being bid for) provided to an organ of state in the last 5 (five) years.
- (10) Bid documentation for consultant services must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, item, system or process designed or devised by a consultant in terms of an appointment by the Municipality, shall vest in the Municipality.
- (11) Bid documentation may state that alternative bids can be submitted provided that a bid free of qualifications and strictly in accordance with the bid documents is also submitted.

- (12) Where provided for in the bid documentation, an alternative bid must be submitted on a separate complete set of bid documents and must clearly be marked “Alternative Bid”, in order to distinguish it from the unqualified bid.
- (13) Bid documentation must state that the Municipality will not be bound to consider alternative bids.
- (14) Bid documentation must provide the validity period of the bid.
- (15) Unless the Municipal Manager directs otherwise, bids are invited within the Republic only.
- (16) The laws of the Republic will apply and govern contracts of the Municipality arising from the acceptance of bids.
- (17) Bid documentation must also state that:
  - (a) the Municipality may award the bid to the bidder who has not scored the highest points if objective criteria, in addition to the criteria set out in section 2(1)(d) and section 2(1)(f) of the PPPFA, justify the award of the bid to another bidder; and
  - (b) where a bid appears to be unrealistic and the Municipal Manager has satisfied himself on enquiry with the bidder that the bid cannot be completed on the terms or for the price so bid, that such bid may be excluded.

#### ***12.7.2 Public invitation for competitive bids***

- (1) A notice of invitation to prospective providers to submit bids must be by means of a public advertisement in newspapers commonly circulating within the municipal area of the Municipality in English, the website of the Municipality, the official notice board of the Municipality or any other appropriate ways (which may include an advertisement in the Government Tender Bulletin).
- (2) The notice of invitation contemplated in sub-paragraph (1) above, must contain the following advertisement information:
  - (a) the closure date and time for the submission of bids, which may not be less than 30 (thirty) days in the case of transactions over R10 million (including VAT), or which are of a long term nature, 14 (fourteen) days in any other case, from the date on which the advertisement is placed in a newspaper, subject to sub-paragraph (3) below;



- (b) a statement that bids may only be submitted on the bid documentation provided by the Municipality;
  - (c) the title of the proposed contract and the bid or contract reference number;
  - (d) such particulars of the proposed contract as the Municipality deems fit;
  - (e) the date, time and location of any site inspection, if applicable;
  - (f) the place where the bid documentation is available for collection and the times between which bid documentation may be collected;
  - (g) the place where bids must be submitted;
  - (h) the required CIDB contractor grading for construction works, if applicable; and
  - (i) the validity period of the bid.
- (3) The Municipal Manager may determine a closure date for the submission of bids which is less than the 30 (thirty) or 14 (fourteen) days requirement provided in sub-paragraph (2) above, but only if such shorter period can be justified on the grounds of an emergency, urgency or any exceptional case where it is impractical or impossible to follow the official procurement process.
- (4) The bid notice may require payment of a non-refundable tender fee by bidders wanting to collect bid documents, which tender fee will be determined by the Chief Financial Officer in terms of paragraph 8.4 above.
- (5) Bid documentation will be available for collection until the closing date and time of bids.
- (6) Bids submitted to the Municipality must be sealed.
- (7) No electronic format or faxed bids, shall be accepted at any stage by the municipality.

### ***12.7.3 Issuing of bid documents***

- (1) Bid documents and any subsequent notices may only be issued by officials authorised and designated by the Chief Financial Officer as stipulated in paragraph 8.4 above.
- (2) Details of all prospective bidders who have been issued with bid documents must be recorded by the issuing office but shall remain **confidential** for the duration of the bid period.

- (3) Details of prospective bidders must, wherever possible, include the full name of the person drawing documents, a contact person, a contact telephone and fax number and a postal and email address.

#### ***12.7.4 Site inspections***

- (1) In general and where applicable, site inspections will not be compulsory unless otherwise stated in the bid documents.
- (2) A site inspection may however be made compulsory if the requirements of the bid justify such an action, provided that the minimum bid periods referred to in this policy are extended by at least 7 (seven) days.
- (3) If site inspections are compulsory and to be held, this fact, as well as full details of the site inspection must be included in the bid notice.
- (4) Where site inspections are made compulsory, the date for the site inspection must be at least 14 (fourteen) days after the bid has been advertised, and a certificate of attendance signed by the responsible agent must be submitted with the bid including an attendance register signed by all bidders in attendance of briefing session.
- (5) If at a site meeting, any additional information is provided or clarification of vague points is given, such additional information or clarification must be conveyed to all bidders in accordance with sub-paragraph 12.7.12 below of this policy.

#### ***12.7.5 Two-stage (prequalification) bidding process***

- (1) This process may be applied to bids for:
  - (a) large complex projects of a specialist or long term nature; or
  - (b) where there are legislative, speciality design, technological and/or safety reasons to restrict bidding to firms who have proven their capability and qualification to meet the specific requirements of the bid;
  - (c) projects where it may be undesirable to prepare complete detailed technical specifications; or
  - (d) long term projects with a duration exceeding 3 (three) years.
- (2) In the first stage of a bid (prequalification) bidding process, bidders are, invited to firstly prequalify in terms of predetermined criteria, without being required to submit detailed

technical proposals and/or a financial offer. In the first stage bidders may be invited to submit technical proposals on conceptual design or performance specifications or other matters.

- (3) In the second stage, all bidders that qualify in terms of the predetermined criteria will be shortlisted and invited to submit final technical proposals and priced bids.
- (4) The notice inviting bidders to pre-qualify must comply with the provisions for the public invitation of competitive bids as provided in paragraph 12.7.2 above.
- (5) Once bidders have pre-qualified for a particular project, they must be given no less than 7 (seven) days to submit a final technical proposal and/or a financial offer.

#### **12.7.6 Two envelope system**

- (1) A two envelope system differs from a two-stage (prequalification) bidding process in that a technical proposal and the financial offer are submitted in separate envelopes at the same place and time.
- (2) The financial offers will only be opened once the technical proposals have been evaluated.
- (3) The manager of the SCMU will enter into a register details of all bidders and when the prices are known, the price submitted by each bidder.

#### **12.7.7 Validity periods**

- (1) The period for which bids are to remain valid and binding must be indicated in the bid documents. If no bidder has been appointed during the validity period, or the extended validity period as referred to below, the bid will lapse.
- (2) The validity period is calculated from the bid closure date and bids shall remain in force and binding until the end of the final day of that period.
- (3) This period of validity may be extended by the chairperson of the bid evaluation committee, provided that:
  - (a) the original validity period of the bid has not already expired;
  - (b) all the bidders who have submitted bids have been requested to consent to the extension of the validity period and to confirm that their prices and terms will remain as initially stated until expiry of the extended validity period;

- (c) all the bidders who have submitted bids have agreed in writing to the extension of the validity period of the bid and to their price and terms remaining valid for the extended period; and
  - (d) the validity period of a bid may only be extended once.
- (4) If bidders are requested to extend the validity period of their bids as referred to in subparagraph (3) as a result of an objection or complaint being lodged:
- (a) it must be made clear to bidders that this is the reason for the request for the extension of the validity period; and
  - (b) the responsible official must ensure that all bidders are requested to extend the validity period and terms of their bids where necessary in order to ensure that the bids remain valid throughout the objection or complaint period or until the objection or complaint is finalised.

#### ***12.7.8 Contract price adjustment***

- (1) For all contract periods equal to or exceeding 1 (one) year, an appropriate contract price adjustment formula must be specified in the bid documents.
- (2) In general, if contract periods do not exceed 1 (one) year, the bid shall be a fixed price bid and not subject to contract price adjustment.
- (3) If, however, as a result of any extension of time granted or extension of the bid validity period, the duration of a fixed price contract exceeds 1 (one) year, the contract will automatically be subject to contract price adjustment for that period by which the extended contract period exceeds such 1 (one) year.

#### ***12.7.9 Provisional sums and prime cost items***

- (1) If monetary allowances in excess of R200 000.00 for provisional sums or prime cost items have been included in the bid documents, and where the work or items to which the sums relate are to be executed/supplied by subcontractors/suppliers, then a competitive bidding process shall be followed in respect of these sums/items.
- (2) When monetary allowances of less than R200 000.00 for provisional sums or prime cost items have been included in the bid documents, and where the work or items to which the sums relate are to be executed/supplied by sub-contractors/suppliers, the contractor

must be required to obtain a minimum of 3 (three) written quotations for approval by the responsible agent.

#### **12.7.10    *Samples***

- (1)    Where samples are called for in the bid documents, samples marked with the bid and item number as well as the bidder's name and address must be delivered separate from the bid to the addressee mentioned in the bid documents.
- (2)    Bids may not be included in parcels containing samples.
- (3)    If samples are not submitted as required in the bid documents or within any further time stipulated by the chairperson of the bid evaluation committee in writing, then the bid concerned may be declared non-responsive.
- (4)    Samples must be supplied by a bidder at his/her own expense and risk.
- (5)    The Municipality will not be obliged to pay for such samples or compensate for the loss thereof, unless otherwise specified in the bid documents, and reserves the right not to return such samples and to dispose of them at its own discretion.
- (6)    If a bid is accepted for the supply of goods according to a sample submitted by the bidder, that sample will become the contract sample.
- (7)    All goods/materials supplied shall comply in all respects to that contract sample.

#### **12.7.11    *Closing of Bids***

- (1)    Bids shall close on the date and at the time stipulated in the bid notice inviting the bids.
- (2)    Save in instances as contemplated in paragraph 12.7.2(3) above, the bid closing date may not be less than the periods as prescribed in terms of paragraph 12.7.2(2)(a) above.
- (3)    For banking services, the bid closing date must be at least 60 (sixty) days after publication of the notice.
- (4)    For proposal calls using a two envelope system, the bid closing date must be at least 30 (thirty) days after publication of the notice.
- (5)    The bid closing date may be extended prior to the original bid closing date by the Chief Financial Officer, if circumstances justify such an extension, provided that the closing date may not be extended unless a notice is published in the press where the bid was

originally advertised, which notice must also be posted on the official notice boards designated by the Municipal Manager.

- (6) The Municipal Manager may determine a closing date for the submission of bids which is less than any of the periods specified in this paragraph, but only if such shorter period can be justified on the grounds of an emergency, urgency or any exceptional case where it is impractical or impossible to follow the official procurement process.

#### ***12.7.12 Communication with bidders before bid closing***

- (1) The manager of the SCMU may, if necessary, communicate with prospective bidders and/or bidders prior to bids closing.
- (2) Such communication shall be in the form of a notice issued to all prospective bidders and/or bidders who have already submitted bids, or indicated the intention to do so by the manager of the SCMU by either e-mail, facsimile, or registered post, as may be appropriate.
- (3) A copy of the notice together with a transmission verification report/proof of posting shall be kept for record purposes.
- (4) Notices should be issued at least one week prior to the bid closing date, where possible.
- (5) Notwithstanding a request for acknowledgement of receipt of any notice issued, the prospective bidders and/or bidders who have already submitted bids, or indicated the intention to do so will be deemed to have received such notice if the procedures in subparagraphs (2), (3) and (4) above, have been complied with.

#### ***12.7.13 Submission of bids***

- (1) Bids must be submitted before the closing date and time, at the address and in accordance with the directives in the bid documents.
- (2) Each bid must be in legible writing using non-erasable black ink and must be submitted on the official form of bid/offer issued with the bid documents.
- (3) The bid must be submitted in a separate sealed envelope with the name and address of the bidder, the bid number and title, the bid box number (where applicable), and the closing date indicated on the envelope.

- (4) The envelope may not contain documents relating to any bid other than that shown on the envelope.
- (5) Only sealed bids will be accepted.
- (6) The onus shall be on the bidder to place the sealed envelope in the official, marked and locked bid box provided for this purpose, at the designated venue, not later than the closing date and time specified in the bid notice.
- (7) Postal bids will not be accepted for consideration.
- (8) No bids forwarded by telegram, facsimile or similar apparatus may be considered.
- (9) Photostat copies of bids or facsimiles which are submitted in the prescribed manner will, however, be considered, provided the original forms of bid/offer can be shown to have been posted or couriered prior to the close of bids.
- (10) Electronic bids will not be accepted.
- (11) The bidder shall choose a *domicilium citandi et executandi* within the Republic and unless notice of the change thereof has duly been given in writing, it shall be the address stated in the bid.
- (12) No person may amend or tamper with any bids or quotations after their submission.

#### **12.7.14 Late bids**

- (1) A bid is late if it is not placed in the relevant bid box by the closing time for such bid.
- (2) A late bid will not be admitted for consideration and where feasible, but without any obligation to do so whatsoever, will be returned unopened to the bidder with the reason for the return thereof endorsed on the envelope.

#### **12.7.15 Opening of bids**

- (1) At the specified closing time on the closing date, the applicable bid box must be closed in public.
- (2) The bid box must be opened in public as soon as practical after the closing time.
- (3) Immediately after the opening of the bid box, all bids must be opened in public and at the same time checked for physical and outward compliance as to whether the bid was contained in a sealed envelope.

- (4) The official opening the bids must in all cases read out the name of the bidder and, where practical, the amount of the bid.
- (5) As soon as a bid or technical proposal has been opened the Municipal Manager must ensure that:
  - (a) all bids received in time must be recorded in the bid opening record;
  - (b) the bid/proposal must be stamped with the official stamps, and endorsed with the opening official's signature;
  - (c) the name of the bidder, and where possible, the bid sum must be recorded in the bid opening record kept for that purpose;
  - (d) the responsible official who opened the bid shall forthwith place his/her signature on the bid opening record;
- (6) There shall be no obligation on the Municipality to re-direct bids found to have been inadvertently placed in the incorrect bid box. Bids shall not be re-directed unless the applicable bids either closed on the same day at the same time, or are still open. The Municipality disclaims any responsibility for seeing that the bids are in fact lodged in the correct bid box.
- (7) A record of all bids placed in an incorrect box must be kept and such record must contain details of the official who discovered the bid in the incorrect bid box.
- (8) Bids received in sealed envelopes in the bid box without a bid number or title on the envelope will be opened at the bid opening and the bid number and title ascertained where possible. In this regard:
  - (a) a bid which was in the correct bid box will be read out;
  - (b) a bid which is found to be in the incorrect bid box, may be redirected provided that the applicable bids either closed on the same day at the same time, or are still open; and
  - (c) where the bid closes at a later date, the bid will be placed in a sealed envelope with the bid number and title endorsed on the outside, prior to being lodged in the applicable box.
  - (d) where the bid number or title cannot be ascertained from an examination of the bid documents, the bid may be declared invalid.
- (9) The Municipality however disclaims any responsibility for seeing that the bid is in fact lodged in the correct box.



**12.7.16 *Opening of bids where a two-envelope system (consisting of a technical proposal and a financial proposal) is followed***

- (1) Where a two-envelope system is followed, only the technical proposal will be opened at the bid opening.
- (2) The unopened envelope containing the financial proposal shall be stamped and endorsed with the opening official's signature, and be retained by the SCMU for safekeeping.
- (3) When required the financial offers/bids corresponding to responsive technical proposals, must be opened by the opening official in accordance with paragraph 12.7.15(4) and 12.7.15(5) above.
- (4) All bidders who submitted responsive technical proposals must be invited to attend the opening of the financial offers/bids.
- (5) Envelopes containing financial offers/bids corresponding to non-responsive technical proposals shall be returned unopened along with the notification of the decision of the bid adjudication committee in this regard.
- (6) After being recorded in the bid opening record, the bids/technical proposals must be handed over to the official responsible for the supervision of the processing thereof and that official must acknowledge receipt thereof by signing the bid opening record.

