



# **MOSES KOTANE LOCAL MUNICIPALITY**

## **MUNICIPAL SUPPLY CHAIN MANAGEMENT POLICY**

**(Section 111 and 112 of the Municipal  
Finance Management  
Act, Nr 56 of 2003)**



**MOSES KOTANE  
LOCAL MUNICIPALITY**

Date approved: 31/05/2023  
Council resolution number: 158/05/2023

# **MUNICIPAL SUPPLY CHAIN MANAGEMENT POLICY**

## **MUNICIPAL SUPPLY CHAIN MANAGEMENT POLICY LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003**

This policy was adopted by the Moses Kotane Local Municipality on 14 December 2005 in terms of section 111 of the Municipal Finance Management Act, 2003 (Act No. 56 of 2003). It was revised and amended in November 2011, April 2017 and May 2020.

### **TABLE OF CONTENTS**

#### 1. Definitions

#### **CHAPTER 1**

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

2. Supply chain management policy
3. Adoption and amendment of supply chain management policy
4. Delegation of supply chain management powers and duties
5. Sub delegations
6. Oversight role of council
7. Supply chain management units
8. Training of supply chain management officials

#### **CHAPTER 2**

#### **FRAMEWORK FOR SUPPLY CHAIN MANAGEMENT**

9. Format of supply chain management

***Part 1: Demand management***

10. System of demand management

***Part 2: Acquisition management***

11. System of acquisition management

12. Range of procurement processes

13. General preconditions for consideration of written quotations or bids

14. Lists of accredited prospective providers

15. Petty cash purchases

16. Written or verbal quotations

17. Formal written price quotations

18. Procedures for procuring goods or services through written or verbal quotations and formal written price quotations

19. Competitive bidding process

20. Procedures for competitive bidding

21. Bid documentation for competitive bids

22. Public invitation for competitive bids

23. Procedure for handling, opening, recording and awarding of bids

24. Negotiations with preferred bidders

25. Two-stage bidding process

26. Two-envelope system

27. Committee system for competitive bids



28. Bid specification committees
29. Bid evaluation committees
30. Bid adjudication committees
31. Procurement of banking services
32. Procurement of IT related goods or services
33. Procurement of goods and services under contracts secured by other organs of state
34. Procurement of goods necessitating special safety arrangements
35. Proudly SA Campaign
36. Appointment of consultants
37. Deviation from, and ratification of minor breaches of procurement processes
38. Unsolicited bids
39. Combating of abuse of supply chain management system

***Part 3: Logistics, Disposal, Risk and Performance Management***

40. Logistics management
41. Disposal management
42. Risk management
43. Performance management

***Part 4: Other matters***

44. Prohibition on awards to persons whose tax matters are not in order
45. Prohibition on awards to persons in the service of the state
46. Awards to close family members of persons in the service of the state

47. Ethical standards
48. Inducements, rewards, gifts and favours
49. Sponsorships
50. Objections and complaints
51. Resolution of disputes, objections, complaints and queries
52. Contracts providing for compensation based on turnover
53. Reforms issued by National treasury applicable to Moses Kotane Local Municipality SCM regulations and policy
54. Sub-contracting
55. Use of consultants

## Definitions

1. In this policy, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the Act has the same meaning as in the Act, and –

**“Act”** means the Preferential Procurement Policy Framework Act, Act No. 5 of 2000, Municipal Finance Management Act, 2003 (Act No. 56 of 2003);

**“Accounting Officer”** means a person appointed by the municipality in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998) and who is the head of administration and also the Municipal Manager for the Municipality.

**“all applicable taxes”** includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;

**“B-BBEE”** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;

**“B-BBEE status level of contributor”** means the B-BBEE status received by 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 section 9(1) of the Broad-Based Black Economic Empowerment Act;

**“CIDB”** means Construction Industry Development Board.



**“close family member”** means 