**12.7.17 *Invalid bids***

- (1) Bids will be invalid and be endorsed and recorded as such in the bid opening record by the responsible official appointed by the manager of the SCMU to open the bid, in the following instances:
  - (a) where the bid is not sealed;
  - (b) where the bid, including the bid price/tendered amount, where applicable is not submitted on the official form of bid/offer;
  - (c) where the bid is not completed in non-erasable ink;
  - (d) where the form of bid/offer has not been signed;
  - (e) where the form of bid/offer is signed, but the name of the bidder is not stated, or is indecipherable;
  - (f) where in a two-envelope system, the bidder fails to submit both a technical proposal and a separate sealed financial offer/bid; or

- (g) where the bid envelope does not contain the title of the bid and bid number and these cannot be ascertained from an examination of the bid documents.
- (2) When bids are declared invalid at the bid opening, the bid sum of such bids may not be read out, however, the name of the bidder and the reason for the bid having been declared invalid must be announced and recorded in the bid opening record.

#### **12.7.18 Bid sum**

- (1) A bid will not necessarily be invalidated if the amount in words and the amount in figures do not correspond, in which case the amount in words must be read out at the bid opening and this will be the price upon which the bid is evaluated.
- (2) All rates, with the exception of rates set out in rate only bids, and proprietary information are confidential and may not be disclosed.
- (3) Bid sum not stating VAT inclusive or exclusive, it shall be deemed the bid sum is VAT inclusive.

#### **12.8 Committee system for competitive bids**

- (1) The committee system of the Municipality for competitive bids provides for:
  - (a) a bid specification committee;
  - (b) a bid evaluation committee; and
  - (c) a bid adjudication committee.
- (2) The Municipal Manager of the Municipality:
  - (a) must appoint the members of each committee and, in doing so, must take into account section 117 of the MFMA;
  - (b) may, when appropriate, appoint a neutral or independent observer in order to ensure fairness and transparency in the application of this acquisition management system; and
  - (c) may apply the committee system to formal written price quotations.

## **12.9 Bid Committees Terms of Reference**

The bid committees' terms of reference are contained in the attached **ANNEXURE A**.

## **12.10 Term bids**

- (1) Term bids are for the supply of goods and/or services that are of an *ad-hoc* or repetitive nature for a predetermined period of time and where awarded will entitle, but not oblige, the Municipality to purchase the specified goods or services at the bid price from the successful bidder for the duration of the term.
- (2) The Municipality may invite term bids.
- (3) The general acquisition procedure for term bids must comply with procedures contained in the acquisition management system for competitive bids.
- (4) Where applicable, bid documentation must state that the acceptance of term bids based on a schedule of rates will not necessarily guarantee the bidder any business with the Municipality.
- (5) The practice of using term bids to circumvent the bid process in respect of what should be planned project work is not permissible.
- (6) Unless expressly stated in the bid documents, the award of the term bid shall not confer any exclusivity on the successful bidder nor prevent the Municipality from providing the same or similar services elsewhere.
- (7) Material for repairs and maintenance can be purchased on a term bid where circumstances warrant it.
- (8) Additional items included in a term bid by any bidder, which are clearly not an alternative to any of the items specified in the bid documents, will not be considered.
- (9) The process for considering term bids must be in terms of the evaluation and adjudication procedures for conventional competitive bids.
- (10) Subsequent to an award where different selections of items are required in terms of the same term bid, and where it is not possible or practical to separate orders for different items from different suppliers, service providers or contractors, then and in that instance, a selection process must be carried out in respect of each application by the responsible agent. Individual orders must be placed on the basis of the highest total evaluation points received, per application.

- (11) Where the selected supplier, contractor or service provider, in terms of the selection process specified in the term bid documentation, is unable to provide the required goods, services or construction works at the required time and confirms as such in writing, the bidder with the next highest valuation points (re-calculating the bid scores excluding the successful bidder) must be selected.

#### **12.11 Procurement of banking services**

- (1) A contract for the provision of banking services to the Municipality:
  - (a) must be procured through competitive bids;
  - (b) must be consistent with section 7 of the MFMA and regulation 30 of the SCMR; and
  - (c) may not be for a period of more than 5 (five) years at a time.
- (2) The process for procuring a contract for banking services must commence at least 9 (nine) months before the end of an existing contract.
- (3) The closure date for the submission of bids may not be less than 60 (sixty) days from the date on which the advertisement is advertised.
- (4) Bids must be restricted to banks registered as such in terms of the Banks Act, Act 94 of 1990.

#### **12.12 Procurement of IT related goods and/or services**

- (1) The Municipal Manager may request the SITA to assist the Municipality with the acquisition of IT related goods and/or services through a competitive bidding process.
- (2) The parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to SITA.
- (3) The Municipal Manager must notify SITA together with a motivation of the IT needs of the Municipality where:
  - (a) the transaction value of IT related goods and/or services required by the Municipality in any financial year will exceed R50 million (including VAT); or
  - (b) the transaction value of a contract to be procured by the Municipality whether for one or more years exceeds R50 million (including VAT).

- (4) If SITA comments on the submission and the Municipality disagrees with such comments, the comments and the reasons for rejecting or not following such comments of SITA must be submitted to the Council, the Provincial and National Treasury and the Auditor General prior to awarding the bid.

#### **12.13 Procurement of goods and services under contracts secured by other organs of state**

- (1) The Municipal Manager may procure goods and/or services for the Municipality under a contract secured by another organ of state, but only if:
  - (a) the contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;
  - (b) the Municipality has no reason to believe that such contract was not validly procured;
  - (c) there are demonstrable discounts or benefits for the Municipality to do so; and
  - (d) that other organ of state and the relevant provider have consented to such procurement in writing.

#### **12.14 Procurement of goods necessitating special safety arrangements**

- (1) Goods, other than water, which necessitate special safety arrangements, may not be acquired or stored in bulk and in excess of immediate requirement, including gasses and fuel, unless sound justification therefore exists.
- (2) Where the storage of goods in bulk is justified, such justification must be based on sound reasons, including the total cost of ownership and cost advantages for the Municipality and the Municipal Manager may then authorise the same, in writing.

#### **12.15 Proudly SA campaign**

The Municipality supports the Proudly SA Campaign and may identify, as a specific goal the promotion of South African owned enterprises in its procurement processes.

#### **12.16 Appointment of consultants**

- (1) The Municipal Manager may procure consulting services provided that National Treasury, Provincial Treasury and CIDB guidelines in respect of consulting services are taken into account when such procurements are made.

- (2) A contract for the provision of consultancy services to the Municipality must be procured through competitive bids where:
  - (a) the value of the contract exceeds R200 000.00 (including VAT); or
  - (b) the duration period of the contract exceeds 1 (one) year.
  
- (3) In addition to the requirements prescribed for competitive bids in this policy, bidders must furnish the Municipality with particulars of:
  - (a) all consultancy services provided to an organ of state in the last 5 (five) years; and
  - (b) any similar consultancy services provided to an organ of state in the last 5 (five) years.
  
- (4) Dividing the transaction values of required consultant appointments into lesser transaction values in order to circumvent the competitive bidding process is not permitted.
  
- (5) Where the estimated value of consultant fees is less than or equal to R200 000.00 (including VAT) and the duration of the appointment is less than 1 (one) year, the selection of a consultant to provide the required service must follow a written price quotation or a formal written price quotation procedure as provided for in this policy.
  
- (6) Responsible agents must endeavour to ensure that there is rotation in respect of inviting suitably qualified consultants to submit quotes.
  
- (7) A price/preference points system, contained in the preferential procurement paragraph of this policy, must be applied to such quotations.
  
- (8) Where it is in the interests of the Municipality to follow an advertised process, a formal competitive bidding process in accordance with the requirements of this policy may be followed irrespective of the estimated value of the consultant fees.
  
- (9) The Municipality must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, thing, system or process designed or devised, by a consultant in the course of the consultancy service is vested in the Municipality.
  
- (10) The Municipality may only consider single-source selection where it is in line with the exceptional cases provided in treasury guidelines the justification for single-source selection is examined in the context of the overall interests of the Municipality and the project.

- (11) Single-source selection may be appropriate only if it presents a clear advantage over a competitive process:
- (a) for services that represent a natural continuation of previous work carried out by the consultant, and continuity of downstream work is considered essential;
  - (b) where rapid selection is essential;
  - (c) for very small appointments;
  - (d) when only one consultant is qualified, or has experience of exceptional worth for the project.
- (12) Single source selection may also be justified in instances where the type of consultant services required are of a *sui generis* nature and based on a specific type of relationship of expertise, privilege, confidentiality, the utmost good faith and trust.
- (13) The reasons for single-source selection must be fully motivated in a report and approved by the bid adjudication committee prior to conclusion of a contract, provided that if the award is for an amount of R200 000.00 (including VAT) or less, such award must be approved by the manager of the SCMU.
- (14) Single source shall be regarded as a deviation in terms of paragraph 12.22 below, and must comply therewith.

#### **12.17 Deviation from, and ratification of minor breaches of procurement processes**

- (1) The Municipal Manager may:
- (a) dispense with the official procurement processes established by this policy and to procure any required goods and/or services through any convenient process, which may include direct negotiations, but only:
    - (i) in an emergency;
    - (ii) if such goods and/or services are produced or available from a single provider only;
    - (iii) for the acquisition of special works of art or historical objects where specifications are difficult to compile;
    - (iv) for the acquisition of animals for zoos and nature reserve;
    - (v) for the acquisition of special works of art or historical objects where specifications are difficult to compile; and

- (vi) in any other exceptional case where it is impractical or impossible to follow the official procurement processes;
  - (b) ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature.
- (2) The Municipal Manager must record the reasons for any deviations in terms of sub-paragraph (1)(a) and (1)(b) above, and report them to the next meeting of the Council and must be included as a note to the annual financial statements. This sub-paragraph does not apply to the procurement of goods and services contemplated in paragraph 3(3) of this policy.
- (3) The conditions relating to the procurement of contracts relating to an emergency, as referred to in sub-paragraph (1)(a)(i) above should include the existence of one or more of the following:
  - (a) the possibility of human injury or death;
  - (b) the prevalence of human suffering or deprivation of rights;
  - (c) the possibility of damage to property, or suffering and death of livestock and animals;
  - (d) the interruption of essential services, including transportation and communication facilities or support services critical to the effective functioning of the Municipality as a whole;
  - (e) the possibility of serious damage occurring to the natural environment;
  - (f) the possibility that failure to take necessary action may result in the Municipality not being able to render an essential community service; and
  - (g) the possibility that the security of the state could be compromised.
- (4) The prevailing situation, or imminent danger, should be of such a scale and nature that it could not readily be alleviated by interim measures, in order to allow time for the formal procurement process.
- (5) Where interim measures to alleviate the immediate situation are appropriate, these should be considered to give time to procure a permanent solution.
- (6) Emergency dispensation will not be granted in respect of circumstances other than those contemplated in sub-paragraph (3) above.



- (7) Where possible, in an emergency situation, 3 (three) quotes in accordance with general acquisition management principles should be obtained and a report submitted to the Municipal Manager for approval. Where, however, time is of the essence, the emergency must be immediately addressed, and the process formalised in a report to the Municipal Manager as soon as possible thereafter.
- (8) The Municipal Manager may, upon recommendation of the bid adjudication committee, and only if good cause exists condone any expenditure incurred in contravention of, or that is not in accordance with, a requirement of this policy, provided that:
  - (a) this power may not be sub-delegated by the Municipal Manager;
  - (b) such condonation will not preclude the taking of disciplinary steps against the responsible official; and
  - (c) the Municipal Manager record the reasons for the condonation in writing, and report them to the next meeting of the Council and must be included as a note to the annual financial statements.
- (9) In the event where the Municipal Manager refuses to condone any expenditure referred to in sub-paragraph (7) above, such expenditure will be deemed to be irregular expenditure as defined in terms of the provisions of section 1 of the MFMA, and must be treated as such by the Municipal Manager according to the relevant provisions provided therefore in the MFMA.

#### **12.18 Unsolicited bids**

- (1) The Municipality is not obliged to consider any unsolicited bids received outside a normal bidding process.
- (2) The Municipality may only consider an unsolicited bid if:
  - (a) the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;
  - (b) the product or service will be exceptionally beneficial to, or have exceptional cost advantages for the Municipality;
  - (c) the person or entity who made the bid is the sole provider of the product or service; and
  - (d) the reasons for not going through the normal bidding processes are found to be sound by the Municipal Manager.

- (3) Where the Municipal Manager decides to consider an unsolicited bid that complies with sub-paragraph (2) above, the Municipality must make its decision public in accordance with section 21A of the MSA, together with:
  - (a) its reasons as to why the bid should not be open to other competitors;
  - (b) an explanation of the potential benefits for the Municipality were it to accept the unsolicited bid; and
  - (c) an invitation to the public or other potential suppliers to submit their written comments within 30 (thirty) days of the notice.
- (4) Once the Municipality has received written comments pursuant to sub-paragraph (3) above, it must submit such comments, including any responses from the unsolicited bidder, to the National Treasury and the relevant Provincial Treasury for comment.
- (5) The Municipality's adjudication committee must consider the unsolicited bid and may award the bid or make a recommendation to the Municipal Manager, depending on its delegations.
- (6) A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.
- (7) When considering the matter, the adjudication committee must take into account:
  - (a) any comments submitted by the public; and
  - (b) any written comments and recommendations of the National Treasury or the relevant Provincial Treasury.
- (8) Where any recommendations of the National Treasury or Provincial Treasury are rejected or not followed, the Municipal Manager must submit to the Auditor General, the relevant Provincial Treasury and the National Treasury the reasons for rejecting or not following those recommendations.
- (9) Such submission must be made within 7 (seven) days after the decision on the award of the unsolicited bid is taken, but no contract committing the Municipality to the bid may be entered into or signed within 30 (thirty) days of the submission.

### **13. LOGISTICS MANAGEMENT**

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Logistics management provides an effective logistic management system for the setting of inventory levels, placing of orders, receiving and distribution of goods, stores and warehouse management, expediting orders, transport management, vendor performance, maintenance and contract administration, as set out below:

### **13.1 Setting of inventory levels**

- (1) Levels must be determined.
- (2) Stock items must be systematically replenished using the re-order point planning strategy in conjunction with minimum and maximum levels.
- (3) Open reservations must be taken into account during the replenishment run.

### **13.2 Placing of orders**

- (1) Purchase orders must be created with reference to requisitions where the supply source is by means of a contract or verbal, written or formal quotations.
- (2) All purchase orders which are for imported goods and which are subject to rate and exchange adjustments must specify that the vendor must take out a forward exchange contract in order to fix the Rand based price in the purchase order.
- (3) A proper record of all purchase orders must be kept by the manager of the SCMU and a copy thereof must be submitted to the Chief Financial Officer on a monthly basis.
- (4) Standing orders will be utilised in cases where a longer term arrangement, such as after hour services and copier contracts, are required.
- (5) Purchase order approvals must be system based and will involve the procurement department only.
- (6) The assets (for asset creation) and the insurance section (for claims) must be informed after approval of any purchase orders.

### **13.3 Receiving and distribution of goods**

- (1) Goods will be received on the Municipality's inventory system with specific reference to purchase orders.
- (2) No over-receipt of stock may be allowed. The purchase order must be kept open for under-receipts for the outstanding delivery quantity.
- (3) Goods must be issued from stock with reference to reservations.
- (4) Goods may be issued for consumption against internal orders, cost centres, projects and assets under construction in terms of the stores procedures.

#### **13.4 Stores and warehouse management**

- (1) The stores and warehousing function must be decentralised in different areas and will operate under the jurisdiction of the SCMU.
- (2) The SCMU must ensure proper financial and budgetary control, uphold the principle of effective administration, proper stock holding and control, product standardisation, quality of products and a high standard of service levels.

#### **13.5 Expediting orders**

- (1) The purchasing expeditor is required to monitor and expedite outstanding purchase orders.
- (2) Reminder letters must be faxed automatically to vendors based on the reminder levels prior to the delivery due date which is set in the purchase order.

#### **13.6 Transport management**

The Municipality's fleet management system/policy must be adhered to at all times.

#### **13.7 Vendor performance**

- (1) The Municipality must have a system which is able to evaluate a vendors' performance with regard to certain pre-determined criteria.
- (2) The information will be available for contract negotiations and regular feedback to the vendors.

#### **13.8 Contract management**

- (1) The Municipal Manager must take all reasonable steps to ensure that contracts procured through this policy are properly implemented and enforced. To this end the Municipal Manager shall devise a system to ensure that he is given, monthly, all relevant details regarding the performance of each contract and details of defaults.
- (2) The performance of contractor under the contract procured through this policy must be monitored on a monthly basis.

- (3) All contracts must be administered by a designated official(s), having the necessary competencies to ensure effective management of the contract. The responsibility of managing a contract falls on the specific directorate to which such a contract relates together with and in co-operation with the SCMU.
- (4) The Municipal Manager must regularly report to the Council on the management of contracts and the performance of contractors.

### **13.9 Maintenance and contract administration**

- (1) Contracts relating to the procurement of goods and/or services will be captured on the Municipality's contract administration system in the form of a price schedule.
- (2) Value (where the maximum value of the contract is restricted) and volume (where the maximum units procured are restricted) based contracts must be utilised in as far as possible.
- (3) The use of fixed price and fixed term contracts must be promoted and expenditure will be driven towards such contracts as opposed to once-off purchases.
- (4) Consolidated procurement volumes must be utilised to drive down negotiated contract prices.
- (5) Contract price adjustments may only be processed in accordance with contract terms and conditions and must accord with the provisions of this policy.

### **13.10 Contract administration**

- (1) Contract administration is the last stage of the procurement and contract cycle, and includes all administrative duties associated with a contract after it is executed, including contract review.
- (2) The effectiveness of contract administration depend on how thoroughly the earlier steps were completed as changes can be made far more readily early in the tendering cycle than after contract management has commenced.
- (3) Some of the key early stages, which influence the effectiveness of contract administration and which the Municipality must properly implement, include:
  - (a) defining the outputs by writing specifications which identify what the aims and outputs of a contract will be;
  - (b) assessing risk;

- (c) researching the market place, including conducting pre-tender briefings;
- (d) formulating appropriate terms and conditions of contract;
- (e) identifying appropriate performance measures and benchmarks so that all parties know in advance what is expected, and how it will be tested;
- (f) actively creating competition, so the best possible suppliers bid for contracts; and
- (g) evaluating bids competently, to select the best contractor, with a strong customer focus and good prospects of building a sound relationship.

### **13.11 Levels of contract administration**

- (1) There are three levels of contract administration, being:
  - (a) the first operational level for standard contracts for goods and services. Day to day contract administration should become no more than the execution of performance monitoring, record keeping and price adjustment authorisation functions;
  - (b) the second or intermediate level is for more complex contracts for services. This type of contract requires a more active role for the contract manager in developing the relationship between the Municipality and the contractor and includes the functions set out as part of the first operational level;
  - (c) the third level is for strategic contracts involving complex partnerships and outsourcing arrangements. These contracts require more active management of the business relationships between the supplier and the users, for example to manage outputs and not the process and include the functions set out in the first operational level and the second level, as referred to above.

### **13.12 Appointing a contract manager**

- (1) A contract manager must be appointed by the Municipal Manager together with the director in charge of the project prior to the execution of the contract.
- (2) Where it is practical to do so, the contract manager must be involved at the earliest stage of the acquisition, which is the time of writing the specifications for the contract.
- (3) Contract administration arrangements must be identified and planned including,

delegations, reporting requirements and relationships and specific task responsibilities.

- (4) Departments are responsible for ensuring that contract managers:
  - (a) prepare the contract administration plan;
  - (b) monitor the performance of the contract;
  - (c) are appointed with appropriate responsibility and accountability;
  - (d) are adequately trained so that they can perform and exercise the responsibility;  
and
  - (e) act with due care and diligence and observe all accounting and legal requirements.

### **13.13 Duties and powers of a contract manager**

- (1) The contract manager's duties and powers are governed by the conditions of contract and the applicable legal principles and statutes.
- (2) The contract manager must monitor the performance of the contract on a monthly basis and must report to the Municipal Manager on the performance of the contractor and the progress of the contract on a monthly basis.
- (3) The contract manager is also required to form opinions and make decisions, and in doing so is expected to be even-handed, prudent and to protect the interests of the Municipality.
- (4) The SCMU is responsible for notifying the contract manager 90 (ninety) days prior to the expiry of each contract in order to allow the contract manager sufficient time in order to decide whether to renew a contract or efficiently conclude a new contract.
- (5) The contract manager must ensure that the contractor duly performs according to the specifications of the contract in delivering goods and/or services on time, in the correct manner and/or quantity and to the required standard.
- (6) Regular meetings and site inspections must be held by the contract manager and the contractor to inspect the progress, deliverables, identify possible problems and/or possible remedial action during the contract period.

### **13.14 Contract guidelines**

- (1) A guideline, which provides a description of the roles and responsibilities of a contract manager during the contract administration stage, must be documented.

- (2) The provisions of this paragraph is not an exhaustive description of contract administrative activities, and some tasks may not be carried out in the sequence presented, may be done concurrently with other tasks or may not be necessary in some circumstances.

### **13.15 Delegating to contract administrator**

- (1) Where appropriate, a contract manager may delegate some contract administration duties to a contract administrator.
- (2) The contract administrator will be required to perform duties related to processes for record keeping, authorising payment and collecting data on contractor performance.
- (3) The contract manager will however remain ultimately responsible and accountable for the performance of the contract.

### **13.16 Contract management process**

- (1) The contract manager must ensure that the contractor fulfils its obligations and complies with its liabilities under the contract and must also ensure that contractors are treated fairly and honestly. Any non-compliance with the terms of the contract and any non-delivery or anticipated non-delivery or breaches must be reported to the Municipal Manager in writing immediately.
- (2) Both parties adhering to the agreed terms will result in:
  - (a) value for money;
  - (b) timeliness;
  - (c) cost effectiveness; and
  - (d) proper contract performance.
- (3) In the event of non-compliance with any contract, the contractor must be placed in default in writing approved by the Municipality's legal advisors and a complete record of all written notices of non-compliance or nature of breach, as the case may be, must be kept on record.

### **13.17 Document retention**



- (1) The need exists to retain documents on a contract file for information and audit purposes, and in order to comply with the requirements of the records office.
- (2) Proper records regarding all aspects of the contract must accordingly be maintained. The contract manager shall be responsible for ensuring that the Municipality has, on the appropriate control sheet, copies of all procurement documents, bids, awards, notices and other written communications.

### **13.18 Guidelines on contract administration**

- (1) The responsibilities of a contract manager may include the following:
  - (a) establishing a contract management plan for the execution of the contract, especially for contracts pertaining to construction and land development projects;
  - (b) reviewing the contract management process (including the contract management plan) on a regular basis;
  - (c) providing a liaison between internal managers and users, and suppliers to preempt, identify and resolve issues as they arise;
  - (d) monitoring the contractor's continuing performance against contract obligations;
  - (e) providing the contractor with advice and information regarding developments within the department, where such developments are likely to affect the products provided;
  - (f) determining if staged products should continue, and providing a procurement process for additional stages which meet the principle of obtaining value for money;
  - (g) providing accurate and timely reporting to the senior management in charge of the project, highlighting significant performance issues or problems;
  - (h) ensuring that insurance policy terms and conditions provide adequate protection for the Municipality and are maintained throughout the contract period;
  - (i) ensuring all products provided are certified as meeting the specifications before the supplier is paid;
  - (j) maintaining adequate records (paper and/or electronic) in sufficient detail on an appropriate contract file to provide an audit trail;

- (k) managing contract change procedures;
- (l) resolving disputes as they arise;
- (m) conducting post contract reviews;
- (n) pursuing remedies in the event of any breach of the contract;
- (o) reporting on performance/non performance to the Municipal Manager on a monthly basis; and
- (p) the Municipal Manager must establish capacity and a system to ensure effective contract management.

#### **14. DISPOSAL MANAGEMENT**

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- (1) The disposal management system of the Municipality provides an effective system for the transfer of ownership, disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to section 14 of the MFMA and the MATR in as far as capital assets are concerned.
- (2) Every disposal by the Municipality must comply with the relevant and applicable provisions of the MFMA and MATR in as far as capital assets are concerned.
- (3) The manner in which assets may be disposed of by the Municipality includes, but is not limited to, the following:
  - (a) transferring an asset to another organ of state in terms of a provision of the MFMA enabling the transfer of assets;
  - (b) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
  - (c) selling the asset; or
  - (d) destroying the asset.
- (4) Immovable property may be sold only at market related prices except when the public interest or the plight of the poor demands otherwise and in accordance with the provisions of the Disposal Policy of the Municipality.
- (5) Movable assets may be sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous

to the Municipality.

- (6) In the case of the free disposal of computer equipment, the provincial department of education must first be approached to indicate within 30 (thirty) days whether any of the local schools are interested in the equipment.
- (7) In the case of the disposal of firearms, the National Conventional Arms Control Committee must approve any sale or donation of firearms to any person or institution within or outside the Republic.
- (8) Immovable property must be let at market related rates except when the public interest or the plight of the poor demands otherwise.
- (9) All fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property must be reviewed annually.
- (10) Where assets are traded in for other assets, the highest possible trade-in price must be negotiated.
- (11) As far as possible, assets to be disposed of must be subjected to recycling. Disposal to landfill is not allowed unless there are no available recycling options.
- (12) Non-exempted capital assets must be transferred or permanently disposed of strictly in accordance with section 14 of the MFMA read with Chapter 2 of the MATR.
- (13) Exempted capital assets must be transferred strictly in accordance with Chapter 3 of the MATR.
- (14) The granting of rights by the Municipality to use, control or manage municipal capital assets, where section 14 of the MFMA do not apply, must be executed strictly in accordance with Chapter 4 of the MATR.

## **15. RISK MANAGEMENT**

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- (1) The risk management system of the Municipality provides for an effective system to identify, consider and avoid potential risks in the Supply Chain Management System.
- (2) The management of risks pertaining to supply chain management must at all times comply with the criteria laid down in the Risk Management Policy of the Municipality.
- (3) Managing risk must be part of the philosophy, practices and business plans of the Municipality and should not be viewed and practiced as a separate activity in isolation but must be integrated in the systems and functions of the Municipality. Risk

management is an integral part of good management of acquisition activities and cannot be effectively performed in isolation from other aspects of acquisition management.

- (4) Risk management includes, but is not limited to:
- (a) early and systematic identification of risks on a case-by-case basis, analysis and assessment of risk, including conflicts of interest and the development of plans for handling the same;
  - (b) the allocation and acceptance of the responsibility of risk to the party best suited and placed to manage such risk;
  - (c) acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;
  - (d) the management of risk in a pro-active manner and the provision of adequate cover for residual risk;
  - (e) the assignment of relative risk to the contracting parties through clear and unambiguous contract documentation;
  - (f) ensuring that the costs incurred in managing risk are commensurate with the importance of the purchase and the risk to the operations of the Municipality; and
  - (g) taking appropriate professional advice from the appropriate officials or service providers to identify appropriate processes, procedures, outcomes, controls and other pertinent factors prior to undertaking activities with high levels of risk.
- (5) The risk management process must be applied to all stages of supply chain management, be it the conceptual stage, project definition, specification preparation, acquisition approval or implementation to completion.
- (6) Appropriate risk management conditions must therefore be incorporated in contracts and monitored.

## **16. PERFORMANCE MANAGEMENT**

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- (1) The performance management system of the Municipality provides for an effective internal monitoring system in order to determine, on the basis of a retrospective analysis, whether the authorised supply chain management processes are being, or were followed, and whether the desired objectives of this policy are being, or were achieved.

- (2) The Municipal Manager must establish and implement the system contemplated in subparagraph (1) above.
- (3) Performance management must contain a monitoring process together with a process of retrospective analysis to determine whether:
  - (a) value for money has been attained;
  - (b) proper processes have been followed;
  - (c) desired objectives have been achieved;
  - (d) there is an opportunity to improve the process and limit similar risk in future;
  - (e) suppliers have been assessed and the results of the assessment; and
  - (f) there has been deviation from procedures and, if so, what the reasons for such deviation are.
- (4) The performance management system must accordingly focus on, amongst others outcomes, the:
  - (a) achievement of goals;
  - (b) compliance to norms and standards and applicable legislation;
  - (c) savings generated;
  - (d) cost variances per item;
  - (e) non-compliance with contractual conditions and requirements; and
  - (f) cost efficiency of the procurement process itself.

## **CHAPTER 3**

### **OTHER MATTERS**

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#### **17. PROHIBITION ON AWARDS TO PERSONS WHOSE/WHICH TAX MATTERS ARE NOT IN ORDER**

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- (1) The Municipality may not under any circumstances, irrespective of the procurement process followed, make an award above R15 000.00 to any person or entity whose/which tax matters have not been declared to be in order by The South African Revenue Services.
- (2) Before making an award to a person or entity, the Municipality must first check with the CSD whether that person's or entities' tax matters are in order.
- (3) If the South African Revenue Services does not respond within 7 (seven) days such person's or entities' tax matters may for purposes of sub-paragraph (1) above, be presumed to be in order.

#### **18. PROHIBITION ON AWARDS TO PERSONS IN THE SERVICE OF THE STATE**

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The Municipality may not under any circumstances, irrespective of the procurement process followed, make an award to a person or entity:

- (a) who is in the service of the state;
- (b) if that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state; or
- (c) who is an advisor or consultant contracted with Municipality.

#### **19. AWARDS TO CLOSE FAMILY MEMBERS OF PERSONS IN THE SERVICE OF THE STATE**

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The Municipal Manager must ensure that the notes to the annual financial statements of the Municipality disclose the particulars of any award of more than R2 000.00 to a person who is a spouse, child or parent of a person in the service of the state, or who has been in the service of the state in the previous 12 (twelve) months, including:

- (a) the name of that person;
- (b) the capacity in which that person is or was in the service of the state; and
- (c) the amount of the award.

## **20. CODE OF ETHICAL STANDARDS**

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- (1) In addition to this code of ethical standards, the codes of conduct for councillors and municipal staff members as set out in Schedule 1 and Schedule 2 to the MSA shall apply in the implementation of this policy.
- (2) The code of ethical standards for officials and all other role-players in the Supply Chain Management System which is established hereby seeks to promote:
  - (a) mutual trust and respect; and
  - (b) an environment where business can be conducted with integrity and in a fair, honest and reasonable manner.
- (3) An official and/or other role-player involved in the implementation of this policy:
  - (a) must treat all providers and potential providers equitably;
  - (b) may not use his or her position for private gain or to improperly benefit another person;
  - (c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person of more than R350.00 in value;
  - (d) notwithstanding sub-paragraph (c) above, must declare to the Municipal Manager details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;
  - (e) must declare to the Municipal Manager details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by the Municipality;
  - (f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;

- (g) must be scrupulous in his or her use of property belonging to the Municipality;
  - (h) must assist the Municipal Manager in combating fraud, corruption, favouritism, unfair and irregular practices in the Supply Chain Management System; and
  - (i) must report to the Municipal Manager any alleged irregular conduct in the Supply Chain Management System which that person may become aware of, including:
    - (i) any alleged fraud, corruption, favouritism or unfair conduct;
    - (ii) any alleged contravention of Regulation 47 of the SCMR; or
    - (iii) any alleged breach of the code of ethical standards.
- (4) All declarations in terms of sub-paragraph 20(3)(d) and 20(3)(e) above, must be recorded by the Municipal Manager in a register which the Municipal Manager must keep for this purpose.
- (5) All declarations by the Municipal Manager must be made to the Executive Mayor of the Municipality, who must ensure that such declarations are recorded in the register.
- (6) The Municipal Manager is responsible to ensure that appropriate steps are taken against any official or other role-player who commits a breach of any provision of this code of ethical standards, and Council must ensure that the same measures are enforced where a breach has been committed by the Municipal Manager.
- (7) A breach of the code of ethical standards and any adopted code/s of conduct must be dealt with in accordance with Schedule 1 or Schedule 2 of the MSA, depending upon the circumstances, or the Disciplinary Regulations.
- (8) This Municipal Manager must, in his/her implementation of this policy, take into account, adopt and apply the National Treasury's Code of Conduct for Supply Chain Management Practitioners (Practise Note SCM 4 of 2003). This code of conduct is binding on all officials and other role-players involved in the implementation of this policy and a copy thereof is available on the website [www.treasury.gov.za/mfma](http://www.treasury.gov.za/mfma) located under "legislation".

#### **20.1 Inducements, rewards, gifts and favours to the Municipality, its officials and/or other role-players**

- (1) No person who is a provider or prospective provider of goods and/or services to the



Municipality, or a recipient or prospective recipient of goods disposed or to be disposed of by the Municipality, may either directly or through a representative or intermediary promise, offer or grant:

- (a) any inducement or reward to the Municipality for or in connection with the award of a contract; or
  - (b) any reward, gift, favour or hospitality to any official of the Municipality or any other role-player involved in the implementation of this policy of the Municipality.
- (2) The Municipal Manager of the Municipality must promptly report any alleged contravention of sub-paragraph (1) above to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the public sector.
- (3) Sub-paragraph (1) above does not apply to gifts less than R350.00 in value.
- (4) The Municipal Manager must, on becoming aware that any reasonably suspected crime has been committed involving any procurement or disposal process or contract, report same to the SAPS, Council and the Provincial and National Treasuries. The Municipality may offer assistance to the SAPS and the National Prosecuting Authorities to ensure the effective prosecution of wrongdoers.
- (5) The Municipality has a “zero tolerance” approach to criminal wrongdoing.

## **20.2 Sponsorships**

The Municipal Manager of the Municipality must promptly disclose to the National Treasury and the relevant Provincial Treasury any sponsorship promised, offered or granted to the Municipality or any of its officials, whether directly or through a representative or intermediary, by any person who is:

- (a) a provider or prospective provider of goods and/or services to the Municipality; or
- (b) a recipient or prospective recipient of goods disposed or to be disposed of by the Municipality.

## **20.3 Objections and complaints**

Persons aggrieved by decisions or actions taken by the Municipality in the implementation of this policy, may lodge within 14 (fourteen) days of the decision or action, a written objection or complaint against the decision or action.

#### **20.4 Resolution of disputes, objections, complaints and queries**

- 1) The Municipal Manager must appoint an independent and impartial person not directly involved in the supply chain management processes of the Municipality:
  - (a) to assist in the resolution of disputes between the Municipality and other persons regarding:
    - (i) any decisions or actions taken by the Municipality in the implementation of its Supply Chain Management System; or
    - (ii) any matter arising from a contract awarded in the course of its Supply Chain Management System; or
  - (b) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.
- (2) The Municipal Manager, or another official designated by the Municipal Manager, is responsible for assisting the appointed person to perform his or her functions effectively.
- (3) The person appointed by the Municipal Manager in terms of sub-paragraph (1) above must:
  - (a) strive to resolve promptly all disputes, objections, complaints or queries received; and
  - (b) submit monthly reports to the Municipal Manager on all disputes, objections, complaints or queries received, attended to or resolved.
- (4) A dispute, objection, complaint or query may be referred to the relevant Provincial Treasury if:
  - (a) the dispute, objection, complaint or query is not resolved within 60 (sixty) days; or
  - (b) no response is received from the Municipality within 60 (sixty) days.

- (5) If the Provincial Treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.
- (6) This paragraph must not be read as affecting a person's rights to approach a court at any time.

## **20.5 Contracts providing for compensation based on turnover**

Where a service provider acts on behalf of the Municipality to provide any service or act as a collector of fees, service charges or taxes, and the compensation payable to the service provider is fixed as an agreed percentage of turnover for the service or the amount collected, the contract between the service provider and the Municipality must stipulate:

- (a) a cap on the compensation payable to the service provider; and
- (b) that such compensation must be performance based.

## **CHAPTER 4**

### **COMBATING ABUSE OF THE SUPPLY CHAIN MANAGEMENT SYSTEM**

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#### **21. COMBATING OF ABUSE OF THE SUPPLY CHAIN MANAGEMENT SYSTEM**

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- (1) The terms of reference of this paragraph of this policy ensure compliance with Regulation 38 of the SCMR.
- (2) The Municipal Manager shall take all reasonable steps to prevent abuse of the Supply Chain Management System and to investigate any allegations of improper conduct against the concerned official, councillor, or other role player and when justified may:
  - (a) take, or ensure that appropriate steps are taken, against such official, councillor or other role player; and/or
  - (b) inform the Speaker of any allegations against any councillor involved in contraventions of the Supply Chain Management System; and/or
  - (c) report any alleged criminal conduct to the South African Police Service and/or other recognised state authority dealing with criminal investigations.
- (3) The steps referred to in sub-paragraph (2) above which the Municipal Manager may take include registering the affected person in the Municipality's Register of Tender and Contract Defaulters as well as:
  - (a) rejection or withdrawal of recommendations, or invalidation of decisions that were unlawfully or improperly made or influenced, including recommendations or decisions that were made or in any way influenced by:
    - (i) councillors in contravention of item 5, 6 or 9 of the Code of Conduct for Councillors set out in Schedule 1 of the MSA; or
    - (ii) municipal staff members in contravention of item 4, 5 or 8 of the Code of Conduct for Municipal Staff Members set out in Schedule 2 of the MSA;
    - (iii) the unlawful or improper conduct of a bidder or its representatives in competing for the particular contract;
  - (b) rejection of the bid of an affected person if that person or any of its representatives (including partners, directors of members):
    - (i) has failed to pay municipal rates and taxes or municipal service charges and such rates, taxes and charges are in arrears for a period

- longer than 3 (three) months, as at the date of the submission of the bid;
- (ii) has abused the Supply Chain Management System or has committed any improper conduct in relation to the Supply Chain Management System;
  - (iii) has been convicted of fraud or corruption during the 5 (five) year period immediately preceding the invitation of bid in question;
  - (iv) is listed:
    - (aa) in the Register for Tender and or Contract Defaulters in terms of the provisions of section 29 of the Prevention and Combating of Corrupt Activities Act;
    - (bb) on the National Treasury's database as a person prohibited from doing business with the public sector or;
    - (cc) on the Municipality's Register of Tender and Contract Defaulters.
  - (v) who, during the last 5 (five) year period immediately preceding the invitation of the bid in question, failed to perform satisfactorily on a previous or current contract with the Municipality or other organ of state after written notice was given to the affected person that such person's performance was unsatisfactory; and/or
  - (vi) wilfully neglected and/or breached any government, municipal or other public sector contract during the 5 (five) year period immediately preceding the invitation of the bid in question;
- (c) cancellation of a contract awarded to a person if that person:
- (i) committed a fraudulent act during the procurement process or the execution of the contract;
  - (ii) incited or participated in any corrupt or fraudulent act, by an official, councillor or other role player during the procurement process or in the execution of that contract and the person who committed the corrupt or fraudulent act benefited there from.

## **21.1 Municipality's register of tender and contract defaulters**

- (1) The Municipal Manager shall, subject to the procedures prescribed in this policy, be entitled to list a person or any of its representatives, where applicable, on the National Treasury Register of Tender and Contract Defaulters for a period not exceeding 5 (five) years in any of the circumstances listed in terms of this policy.
- (2) In the circumstances referred to in paragraph 21(3)(c)(i) and 21(3)(c)(ii) above, the person convicted of the relevant offence shall automatically also be listed on the National Treasury Register of Tender Contract Defaulters by the Municipal Manager.
- (3) In circumstances where a preference in terms of the PPPFA has been obtained on a fraudulent basis or any specific goals are not attained in the performance of the contract, the affected person may be listed on the National Treasury Register of Tender and Contract Defaulters for a period not exceeding 10 (ten) years.
- (4) Any listing in terms of paragraph 21(3) above shall, at the discretion of the Municipal Manager, also be applicable to any other enterprise or any partner, manager, director or other person who wholly or partly exercises or exercised or may exercise control over the enterprise of the first mentioned person, and with which enterprise or person the first-mentioned person, is, or was, in the opinion of the Municipal Manager, actively associated.
- (5) A person who has been listed on the National Treasury Register of Tender and Contract Defaulters shall not be entitled to be awarded any contract by the Municipality for the duration of the period reflected on such register.
- (6) The Municipal Manager may, on good cause shown, remove a person from the National Treasury Register of Tender Contract Defaulters or reduce the period for which a person is prohibited from being awarded any contract by the Municipality. The reasons therefor shall be disclosed at the next opportunity to Council.

## **21.2 Automatic rejection of bid**

The Municipal Manager may, after written verification with a person, automatically reject the bid of such a person if the person:

- (a) has been convicted of fraud or corruption during the past 5 (five) year period immediately preceding the invitation of the bid in question; and/or
- (b) is listed on the:
  - (i) Register for Tender Defaulters in terms of the provisions of section 29

of the Prevention and Combating of Corrupt Activities Act;

- (ii) National Treasury's database as a person prohibited from doing business with the public sector; and/or
- (iii) National Treasury Register of Tender and Contract Defaulters.

### **21.3 Adequate notice of manner of abuse of Supply Chain Management System**

- (1) Once the Municipality has obtained *prima facie* evidence which it deems to be sufficient to initiate proceedings to take steps against the affected person as contemplated in paragraph 21(2) and 21(3) of this policy, the Municipality must give the affected person adequate written notice of the manner in which it is alleged that the affected person abused the Supply Chain Management System
- (2) In order to constitute adequate notice of the manner in which it is alleged that the affected person abused the Supply Chain Management System the notice must:
  - (a) outline the grounds on which it is alleged that the affected person abused the Supply Chain Management System, with sufficient particulars to enable the affected person to respond to the allegations stipulated in the notice;
  - (b) refer to the applicable provisions of this policy in terms of which steps may be taken in the event where it is proved that the affected person abused the Supply Chain Management System;
  - (c) stipulate that the affected person must make written representations in response to such allegations of abuse of the Supply Chain Management System within 14 (fourteen) calendar days of the date when the notice was served by a duly authorised person, acting on behalf of the Municipality, on the affected person;
  - (d) state that written submissions received after the due date for such submissions shall be disregarded, unless good cause is shown by way of a request for condonation for the late lodgement of the submissions and only when the condonation would not lead to unnecessary delays or otherwise prejudice the public interest;
  - (e) state the name, official title, postal address, street address, telephone number and fax number of the official of the Municipality to whom written submissions or any correspondence in terms of this policy must be sent.

### **21.4 Right of access to information**

- (1) When furnishing the affected person with the notice referred to in paragraph 21.3 above, the Municipality shall furnish the affected person with access to all documents upon which the Municipality relies in respect of the allegations against the affected person.
- (2) The affected person shall be furnished by the Municipality with any such additional information as the affected person is entitled to in terms of PAIA on the same terms provided therein.
- (3) Where further information is requested, the Municipality may, in its sole discretion and upon a written request to do so, appropriately extend the time period contemplated in paragraph 21.3(2)(c) so that the affected person is granted adequate time to consider any information provided pursuant to such request prior to the due date for such submissions.

#### **21.5 Administration of hearings**

- (1) The Municipal Manager shall appoint an independent and impartial person, who may be an official of the Municipality, to preside and adjudicate on allegations of abuse of the Supply Chain Management System against an affected person.
- (2) The Presiding Officer will adjudicate on the matter based on the written notice and written response and will inform all relevant parties accordingly should the matter, or part thereof be referred for an oral hearing.

#### **21.6 Right to be heard**

- (1) An affected person shall, in accordance with and subject to, the procedures in terms of this policy, be granted the right to be heard upon receiving notice as contemplated in terms of paragraph 21.3 above, and prior to the Municipal Manager taking any of the steps listed in paragraph 21(2) and 21(3) above.

#### **21.7 Oral hearings**

- (1) An affected person does not have an automatic right to an oral hearing but may submit an application to the presiding officer to have the matter set down for an oral hearing in instances where the presiding officer decided to entertain the matter without oral evidence being heard, or not to refer the matter for an oral hearing.



- (2) The presiding officer may grant such an opportunity in its discretion where the affected person has provided sufficient grounds to the presiding officer to refer the matter for an oral hearing
- (3) The presiding officer shall take any relevant factor into account when deciding whether or not to grant an application referred to in sub-paragraph (2) above by an affected person.
- (4) The presiding officer must ensure that notice of an oral hearing shall be served by a duly authorised person on all relevant parties within 7 (seven) days of receipt of their presentations referred to in paragraph 21.3(2)(c) above, and must:
  - (a) set the date of the oral hearing;
  - (b) inform the affected person of their right to legal representation; and
  - (c) include any other information which the presiding officer may deem relevant or necessary to be included in the notice.
- (5) The Municipality must be appropriately represented at these hearings by a natural person to lead the evidence against the affected person.

### **21.8 Procedure at oral hearing**

- (1) The procedure to be followed at an oral hearing shall be determined by the presiding officer.
- (2) Witnesses must testify under oath.
- (3) Affected person(s) or their representatives shall have the right to present their case and to cross-examine any witnesses who testify at the hearing.
- (4) Witnesses called by the affected person(s) shall be subjected to cross examination by any party who may have an interest at the hearing.

### **21.9 Onus of proof**

The onus is on the Municipality to prove any allegations of abuse of the Supply Chain Management System which proof shall be on a balance of probabilities.

### **21.10 Right to legal representation**

An affected person shall have a right to legal representation.

### **21.11 Right to request reasons**

An affected person shall be informed of the right to request written reasons in terms of the provisions of section 5 of PAIA in respect of any decision taken by the Municipality in terms of this policy.

### **21.12 Criminal proceedings**

The Municipal Manager shall institute criminal proceedings where there is *prima facie* proof of abuse of the Supply Chain Management System that constitutes a criminal offence of corruption or fraud.

### **21.13 Informing Provincial and National Treasury**

The Municipal Manager must inform the Provincial and National Treasury of any actions taken in terms of this paragraph.

## **CHAPTER 5**

### **PREFERENTIAL PROCUREMENT**

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#### **22. PLANNING AND STIPULATION OF PREFERENCE POINT SYSTEM TO BE UTILISED**

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The Municipality must, prior to making an invitation for bidders:

- (1) properly plan for, and, as far as possible, accurately estimate the costs of the provision of goods and/or services for which an invitation for bids is to be made;
- (2) determine and stipulate the appropriate preference point system to be utilised in the evaluation and adjudication of the bids; and
- (3) determine whether the goods and/or services for which an invitation for bids is to be made have been designated for local production and content in terms of paragraph 28 below.

#### **23. EVALUATION OF BIDDERS ON FUNCTIONALITY**

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- (1) The Municipality must indicate in the invitation to submit a bid if such a bid will be evaluated for functionality.
- (2) The evaluation criteria for measuring functionality must be objective and clearly stated.
- (3) When evaluating bids on functionality, the:
  - (a) evaluation criteria for measuring functionality;
  - (b) weight of each criterion;
  - (c) applicable values; and
  - (d) minimum qualifying score for functionality;must be clearly specified in the invitation to submit a bid.
- (4) No bid must be regarded as an acceptable bid if such bid fails to achieve the minimum qualifying score for functionality as indicated in the bid invitation.
- (5) Bids which have achieved the minimum qualification score for functionality must be evaluated further in terms of the preference point system prescribed in paragraphs 24 and 25 below.

#### **24. THE 80/20 PREFERENCE POINT SYSTEM FOR THE ACQUISITION OF**

## **GOODS AND/OR SERVICES UP TO A RAND VALUE OF R1 MILLION**

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- (1) (a) The following formula must be utilised to calculate the points for price in respect of bids (including price quotations) with a rand value equal to, or above R30 000.00 and up to a rand value of R50 million (all applicable taxes included):

$$P_s = 80 \left( 1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

Where:

$P_s$  = Points scored for comparative price of bid or offer under consideration;

$P_t$  = Comparative price of bid or offer under consideration; and

$P_{\min}$  = Comparative price of lowest acceptable bid of offer.

- (b) The Municipality may apply the formula in sub-paragraph (1)(a) above for price quotations with a value less than R30 000.00, where and when appropriate.
- (2) Subject to sub-paragraph (3) below, points must be awarded to a bidder for attaining the B-BBEE status level of contributor in accordance with the following table:

B-BBEE Status Level of Contributor	Number of Points
1	20
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

- (3) A maximum of 20 (twenty) points may be allocated in accordance with sub-paragraph (2) above.
- (4) The points scored by a bidder in respect of B-BBEE contribution contemplated in sub-

paragraph (2) above, must be added to the points scored for price as calculated in accordance with sub-paragraph (1) above.

- (5) Subject to paragraph 26 below, the prospective contract must be awarded to the bidder who scores the highest total number of points.

**25. THE 90/10 PREFERENCE POINT SYSTEM FOR THE ACQUISITION OF GOODS AND/OR SERVICES WITH A RAND VALUE ABOVE R1 MILLION**

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- (1) The following formula must be utilised to calculate the points for price in respect of bids with a rand value above R50 million (all applicable taxes included):

$$P_s = 90 \left( 1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

Where:

$P_s$  = Points scored for comparative price of bid or offer under consideration;

$P_t$  = Comparative price of bid or offer under consideration; and

$P_{\min}$  = Comparative price of lowest acceptable bid of offer.

- (2) Subject to sub-paragraph (3) below, points must be awarded to a bidder for attaining their B-BBEE status level of contributor in accordance with the following table:

B-BBEE Status Level of Contributor	Number of Points
1	10
2	9
3	6
4	5
5	4
6	3
7	2
8	1
Non-compliant contributor	0

- (3) A maximum of 10 (ten) points may be allocated in accordance with sub-paragraph (2) above.
- (4) The points scored by a bidder in respect of the level of B-BBEE contribution contemplated in sub-paragraph (2) above, must be added to the points scored for price as calculated in accordance with sub-paragraph (1) above.
- (5) Subject to paragraph 26 below, the prospective contract must be awarded to the bidder who scores the highest total number of points.

## **26. AWARD OF CONTRACTS TO BIDDERS NOT SCORING THE HIGHEST NUMBER OF POINTS**

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A contract may be awarded to a bidder who/which did not score the highest total number of points, but only if objective criteria in addition to those contemplated in section 2(1)(d) and section 2(1)(e) of the PPPFA justify the award to another tenderer.

## **27. CANCELLATION AND RE-INVITATION OF BIDS**

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- (1)
  - (a) When, in the application of the 80/20 preference point system as stipulated in the bid documents, **all** bids received exceed the estimated rand value of R50 million, the bid invitation must be cancelled.
  - (b) Where 1 (one) or more of the acceptable bids received are within the prescribed threshold of R50 million, all bids received must be evaluated on the 80/20 preference point system.
- (2)
  - (a) When, in the application of the 90/10 preference point system as stipulated in the bid documents, **all** bids received are equal to, or below R50 million, the bid must be cancelled.
  - (b) Where 1 (one) or more of the acceptable bids received are above the prescribed threshold of R1 million, all bids received must be evaluated on the 90/10 preference point system.
- (3) Where the Municipality cancels a bid invitation as contemplated in sub-paragraphs (1) and (2) above, the Municipality must re-invite bidders and must stipulate in the bid documents the correct preference point system to be applied.
- (4) The Municipality may, prior to the award of a bid, cancel such a bid when:

- (a) due to changed circumstances, there is no longer a need for the requested goods and/or services;
  - (b) funds are no longer available to cover the total envisaged expenditure of the bid; or
  - (c) no acceptable bids are received.
- (5) The decision to cancel a bid in terms of sub-paragraph (4) above must be published in the Government Tender Bulletin or the media in which the original bid invitation was advertised.

## **28. LOCAL PRODUCTION AND CONTENT**

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- (1) The Municipality must, in the case of designated sectors, where local production and content is of critical importance in the award of bids, advertise such bids with a specific bid condition that only locally produced goods and/or services or locally manufactured goods, with a stipulated minimum threshold for local production and content will be considered.
- (2) The instructions, circulars and guidelines issued by the National Treasury with specific reporting mechanisms to ensure compliance with sub-paragraph (1) above, must be taken into account by the Municipality when applying this paragraph.
- (3) Where there is no designated sector, the Municipality may include, as a specific bid condition, that only locally produced goods and/or services or locally manufactured goods with a stipulated minimum threshold for local production and content will be considered, provided that such prescript and threshold(s) are in accordance with the specific directives issued for this purpose by the National Treasury in consultation with the Department Trade and Industry.
- (4) Every bid issued in terms of this paragraph must be measurable and audited.
- (5) Where necessary, for bids referred to in sub-paragraphs (1) and (3) above, a two-stage bidding process may be followed, where the first stage involves functionality and minimum threshold for local production and content and the second stage price and B-BBEE with the possibility of price negotiations only with the short-listed bidder(s).

## **29. B-BBEE STATUS LEVEL CERTIFICATE**

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- (1) Bidders with an annual total revenue of R10 million or less qualifies as exempted micro enterprises in terms of the B-BBEE and must submit a certificate issued by a registered auditor, accounting officer (as contemplated in section 60(4) of the Close Corporation Act, Act 69 of 1984) or an accredited verification agency.
- (2) Bidders other than exempted micro enterprises must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating.
- (3) The submission of such certificates must comply with the requirements of instructions and guidelines issued by the National Treasury and be in accordance with notices published by the Department of Trade and Industry in the Government Gazette.
- (4) The B-BBEE status level attained by the bidder must be utilised to determine the number of points allocated in terms of paragraphs 24(2) and 25(2) above.

## CHAPTER 6

### Infrastructure Procurement and Delivery Management

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## **1 Scope**

This policy establishes the Thabazimbi Local Municipality's policy for infrastructure procurement and delivery management in accordance with the provisions of the regulatory frameworks for procurement and supply chain management. It includes the procurement of goods and services necessary for a new facility to be occupied and used as a functional entity but excludes:

- a) The storage of goods and equipment following their delivery to Thabazimbi Local Municipality which are stored and issued to contractors or to employees;
- b) the disposal or letting of land;
- c) the conclusion of any form of land availability agreement;
- d) the leasing or rental of moveable assets; and
- e) public private partnerships.

## **2 Terms, definitions and abbreviations**

### **2.1 Terms and definitions**

For the purposes of this document, the definitions and terms given in the standard and the following apply:

**agent:** person or organization that is not an employee of Thabazimbi Local Municipality that acts on the Thabazimbi Local Municipality's behalf in the application of this document

**authorized person:** the municipal manager or chief executive or the appropriately delegated authority to award, cancel, amend, extend or transfer a contract or order.

**conflict of interest:** any situation in which:

- a) someone in a position of trust has competing professional or personal interests which make it difficult for him to fulfil his duties impartially,
- b) an individual or organization is in a position to exploit a professional or official capacity in some way for his personal or for corporate benefit, or
- c) incompatibility or contradictory interests exist between an employee and the organization which employs that employee

**contract manager:** person responsible for administering a package on behalf of the employer and performing duties relating to the overall management of such contract from the implementer's point of view

**family member:** a person's spouse, whether in a marriage or in a customary union according to indigenous law, domestic partner in a civil union, or child, parent, brother, sister, whether such a relationship results from birth, marriage or adoption

**framework agreement:** an agreement between an organ of state and one or more contractors,

the purpose of which is to establish the terms governing orders to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged

**gate:** a control point at the end of a process where a decision is required before proceeding to the next process or activity

**gateway review:** an independent review of the available information at a gate upon which a decision to proceed or not to the next process is based;

**gratification:** an inducement to perform an improper act

**infrastructure delivery:** the combination of all planning, technical, administrative and managerial actions associated with the construction, supply, renovation, rehabilitation, alteration, maintenance, operation or disposal of infrastructure

**infrastructure procurement:** the procurement of goods or services including any combination thereof associated with the acquisition, renovation, rehabilitation, alteration, maintenance, operation or disposal of infrastructure

**maintenance:** the combination of all technical and associated administrative actions during an item's service life to retain it in a state in which it can satisfactorily perform its required function

**operation:** combination of all technical, administrative and managerial actions, other than maintenance actions, that results in the item being in use

**order:** an instruction to provide goods, services or any combination thereof under a framework agreement

**organ of state:** an organ of state as defined in section 239 of the Constitution of the Republic of South Africa

**procurement document:** documentation used to initiate or conclude (or both) a contract or the issuing of an order

**principal:** a natural person who is a partner in a partnership, a sole proprietor, a director a company established in terms of the Companies Act of 2008 (Act No. 71 of 2008) or a member of a close corporation registered in terms of the Close Corporation Act, 1984, (Act No. 69 of 1984)

**standard:** the latest edition of the Standard for Infrastructure Procurement and Delivery Management as published by National Treasury

**working day:** any day of a week on which is not a Sunday, Saturday or public holiday

## **2.2 Abbreviations**

For the purposes of this document, the following abbreviations apply

CIDB: Construction Industry Development Board

SARS: South African Revenue Services

### **3 General requirements<sup>1</sup>**

#### **3.1 Delegations**

**3.1.1** The Council of Thabazimbi Local Municipality hereby delegates all powers and duties to the Municipal Manager which are necessary to enable the Municipal Manager to:

- a) discharge the supply chain management responsibilities conferred on accounting officers in terms of Chapter 8 or 10 of the Local Government Municipal Finance Management Act of 2003 and this document;
- b) maximise administrative and operational efficiency in the implementation of this document;
- c) enforce reasonable cost-effective measures for the prevention of fraud, corruption, favoritism and unfair and irregular practices in the implementation of this document; and
- d) comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Local Government Municipal Finance Management Act of 2003 Act.

**3.1.2** No departure shall be made from the provisions of this policy without the approval of the Municipal Manager of Thabazimbi Local Municipality for oversight purposes:

- a) within 30 days of the end of each financial year, submit a report on the implementation of this policy and the equivalent policy of any municipal entity under the sole or shared control of the Thabazimbi Local Municipality, to the council of the Thabazimbi Local Municipality within 20 days of the end of each financial year, submit a report on the implementation of this policy to the board of directors, who must then submit the report to the municipal manager of Thabazimbi Local Municipality for submission to the council;
- b) whenever there are serious and material problems in the implementation of this policy, immediately submit a report to the [council 4/ board of directors], who must then submit the report to the municipal manager of [ name of municipality] for submission to the council;
- c) within 10 days of the end of each quarter, submit a report on the implementation of the policy to the Executive Mayor / board of directors; and

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<sup>1</sup>This clause is required to ensure that the standard is linked to the policy and aligned with the MFMA SCM Regulations.

- d) make the reports public in accordance with section 21A of the Municipal Systems Act of 2000.

### **3.2 Implementation of the Standard for Infrastructure Procurement and Delivery Management**

**3.2.1** Infrastructure procurement and delivery management shall be undertaken in accordance with the all applicable legislation and the relevant requirements of the latest edition of the National Treasury Standard for Infrastructure Procurement and Delivery Management.<sup>5</sup>

### **3.3 Supervision of the infrastructure delivery management unit**

The Infrastructure Delivery Management Unit shall be directly supervised by the Director Infrastructure / person delegated in terms of section 82 of the MFMA.

### **3.4 Objections and complaints**

### **3.5 Resolution of disputes, objections, complaints and queries**

**3.5.1** The municipal manager or delegated person shall appoint an independent and impartial person, not directly involved in the infrastructure delivery management processes to assist in the resolution of disputes between the municipality and other persons regarding:

- a) any decisions or actions taken in the implementation of the supply chain management system;
- b) any matter arising from a contract awarded within the Thabazimbi municipality's infrastructure delivery management system; or
- c) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.

**3.5.2** The designated person shall assist the person appointed in terms of 3.5.1 to perform his or her functions effectively.

**3.5.3** The person appointed in terms of 3.5.1 shall:

- a) strive to resolve promptly all disputes, objections, complaints or queries received; and
- b) submit monthly reports to the municipal manager on all disputes, objections, complaints or queries received, attended to or resolved.

**3.5.4** A dispute, objection, complaint or query may be referred to the Limpopo Provincial Treasury if:

- a) the dispute, objection, complaint or query is not resolved within 60 days; or
- b) no response is forthcoming within 60 days.

3.5.5 If the Limpopo Provincial Treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.

#### 4 Control framework for infrastructure delivery management

##### 4.1 Assignment of responsibilities for approving or accepting end of stage deliverables

The responsibilities for approving or accepting end of stage deliverables shall be as stated in Table 1.

##### 4.2 Additional gates

The following additional gates shall apply:

###### 4.1 Additional requirements

The following additional requirements apply:

###### 4.2 Gateway reviews

###### 4.4.1 Gateway reviews for major capital projects above a threshold

4.4.1.1 The Municipal Manager shall appoint a gateway review team in accordance with the provisions of clause

4.1.13.1.2 of the standard to undertake gateway reviews for major capital projects.

4.4.1.2 The requirements for a gateway review in addition to those contained in section 4.1.13 of the standard are as follows:15

**Table1:**

**Responsibilities for approving or accepting end of stage deliverables in the control framework for the management of infrastructure delivery**

Stage		Person assigned the responsibility for approving or accepting end of stage deliverables
No	Name	
0	Project initiation	<i>[Designated person]</i> accepts the initiation report
1	Infrastructure planning	<i>[Designated person]</i> approves the infrastructure plan
2	Strategic resourcing	<i>[Designated person]</i> approves the delivery and / or
3	Pre-feasibility	<i>[Designated person]</i> accepts the pre-feasibility report
	Preparation and briefing	<i>[Designated person]</i> accepts the strategic brief
4	Feasibility	<i>[Designated person]</i> accepts the feasibility report
	Concept and viability	<i>[Designated person]</i> accepts the concept report
5	Design development	<i>[Designated person]</i> accepts the design development
6	Design documentation	6A Production information <i>[Designated person]</i> accepts the parts of the production information which are identified when the design development report is accepted as requiring acceptance

		6B Manufacture, fabrication and construction information	The contract manager accepts the manufacture, fabrication and construction information
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Stage		Person assigned the responsibility for approving or accepting end of stage deliverables
No	Name	
7	Works	The contract manager certifies completion of the works or the delivery of goods and associated services
8	Handover	The owner or end user accepts liability for the works
9	Package completion	The contract manager or supervising agent certifies the defects certificate in accordance with the provisions of the contract The contract manager certifies final completion in

## 5 Control framework for infrastructure procurement

5.1 The responsibilities for taking the key actions associated with the formation and conclusion of contracts including framework agreements above the quotation threshold shall be as stated in Table2.

5.2 The responsibilities for taking the key actions associated with the quotation procedure and the negotiation procedure where the value of the contract is less than the threshold set for the quotation procedure shall be as follows:

The Municipal Manager shall grant approval for the issuing of the procurement documents, based on the contents of a documentation review report developed in accordance with the provisions of the standard;

- a) the authorized person may award the contract if satisfied with the recommendations contained in the evaluation report prepared in accordance with the provisions of the standard.

5.3 The responsibilities for taking the key actions associated with the issuing of an order in terms of a framework agreement shall be as stated in Table3.

## 6 Infrastructure delivery management requirements

### 6.1 Institutional arrangements

#### 6.1.1 Committee system for procurement

##### 6.1.1.1 General (ANNEXURE A also applicable)

6.1.1.1.1 A committee system comprising the bid specification committee, evaluation

committee and bid adjudication committee shall be applied to all procurement procedures where the estimated value of the procurement exceeds the financial threshold for quotations and to the putting in place of framework agreements.

**6.1.1.1.2** The evaluation committee shall, where competition for the issuing of an order amongst framework contractors takes place and the value of the order exceeds the financial threshold for quotations, evaluate the quotations received.

**6.1.1.1.3** The persons appointed in writing as technical advisors and subject matter experts may attend any committee meeting.

**6.1.1.1.4** No person who is a political officer bearer, a public office bearer including any councillor of a municipality, a political advisor or a person appointed in terms of section 12A of the Public Service Act of 1994 or who has a conflict of interest shall be appointed to a procurement documentation, evaluation or tender committee.

**6.1.1.1.5** Committee decisions shall as far as possible be based on the consensus principle i.e. the general agreement characterized by the lack of sustained opposition to substantial issues. Committee's shall record their decisions in writing. Such decisions shall be kept in a secured environment for a period of not less than five years after the completion or cancellation of the contract unless otherwise determined in terms of the National Archives and Record Services Act of 1996.

**6.1.1.1.6** Committees may make decisions at meetings or, subject to the committee chairperson's approval, on the basis of responses to documents circulated to committee members provided that not less than sixty percent of the members are present or respond to the request for responses. Where the committee chairperson is absent from the meeting, the members of the committee who are present shall elect a chairperson from one of them to preside at the meeting.

#### **6.1.1.2 Procurement documentation committee**

**6.1.1.2.1** The [municipal manager or delegated representative shall appoint in writing on a procurement by procurement basis:

- a) the persons to review the procurement documents and to develop a procurement documentation review report in accordance with clause 4.2.2.1 of the standard; and
- b) the members of the bid specification committee.

**6.1.1.2.2** The bid specification committee shall comprise one or more persons. The chairperson shall be an employee of Thabazimbi Local Municipality with requisite skills. Other members shall, where relevant, include a representative of the end user or the department requiring infrastructure delivery.

**6.1.1.2.3** No member of, or technical adviser or subject matter expert who participates in the work of the any of the procurement committees or a family member or associate of such a member, may tender for any work associated with the tender which is considered by these committees.



**Table 2: Procurement activities and gates associated with the formation and conclusion of contracts above the quotation threshold**

Activity		Sub-Activity (see Table 3 of the standard)		Key action	Person assigned responsibility to perform key action
1*	Establish what is to be procured	1.3 <b>PG1</b>	Obtain permission to start with the procurement process	Make a decision to proceed / not to proceed with the procurement based on the broad scope of work and the financial estimates.	Director or delegated official
2	Decide on procurement strategy	2.5 <b>PG2</b>	Obtain approval for procurement strategies that are to be adopted including specific approvals to approach a confined market or the use of the negotiation procedure	Confirm selection of strategies so that tender offers can be solicited	Bid Specification Committee
3	Solicit tender offers	3.2 <b>PG3</b>	Obtain approval for procurement documents	Grant approval for the issuing of the procurement documents	Head: Supply Chain Management and Chairperson Bid
		3.3 <b>PG4</b>	Confirm that budgets are in place	Confirm that finance is available for the procurement to take place	Chief Financial Officer
4	Evaluate tender offers	4.2 <b>PG5</b>	Obtain authorisation to proceed with next phase of tender process in the qualified, proposal or competitive negotiations procedure (Evaluation of tenders)	Review evaluation report, ratify recommendations and authorise progression to the next stage of the tender process	Head: Supply Chain Management and Chairperson Bid Evaluation Committee
		4.7 <b>PG6</b>	Confirm recommendations contained in the tender evaluation report	Review recommendations of the evaluation committee and refer back to evaluation committee for	Bid Adjudication Committee

5	Award contract	5.3 <b>PG7</b>	Award contract	Formally accept the tender offer in writing and issue the contractor with a signed copy of the contract	<i>Drafting of contract – Legal Services</i> <sup>20</sup> <i>Service Provider- Acceptance</i>
		5.5 <b>GF1</b>	Upload data in financial management and payment system (contract register)	Verify data and upload contractor's particulars and data associated with the contract or order	Legal Services -Contract Register update

\* Applies only to goods and services not addressed in a procurement strategy developed during stage 2 (strategic resourcing) of the control framework for infrastructure delivery management

**Table 2** (concluded)

Activity	Sub-Activity	Key action	Person assigned responsibility to perform key	
6 Administer contracts and confirm compliance with requirements	6.4 <b>PG8 A</b>	Obtain approval to waive penalties or low performance damages.	Approve waiver of penalties or low performance damages	Municipal Manager
	6.5 <b>PG8 B</b>	Obtain approval to notify and refer a dispute to an adjudicator	Grant permission for the referral of a dispute to an adjudicator or for final settlement to an arbitrator or court of law	Municipal Manager
	6.6 <b>PG8 C</b>	Obtain approval to increase the total of prices, excluding contingencies and price adjustment for inflation, or the time for completion at the award of a contract or the issuing of an order up to a specified percentage	Approve amount of time and cost overruns up to the threshold	Municipal Manager or Chief Financial Officer and Director Infrastructure
	6.7 <b>PG8 D</b>	Obtain approval to exceed the total of prices, excluding contingencies and price adjustment for inflation, or the time for completion at award of a contract or the issuing of an order by more than 20% and 30%, respectively	Approve amount of time and cost overruns above a the threshold	Municipal Manager
	6.8 <b>PG8 E</b>	Obtain approval to cancel or terminate a contract	Approve amount	Director responsible for the tender
	6.9 <b>PG8 F</b>	Obtain approval to amend a contract	Approve proposed amendment to contract	<i>Legal Advisor and Municipal Manager</i>

**Table 3: Procurement activities and gates associated with the issuing of an order above the quotation threshold in terms of a framework agreement**

<b>Activity</b>		<b>Key action</b>	<b>Person assigned responsibility to perform key action</b>
1 <b>FG1</b>	Confirm justifiable reasons for selecting a framework contractor where there is more than one framework agreement covering the same scope of work	Confirm reasons submitted for not requiring competition amongst framework contractors or instruct that quotations be invited	Municipal Manager and official responsible for selection of framework agreement
3 <b>FG2</b>	Obtain approval for procurement documents	Grant approval for the issuing of the procurement documents	Head: Supply Chain obtain approval from the Municipal Manager
4 <b>FG3</b>	Confirm that budgets are in place	Confirm that finance is available so that the order may be issued	Chief Financial Person or delegated official
6 <b>FG4</b>	Authorise the issuing of the order	If applicable, review evaluation report and confirm or reject recommendations. Formally accept the offer in writing and issue the contractor with a signed copy of the order	Municipal Manager and the Bid Adjudication Committee

### **6.1.1.3 Bid Evaluation Committee**

**6.1.1.3.1** The municipal manager or the appropriately delegated official shall appoint on a procurement by procurement basis in writing:

- a) the person to prepare the evaluation and, where applicable, the quality evaluations, in accordance with clauses 4.2.3.2 and 4.2.3.4 of the standard, respectively; and
- b) the members of the bid evaluation committee.

**6.1.1.3.2** The bid evaluation committee shall comprise not less than three people. The chairperson shall be an employee of Thabazimbi Local Municipality with requisite skills. Other members shall include a supply chain management practitioner and, where relevant, include an official from the department requiring infrastructure delivery.

**6.1.1.3.3** The bid evaluation committee shall review the evaluation reports prepared in accordance with sub clause 4.2.3 of the standard and as a minimum verify the following in respect of the recommended tenderer from the central supplier database:

- a) the capability and capacity of a tenderer to perform the contract;
- b) the tenderer's tax and municipal rates and taxes compliance status;
- c) confirm that the tenderer's municipal rates and taxes and municipal service charges are not in arrears;
- d) the Compulsory Declaration has been completed; and
- e) the tenderer is not listed in the National Treasury's Register for Tender Defaulters or the List of Restricted Suppliers.

**6.1.1.3.4** No tender submitted by a member of, or technical adviser or subject matter expert who participates in the work of the bid specification committee or a family member or associate of such a member, may be considered by the bid evaluation committee.

**6.1.1.3.5** The chairperson of the bid evaluation committee shall promptly notify the [municipal manager or the Chief Financial Officer of any respondent or tenderer who is disqualified for having engaged in fraudulent or corrupt practices during the tender process.

### **6.1.1.4 Bid Adjudication Committee**

**6.1.1.4.1** The tender committee shall comprise the following persons or their mandated delegate:

Chief Financial Officer who shall be the chairperson:

- a) All Directors
- b) Supply Chain Practitioner
- c) etc..

**6.1.1.4.2** No member of the bid evaluation committee may serve on the Bid Adjudication Committee. A member of a bid evaluation committee may, however, participate in the deliberations of a tender committee as a technical advisor or a subject matter expert.

**6.1.1.4.3** The Bid Adjudication committee shall:

- a) consider the report and recommendations of the evaluation committee and:
  - 1) verify that the procurement process which was followed complies with the provisions of this document;
  - 2) confirm that the report is complete and addresses all considerations necessary to make a recommendation;
  - 3) confirm the validity and reasonableness of reasons provided for the elimination of tenderers; and
  - 4) consider commercial risks and identify any risks that have been overlooked or fall outside of the scope of the report which warrant investigation prior to taking a final decision; and
- b) refer the report back to the evaluation committee for their reconsideration or make a recommendation to the authorized person on the award of a tender, with or without conditions, together with reasons for such recommendation.

**6.1.1.4.4** No member of the bid evaluation committee may serve on the Bid Adjudication Committee. A member of a bid evaluation committee may, however, participate in the deliberations of a tender committee as a technical advisor or a subject matter expert.

**6.1.1.4.5** The tender committee shall:

- c) consider the report and recommendations of the evaluation committee and:
  - 1) verify that the procurement process which was followed complies with the provisions of this document;
  - 2) confirm that the report is complete and addresses all considerations necessary to make a recommendation;
  - 3) confirm the validity and reasonableness of reasons provided for the elimination of tenderers; and
  - 4) consider commercial risks and identify any risks that have been over looked or fall outside of the scope of the report which warrant investigation prior to taking a final decision; and

**6.1.1.4.6** No member of the bid evaluation committee may serve on the Bid Adjudication Committee. A member of a bid evaluation committee may, however, participate in the deliberations of a tender committee as at technical advisor or a subject matter expert.

**6.1.1.4.7** The tender committee shall:

- d) consider the report and recommendations of the evaluation committee and:
  - 1) verify that the procurement process which was followed complies with the provisions of this document;
  - 2) confirm that the report is complete and addresses all considerations necessary to make a recommendation;
  - 3) confirm the validity and reasonableness of reasons provided for the elimination of tenderers; and
  - 4) consider commercial risks and identify any risks that have been over looked or fall outside of the scope of the report which warrant investigation prior to taking a final decision; and
- e) refer the report back to the evaluation committee for their reconsideration or make a recommendation to the authorised person on the award of a tender, with or without conditions, together with reasons for such recommendation.

**6.1.1.4.8** No member of the bid evaluation committee may serve on the Bid Adjudication Committee. A member of a bid evaluation committee may, however, participate in the deliberations of a tender committee as a technical advisor or a subject matter expert.

**6.1.1.4.9** The tender committee shall:

- f) consider the report and recommendations of the evaluation committee and:
  - 1) verify that the procurement process which was followed complies with the provisions of this document;
  - 2) confirm that the report is complete and addresses all considerations necessary to make a recommendation;
  - 3) confirm the validity and reasonableness of reasons provided for the elimination of tenderers; and
  - 4) consider commercial risks and identify any risks that have been overlooked or fall outside of the scope of the report which warrant investigation prior to taking a final decision; and
- g) refer the report back to the evaluation committee for their reconsideration or make a recommendation to the authorised person on the award of a tender, with or without conditions, together with reasons for such recommendation.

**6.1.1.4.10** The Bid Adjudication Committee shall consider proposals regarding the cancellation, amendment, extension or transfer of contracts that have been awarded and make a recommendation to the authorised person on the course of action which should be taken.

**6.1.1.4.11** The Bid Adjudication committee shall consider the merits of an unsolicited offer and make a recommendation to the Municipal Manager

**6.1.1.4.12** The Bid Adjudication Committee shall report to the municipal manager any recommendation made to award a contract to a tenderer other than the tenderer recommended by the bid evaluation committee, giving reasons for making such recommendation.

**6.1.1.4.13** The Bid Adjudication Committee shall not make a recommendation for an award of a contract or order if the recommended tenderer or framework contractor has:

- a) made a misrepresentation or submitted false documents in competing for the contract or order; or
- b) been convicted of a corrupt or fraudulent act in competing for any contract during the past five years.

**6.1.1.4.14** The Bid Adjudication Committee may on justifiable grounds and after following due process, disregard the submission of any tenderer if that tenderer or any of its directors, members or trustees or partners has abused the delivery management system or has committed fraud, corruption or any other improper conduct in relation to such system. The National Treasury and the North West Provincial Treasury shall be informed where such tenderers are disregarded.

## **6.1.2 Actions of an authorised person relating to the award of a contract or an order**

### **6.1.2.1 Award of a contract**

**6.1.2.1** The authorised person shall, if the value of the contract inclusive of VAT, is within his or her delegation, consider the report(s) and recommendations of the Bid Adjudication Committee, or in the case of the awards for contracts below the quotation threshold, the recommendation of the Head: Supply Chain Management and either:

- a) award the contract after confirming that the report is complete and addresses all considerations necessary to make a recommendation and budgetary provisions are in place; or
- b) decide not to proceed or to start afresh with the process.

**6.1.2.2** The authorised person shall immediately notify the Municipal Manager or Chief Financial Officer if a tender other than the recommended tender is awarded, save where the recommendation is changed to rectify an irregularity. Such person shall, within 10 working days, notify in writing the Auditor-General, the National Treasury and North West Province and, in the case of a municipal entity, also the parent municipality, of the reasons for deviating from such recommendation.

### **6.1.2.3 Issuing of an order**

The authorised person shall, if the value of an order issued in terms of a framework contract, is within his or her delegation, consider the recommendation of the bid evaluation committee or the chairperson of the Bid Adjudication Committee, as relevant, and either:

- a) authorise the issuing of an order in accordance with the provisions of clause 4.25 of the standard; or



- b) decide not to proceed or to start afresh with the process.

### **6.1.3 Conduct of those engaged in infrastructure delivery**

#### **6.1.3.1 General requirements**

**6.1.3.1.1** All personnel and agents of Thabazimbi Local Municipality shall comply with the requirements of the CIDB Code of Conduct for all Parties engaged in Construction Procurement. They shall:

- a) behave equitably, honestly and transparently;
- b) discharge duties and obligations timeously and with integrity;
- c) comply with all applicable legislation and associated regulations;
- d) satisfy all relevant requirements established in procurement documents;
- e) avoid conflicts of interest; and
- f) not maliciously or recklessly injure or attempt to injure the reputation of another party.

**6.1.3.1.2** All personnel and agents engaged in Thabazimbi Local Municipality's infrastructure delivery management system shall:

- a) not perform any duties to unlawfully gain any form of compensation, payment or gratification from any person for themselves or a family member or an associate;
- b) perform their duties efficiently, effectively and with integrity and may not use their position for private gain or to improperly benefit another person;
- c) strive to be familiar with and abide by all statutory and other instructions applicable to their duties;
- d) furnish information in the course of their duties that is complete, true and fair and not intended to mislead;
- e) ensure that resources are administered responsibly;
- f) be fair and impartial in the performance of their functions;
- g) at no time afford any undue preferential treatment to any group or individual or unfairly discriminate against any group or individual;
- h) not abuse the power vested in them;
- i) not place themselves under any financial or other obligation to external individuals or firms that might seek to influence them in the performance of their duties;
- j) assist Thabazimbi Local Municipality in combating corruption and fraud within the

infrastructure procurement and delivery management system;

- k) not disclose information obtained in connection with a project except when necessary to carry out assigned duties;
- l) not make false or misleading entries in reports or accounting systems; and
- m) keep matters of a confidential nature in their possession confidential unless legislation, the performance of duty or the provision of the law require otherwise.
- n) At no time afford any undue preferential treatment to any group or individual or unfairly discriminate against any group or individual;
- o) not abuse the power vested in them;
- p) not place themselves under any financial or other obligation to external individuals or firms that might seek to influence them in the performance of their duties;
- q) assist Thabazimbi Local Municipality in combating corruption and fraud within the infrastructure procurement and delivery management system;
- r) not disclose information obtained in connection with a project except when necessary to carry out assigned duties;
- s) not make false or misleading entries in reports or accounting systems; and
- t) keep matters of a confidential nature in their possession confidential unless legislation, the performance of duty or the provision of the law require otherwise.

**6.1.3.1.2** An employee or agent may not amend or tamper with any submission, tender or contract in any manner whatsoever.

#### **6.1.3.2 Conflicts of interest**

**6.1.3.2.1** The employees and agents of Thabazimbi Local Municipality who are connected in any way to procurement and delivery management activities which are subject to this policy, shall:

- a) disclose in writing to the employee of the Thabazimbi Local Municipality to whom they report, or to the person responsible for managing their contract, if they have, or a family member or associate has, any conflicts of interest; and
- b) not participate in any activities that might lead to the disclosure of Thabazimbi Local Municipality proprietary information.

**6.1.3.2.2** The employees and agents of Thabazimbi Local Municipality shall declare and address any perceived or known conflict of interest, indicating the nature of such conflict to whoever is responsible for overseeing the procurement process at the start of any deliberations relating to a procurement process or as soon as they become aware of such conflict, and abstain from any decisions where such conflict exists or recuse themselves from the procurement process, as appropriate.

**6.1.3.2.3** Agents who prepare a part of a procurement document may in exceptional circumstances, where it is in Thabazimbi Local Municipality's interest to do so, submit a tender for work associated with such documents provided that:

- a) Thabazimbi Local Municipality states in the tender data that such an agent is a potential tenderer;
- b) all the information which was made available to, and the advice provided by that agent which is relevant to the tender, is equally made available to all potential tenderers upon request, if not already included in the scope of work; and
- c) the Bid Specification Committee is satisfied that the procurement document is objective and unbiased having regard to the role and recommendations of that agent.

### **6.1.3.3 Evaluation of submissions received from respondents and tenderers**

**6.1.3.3.1** The confidentiality of the outcome of the processes associated with the calling for expressions of interest, quotations or tenders shall be preserved. Those engaged in the evaluation process shall:

- a) not have any conflict between their duties as an employee or an agent and their private interest;
- b) may not be influenced by a gift or consideration (including acceptance of hospitality) to show favour or disfavor to any person;
- c) deal with respondents and tenderers in an equitable and even-handed manner at all times; and
- d) not use any confidential information obtained for personal gain and may not discuss with, or disclose to outsiders, prices which have been quoted or charged Thabazimbi Local Municipality.

**6.1.3.3.2** The evaluation process shall be free of conflicts of interest and any perception of bias. Any connections between the employees and agents of Thabazimbi Local Municipality and a tenderer or respondent shall be disclosed and recorded in the tender evaluation report.

**6.1.3.3.3** Thabazimbi Local Municipality personnel and their agents shall immediately withdraw from participating in any manner whatsoever in a procurement process in which they, or any close family member, partner or associate, has any private or business interest.

### **6.1.3.4 Non-disclosure agreements**

Confidentiality agreements in the form of non-disclosure agreements shall, where appropriate, be entered into with agents and potential contractors to protect Thabazimbi Local Municipality's confidential information and interests.

### **6.1.3.5 Gratifications, hospitality and gifts**

**6.1.3.5.1** The employees and agents of Thabazimbi Local Municipality shall not, directly or indirectly, accept or agree or offer to accept any gratification from any other person including a commission, whether for the benefit of themselves or for the benefit of another person, as an inducement to improperly influence in any way a procurement process, procedure or decision.

**6.1.3.5.2** The employees and agents of Thabazimbi Local Municipality as well as their family members of associates shall not receive any of the following from any tenderer, respondent or contractor or any potential contractor:

- a) money, loans, equity, personal favours, benefits or services;
- b) overseas trips; or
- c) any gifts or hospitality irrespective of value from tenderers or respondents prior to the conclusion of the processes associated with a call for an expression of interest or a tender.

**6.1.3.5.3** The employees and agents of Thabazimbi Local Municipality shall not purchase any items at artificially low prices from any tenderer, respondent or contractor or any potential contractor at artificially low prices which are not available to the public.

**6.1.3.5.4** All employees and agents of Thabazimbi Local Municipality may for the purpose of fostering inter-personal business relations accept the following:

- a) meals and entertainment, but excluding the cost of transport and accommodation;
- b) promotional material of small intrinsic value such as pens, paper-knives, diaries, calendars, etc.;
- c) incidental business hospitality such as business lunches or dinners, which the employee is prepared to reciprocate;
- d) complimentary tickets to sports meetings and other public events, but excluding the cost of transport and accommodation, provided that such tickets are not of a recurrent nature; and
- e) gifts in kind other than those listed in a which have an intrinsic value greater than R350 unless they have declared them to the Municipal Manager or Chief Financial Officer or delegated official

**6.1.3.5.5** Under no circumstances shall gifts be accepted from prospective contractors during the evaluation of calls for expressions of interest, quotations or tenders that could be perceived as undue and improper influence of such processes.

**6.1.3.5.6** Employees and agents of Thabazimbi Local Municipality shall without delay report to the municipal manager or chief financial officer or Chief Audit Executive any incidences of a respondent, tenderer or contractor who directly or indirectly offers a gratification to them or any other person to improperly influence in any way a procurement process, procedure or decision.

#### **6.1.3.6 Reporting of breaches**

Employees and agents of Thabazimbi Local Municipality shall promptly report to the municipal manager or chief financial officer or Chief Audit Executive any alleged improper conduct which they may become aware of, including any alleged fraud or corruption.

#### **6.1.4 Measures to prevent abuse of the infrastructure delivery system**

The municipal manager or chief financial officer or Chief Audit Executive shall investigate all allegations of corruption, improper conduct or failure to comply with the requirements of this policy against an employee or an agent, a contractor or other role player and, where justified:

- a) take steps against an employee or role player and inform the National Treasury and North West Provincial Treasury of those steps;
- b) report to the South African Police Service any conduct that may constitute a criminal offence;
- c) lodge complaints with the Construction Industry Development Board or any other relevant statutory council where a breach of such council's code of conduct or rules of conduct are considered to have been breached;
- d) cancel a contract if:
  - 1) it comes to light that the contractor has made a misrepresentation, submitted falsified documents or has been convicted of a corrupt or fraudulent act in competing for a particular contract or during the execution of that contract; or
  - 2) an employee or other role player committed any corrupt or fraudulent act during the tender process or during the execution of that contract.

#### **6.1.5 Awards to persons in the service of the state**

**6.1.5.1** Any submissions made by a respondent or tenderer who declares in the Compulsory Declaration that a principal is one of the following shall be rejected:

- a) a member of any municipal council, any provincial legislature, or the National Assembly or the National Council of Provinces;
- b) a member of the board of directors of any municipal entity;
- c) an official of any municipality or municipal entity;
- d) an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- e) a member of the accounting authority of any national or provincial public entity; or
- f) an employee of Parliament or a provincial legislature.

The notes to the annual financial statements of the Thabazimbi Local Municipality shall disclose particulars of an award of more than R2000 to a person who is a family member of a person identified in

6.1.5.1 or who has been in the previous 12 months. Such notes shall include the name of the person, the capacity in which such person served and the amount of the award.

### **6.1.6 Collusive tendering**

Any submissions made by a respondent or tenderer who fails to declare in the Compulsory Declaration that the tendering entity:

- a) is not associated, linked or involved with any other tendering entity submitting tender offers; or
- b) has not engaged in any prohibited restrictive horizontal practices including consultation, communication, agreement, or arrangement with any competing or potential tendering entity regarding prices, geographical areas in which goods and services will be rendered, approaches to determining prices or pricing parameters, intentions to submit a tender or not, the content of the submission (specification, timing, conditions of contract etc.) or intention to not win a tender

shall be rejected.

### **6.1.7 Placing of contractors under restrictions**

**6.1.7.1** If any tenderer which has submitted a tender offer or a contractor which has concluded a contract has, as relevant:

- a) withdrawn such tender or quotation after the advertised closing date and time for the receipt of submissions;
- b) after having been notified of the acceptance of his tender, failed or refused to commence the contract;
- c) had their contract terminated for reasons within their control without reasonable cause;
- d) offered, promised or given a bribe in relation to the obtaining or the execution of such contract;
- e) acted in a fraudulent, collusive or anti-competitive or improper manner or in bad faith Thabazimbi Local Municipality or
- f) made any incorrect statement in any affidavit or declaration with regard to a preference claimed and is unable to prove to the satisfaction of Thabazimbi Local Municipality that the statement was made in good faith or reasonable steps were taken to confirm the correctness of the statements, a Head Supply Chain Management shall prepare a report on the matter and make a recommendation to the municipal manager for placing the contractor or any of its principals under restrictions from doing business with the Thabazimbi Local Municipality.

**6.1.7.2** The municipal manager may, as appropriate, upon the receipt of a recommendation made in terms of 6.1.7.1 and after notifying the contractor of such intention in writing and giving written reasons for such action, suspend a contractor or any principal of that contractor from submitting a tender offer to Thabazimbi Local Municipality for a period of time.

**6.1.7.3** The *Head Supply Chain Management* shall:

- a) record the names of those placed under restrictions in an internal register which shall be accessible to employees and agents of Thabazimbi Local Municipality who are engaged in procurement processes; and
- b) notify the National Treasury and Limpopo Provincial Treasury and, if relevant, the Construction Industry Development Board, of such decision and provide them with the details associated therewith.

#### 6.1.6 Complaints

6.1.6.1 All complaints regarding the Thabazimbi Local Municipality's infrastructure delivery management system shall be addressed to the Chief Financial Officer or Chief Audit Executive. Such complaints shall be in writing.

6.1.6.2 The Chief Financial Officer or Chief Audit Executive shall investigate all complaints regarding the infrastructure procurement and delivery management system and report on actions taken to the Municipal Manager who will decide on what action to take.

## 6.2 Acquisition management

### 6.2.1 Unsolicited proposal

6.2.1.1 The Thabazimbi Local Municipality is not obliged to consider unsolicited offers received outside a normal procurement process but may consider such an offer only if:

- a) the goods, services or any combination thereof that is offered is a demonstrably or proven unique innovative concept;
- b) proof of ownership of design, manufacturing, intellectual property, copyright or any other proprietary right of ownership or entitlement is vested in the person who made the offer;
- c) the offer presents a value proposition which demonstrates a clear, measurable and foreseeable benefit for Thabazimbi Local Municipality;
- d) the offer is in writing and clearly sets out the proposed cost;
- e) the person who made the offer is the sole provider of the goods or service; and
- f) the municipal manager finds the reasons for not going through a normal tender processes to be sound. the Thabazimbi Local Municipality has obtained comments and recommendations on the offer from the National Treasury and Limpopo Provincial Treasury;
- g) the tender committee meeting which makes recommendations to accept an unsolicited proposal was open to the public and took into account any public comments that were received and any comments and recommendations received from the National Treasury and Limpopo Provincial Treasury; and
- h) the provisions of 6.2.1.3 are complied with.

6.2.1.2 The Municipal Manager shall, within 7 working days after the decision to award the

unsolicited offer is taken, submit the reasons for rejecting or not following the recommendations to the National Treasury, the North West Provincial Treasury and Auditor General. A contract shall in such circumstances not be entered into or signed within 30 days of such submission.

## **6.2.2 Tax and rates compliance**

### **6.2.2.1 SARS tax clearance**

**6.2.2.1.1** No contract may be awarded or an order issued where the value of such transaction exceeds R 15 000, unless a tenderer or contractor is in possession of an original valid Tax Clearance Certificate issued by SARS provided that the tenderer is not domiciled in the Republic of South Africa and the SARS has confirmed that such a tenderer is not required to prove their tax compliance status.

**6.2.2.1.2** In the case of a partnership, each partner shall comply with the requirements of 6.2.2.1.1.

**6.2.2.1.3** No payment shall be made to a contractor who does not satisfy the requirements of 6.2.2.1.2. An employee of Thabazimbi Local Municipality shall upon detecting that a tenderer or contractor is not tax compliant, immediately notify such person of such status.

**6.2.2.1.4** Notwithstanding the requirements of 6.2.2.1.1 and 6.2.2.1.3 the following shall apply, unless a person who is not tax compliant indicates to Municipal Manager that it intends challenging its tax compliance status with SARS,

- a) a contract may be awarded to a non-compliant tenderer if such a tenderer is able to remedy its tax compliance status within a period not exceeding 10 working days after being duly notified of its non-compliant status;
- b) an order may be awarded to a non-compliant contractor if such a contractor is able to remedy its tax compliance status within a period not exceeding 10 working days after being duly notified of its non-compliant status;
- c) a non-compliant contractor shall be issued with a first warning that payments in future amounts due in terms of the contract may be withheld, before the authorizing of any payment due to such contractor;
- d) before authorising a further payment due to a non-compliant contractor who has failed to remedy its tax compliance status after receiving a first warning, a second and final warning shall be issued to such contractor;
- e) no payments may be released for any amounts due in terms of the contract due to a non-compliant contractor if, after a period of 30 calendar days have lapsed since the second warning was issued, the non-compliant contractor has failed to remedy its tax compliance status.

**6.2.2.1.5** The Thabazimbi Local Municipality may cancel a contract with a non-compliant contractor if such a contractor fails to remedy its tax compliance status after a period of 30 calendar days have lapsed since the second warning was issued in terms of 6.2.2.1.4e).



### **6.2.2.2 Municipal rates and taxes**

No contract may be awarded to a tenderer who, of the principals of that tenderer, owes municipal rates and taxes or municipal service charges to any municipality or a municipal entity and are in arrears for more than 3 months.

### **6.2.3 Declarations of interest**

Tenders and respondents making submissions in response to an invitation to submit a tender or a call for an expression of interest, respectively shall declare in the Compulsory Declaration whether or not any of the principals:

- a) are an employee of the Thabazimbi Local Municipality or in the employ of the state; or
- b) have a family member or a business relation with a person who is in the employ of the state.

### **6.2.4 Invitations to submit expressions of interest or tender offers**

6.2.4.1 All invitations to submit tenders where the estimated value of the contract exceeds R200 000 including VAT, except where a confined tender process is followed, and expressions of interest shall be advertised on the Thabazimbi Local Municipality's website and on the National Treasury eTender Publication Portal. Advertisements shall be placed by Head Supply Chain Management.

6.2.4.2 Advertisements relating to construction works which are subject to the Construction Industry Development Regulations issued in terms of the Construction Industry Development Act of 2000 shall in addition to the requirements of 6.2.4.1 be advertised on the CIDB website. Advertisements shall be placed by Director Infrastructure and Head Supply Chain Management

### **6.2.4 Invitations to submit expressions of interest or tender offers**

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6.2.4.2 Advertisements relating to construction works which are subject to the Construction Industry Development Regulations issued in terms of the Construction Industry Development Act of 2000 shall in addition to the requirements of 6.2.4.1 be advertised on the CIDB website. Advertisements shall be placed by Director Infrastructure and Head Supply Chain Management

6.2.4.3 Where deemed appropriate by Municipal Manager an invitation to tender and a call for an expression of interest shall be advertised in suitable local and national newspapers and the Government Tender Bulletin as directed by such person. Advertisements shall be placed by Head Supply Chain Management and. Chief Financial Officer.

6.2.4.4 Such advertisements shall be advertised for a period of at least 30 days before closure, except in urgent cases when the advertisement period may be shortened as determined by the

municipal manager

**6.2.4.5** Invitations to submit expressions of interest or tender offers shall be issued not less than 10 working days before the closing date for tenders and at least 5 working days before any compulsory clarification meeting. Procurement documents shall be made available not less than 7 days before the closing time for submissions.

## **6.2.5 Publication of submissions received and the award of contracts**

**6.2.5.1** The [designated person] shall publish within 10 working days of the closure of any advertised call for an expression of interest or an invitation to tender where the estimated value of the contract exceeds R200 000 including VAT on the municipality's or municipal entity's website, the names of all tenderers that made submissions to that advertisement, and if practical or applicable, the total of the prices and the preferences claimed. Such information shall remain on the website for at least 30 days.

**6.2.5.2** The Chief Financial Officer] shall publish within 7 working days of the award of a contract the following on the Thabazimbi Local Municipality's website

- a) the contract number;
- a) contract title;
- b) brief description of the goods, services or works;
- c) the total of the prices, if practical;
- d) the names of successful tenderers and their B-BBEE status level of contribution;
- e) duration of the contract; and
- f) brand names, if applicable.

**6.2.5.3** The designated person shall submit within 7 working days of the award of a contract the information required by National Treasury on the National Treasury eTender Publication Portal regarding the successful and unsuccessful tenders. Submissions shall be made by Head Supply Chain Management.

**6.2.5.4** The award of contracts relating to construction works which are subject to the Construction Industry Development Regulations issued in terms of the Construction Industry Development Act of 2000 shall in addition to the requirements of 6.2.5.3 be notified on the CIDB website. The notification shall be made by placed by Director Infrastructure and/or Head Supply Chain Management.

## **6.2.6 Disposal committee**

**6.2.6.1** The Municipal Manager or Chief Financial Officer or delegated official shall appoint on a disposal by disposal basis in writing the members of the disposal committee to decide on how best to undertake disposals in accordance with the provisions of clause 10 of the standard.

**6.2.6.2** The disposal panel shall comprise not less than three people. The chairperson shall be

an employee of Thabazimbi Local Municipality.

**6.2.6.3** The disposal committee shall make recommendations to designed person who shall approve the recommendations, refer the disposal strategy back to the disposal committee for their reconsideration, and decide not to proceed or to start afresh with the process.

### **6.3 Reporting of infrastructure delivery management information**

*The Municipal Manager or Chief Financial Officer* shall submit any reports required in terms of the standard to the National Treasury or North West Provincial Treasury.

## **7 Infrastructure procurement**

### **7.1 Usage of procurement procedures**

The Thabazimbi Local Municipality shall not apply the following procedures:

### **7.2 Payment of contractors**

The Thabazimbi Local Municipality shall settle all accounts within 30 days of invoice or statement as provided for in the contract.

### **7.3 Approval to utilise specific procurement procedures**

**7.3.1** Prior approval shall be obtained for the following procurement procedures from the following persons, unless such a procedure is already provided for in the approved procurement strategy:

- a) The Municipal Manager shall authorise the use of the negotiated procedure above the thresholds provided in the standard.
- b) The Municipal Manager shall authorize the approaching of a confined market except where a rapid response is required in the presence of, or the imminent risk of, an extreme or emergency situation arising from the conditions set out in the standard and which can be dealt with or the risks relating thereto arrested within 48 hours; and
- c) the proposal procedure using the two-envelope system, the proposal procedure using the two-stage system or the competitive negotiations procedure.

**7.3.2** The person authorised to pursue a negotiated procedure in an emergency is Chief Financial Officer.

### **7.4 Receipt and safeguarding of submissions**

**7.4.1** A dedicated and clearly marked tender box shall be made available to receive all submissions made.

**7.4.2** The tender box shall be fitted with two locks and the keys kept separately by two SCM Practitioners. Such personnel shall be present when the box is opened on the stipulated closing date for submissions.

## **7.5 Opening of submissions**

**7.5.1** Submissions shall be opened by an opening panel comprising two people nominated by Chief Financial Officer who have declared their interest or confirmed that they have no interest in the submissions that are to be opened.

**7.5.2** The opening panel shall open the tender box at the stipulated closing time and:

- a) sort through the submissions and return those submissions to the box that are not yet due to be opened including those whose closing date has been extended;
- b) return submissions unopened and suitably annotated where:
  - 1) submissions are received late, unless otherwise permitted in terms of the submission data;
  - 2) submissions were submitted by a method other than the stated method,
  - 3) submissions were withdrawn in accordance with the procedures contained in SANS10845- 3;and.
  - 4) only one tender submission is received and it is decided not to open it and to call for fresh tender submissions;
- c) record in the register submissions that were returned unopened;
- d) open submissions if received in sealed envelopes and annotated with the required particulars and read out the name of and record in the register the name of the tenderer or respondent and, if relevant, the total of prices including VAT where this is possible;
- e) record in the register the name of any submissions that is returned with the reasons for doing so;
- f) record the names of the tenderer's representatives that attend the public opening;
- g) sign the entries into the register; and
- h) stamp each returnable document in each tender submission.

**7.5.3** Each member of the opening panel shall initial the front cover of the submission and all pages that are stamped in accordance with the requirements of 7.7.3h).

**7.5.4** Respondents and tenderers whose submissions are to be returned shall be afforded the opportunity to collect their submissions.

**7.5.5** Submissions shall be safeguarded from the time of receipt until the conclusion of the procurement process.

## **7.6 Use of another organ of state's framework agreement**

The Thabazimbi Local Municipality may make use of another organ of state's framework contract which has been put in place by means of a competitive tender process and there are

demonstrable benefits for doing so. The municipal manager or chief executive or delegated official shall make the necessary application to that organ of state to do so.

## 7.7 Insurances

7.7.1 Contractors shall be required to take out all insurances required in terms of the contract.

7.7.2 The insurance cover in engineering and construction contracts for loss of or damage to property (except the works, Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the Contractor) caused by activity in connection with a contract shall in general not be less than the value stated in Table 4, unless otherwise directed by Municipal Manager.

7.7.3 Lateral earth support insurance in addition to such insurance shall be take out on a case by case basis.

**Table 4: Minimum insurance cover**

Type of insurance	Value
Engineeringandconstructioncontracts- lossfordamagetoproperty(except the works, Plant and Materials and Equipment) and liability for bodily injury to or death of a person(not an employee of the Contractor) caused by activity in connection with a contract	Not less than R20 million
Professional services and service contracts - death of or bodily injury to employees of the Contractor arising out of and in the course of their employment in connection with a contract or damage to property	Not less than R10 million
Professional indemnity insurance	geotechnical, civil and structural engineering: R5,0million electrical, mechanical and engineering: R3,0million

7.7.4 Theinsurancecoverinprofessionalservicesandservicecontractsfordamagetopropertyordeath of or bodily injury to employees of the Contractor arising out of and in the course of their employment in connection with a contract shall not be less than the value stated in Table 4 for any one event unless otherwise directed by Municipal Manager.

7.7.5 SASRIASpecialRiskInsuranceinrespectofriotandassociatedriskofdamagetotheworks,Plan t and Materials shall be taken out on all engineering and construction works.

7.9.5 Professionalserviceappointmentsshallasageneralrulebesubjecttoproofofcurrentprofession al indemnity insurance being submitted by the contractor in an amount not less than the value stated in Table 4 in respect of each claim, without limit to the number of claims, unless otherwise directed by the Municipal Manager in relation to the nature of the service that they provide.

7.9.6 Thabazimbi Local Municipality shall take out professional indemnity insurance cover

where it is deemed necessary to have such insurance at a level higher than the levels of insurance commonly carried by contractors.

**7.9.7** Where payment is to be made in multiple currencies, either the contractor or Thabazimbi Local Municipality should be required to take out forward cover. Alternatively, the prices for the imported content should be fixed as soon as possible after the starting date for the contract.

## **7.10 Written reasons for actions taken**

**7.10.1** Written reasons for actions taken shall be provided by a designated person.

**7.10.2** The written reasons for actions taken shall be as brief as possible and shall as far as is possible, and where relevant, be framed around the clauses in the:

- a) SANS10845-3, *Construction procurement- Part3: Standard conditions of tender*, and, giving rise to the reason why a respondent was not short listed, prequalified or admitted to a data base; or
- b) SANS 10845-4, *Construction procurement - Part 4: Standard conditions for the calling for expressions of interest*;

as to why a tenderer was not considered for the award of a contract or not awarded a contract.

**7.10.3** Requests for written reasons for actions taken need to be brief and to the point and may not divulge information which is not in the public interest or any information which is considered to prejudice the legitimate commercial interests of others or might prejudice fair competition between tenderers.

## **7.11 Request for access to information**

**7.11.1** Should an application be received in terms of Promotion of Access to Information Act of 2000(Act 2 of 2000), the “requestor” should be referred to the Thabazimbi Local Municipality’s Information Manual which establishes the procedures to be followed and the criteria that have to be met for the “requester” to request access to records in the possession or under the control of Thabazimbi Local Municipality’s.

**7.11.2** Access to technical and commercial information such as a comprehensive programme which links resources and prices to such programme should be refused as such information provides the order and timing of operations, provisions for time risk allowances and statements as to how the contractor plans to do the work which identifies principal equipment and other resources which he plans to use. Access to a bill of quantities and rates should be provided in terms of the Act.

## **CHAPTER 7**

### **GENERAL CONDITIONS**

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- (1) Only bidders who/which have completed and signed the declaration part of the bid documentation may be considered for such bid.
- (2) The Municipality must, when calculating comparative prices, take into account any discounts which have been offered unconditionally as reflected in the bid.
- (3) A discount which has been offered conditionally must, despite not being taken into account for evaluation purposes, be implemented when payment is effected.
- (4) Points scored must be rounded off to the nearest 2 (two) decimal places.
- (5) In the event that 2 (two) or more bids have scored equal total points, the successful bid must be the one scoring the highest number of preference points for B-BBEE:
  - (a) When, however, functionality is part of the evaluation process and 2 (two) or more bids have scored equal points including equal preference points for B-BBEE, the successful bidder must be the one scoring the highest score for functionality.
  - (b) Where 2 (two) or more bids are equal in all respects, the award will be decided by the drawing of lots.
- (6) A trust, consortium or joint venture will qualify for points for its B-BBEE status level as a legal entity, provided that such entity submits its B-BBEE status level certificate.
- (7) A trust, consortium or joint venture will qualify for points for its B-BBEE status level as an unincorporated entity, provided such entity submit its consolidated B-BBEE scorecard as if the entity is a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid.
- (8) A person may not be awarded any points for B-BBEE status level where the bid documents indicates that such a bidder who/which intends to sub-contract more than 25% of the value of the contract to any other enterprise that does not qualify for at least the same amount of points of the bidder, unless the intended sub-contractor is an exempted micro enterprise which has the capacity and ability to execute the sub-contract.
- (9) A person to whom/which a contract has been awarded may not sub-contract more than

25% of the value of the contract to any other enterprise which does not have an equal to or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an exempted micro enterprise which has the capacity and ability to execute the sub-contract.

- (10) A person to whom/which a contract has been awarded in relation to a designated sector, may not sub-contract in such a manner that the local production and content of the overall value of the contract is reduced below the stipulated minimum threshold.
- (11) When the Municipality is in need of services which is provided by tertiary institutions only, such services must be procured through a bidding process from the tertiary institutions identified.
  - (12) The tertiary institutions referred to in sub-paragraph (11) must be required to submit its B-BBEE status in terms of the specialised scorecard contained in the B-BBEE codes of good practice.
  - (13) Where the Municipality require services which can only be provided by 1 (one) or more tertiary institutions or public entities and enterprises from the private sector, the appointment of a contractor must be done by means of a bidding process.
- (14) Public entities must be required to submit its B-BBEE status in terms of the specialised scorecard contained in the B-BBEE codes of good practice.

## **9.0 DECLARATIONS**

- (1) A bid must, in the manner stipulated in the bid document, compel a bidder to declare that:
  - (a) the information provided is true and correct;
  - (b) the signatory to the bid is duly authorised; and
  - (c) documentary proof regarding any bid issue must, when required, be submitted to the satisfaction of the Municipality.

## **10. REMEDIES**

- (1) The Municipality must act against a bidder or a person to whom/which a contract has been awarded, upon detecting that:
  - (a) the B-BBEE status level of contribution has been claimed or obtained on a fraudulent basis; or
  - (b) any of the conditions of the contract have not been fulfilled.
- (2) The Municipality may, in addition to any other remedy it may have against a bidder or person contemplated in sub-paragraph (1):
  - (a) disqualify the bidder or person from the bidding process;
  - (b) recover all costs, losses or damages which it has suffered as a result of such bidder or person's conduct;
  - (c) cancel and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
  - (d) restrict the bidder or contractor, its shareholders and/or directors who acted on a



fraudulent basis, from obtaining business from any organ of state for a period which does not exceed 10 (ten) years, after the audi alteram partem (hear the other side) rule has been applied; and

(e) forward the matter for criminal prosecution.

## **CHAPTER 8**

### **GENERAL PROVISIONS**

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#### **11. AVAILABILITY OF THIS POLICY**

(1) A copy of this policy shall be included in the Municipality's Municipal Code as required by the provisions of section 15 of the MSA.

(2) The Municipality shall take all required legal steps to inform consumers, debtors, owners and occupiers of the content of this policy.

(3) A copy of this policy shall be available for inspection at the offices of the Municipality at all reasonable times.

(4) A copy of this policy may be obtained from the Municipality against payment of an amount as determined by the Council.

#### **12. IMPLEMENTATION AND REVIEW OF THIS POLICY**

(1) This policy shall be implemented once approved by Council as part of the budgetary policies of the Municipality, as referred to in the provisions of regulation 7 of the Municipal Budget & Reporting Regulations, 2008, and section 17(3)(e), section 21(1)(b)(ii)(bb), section 22(a)(i) and section 24(2)(c)(v) of the MFMA.

(2) In terms of the provisions of section 17(1)(e) of the MFMA this policy must be reviewed on annual basis and the reviewed policy tabled to Council for approval as part of the budget related policy.

#### **14. SHORT TITLE**

This policy shall be called the Supply Chain Management Policy of the Thabazimbi Local Municipality. This policy shall be read in conjunction with ANNEXURE A and ANNEXURE B.

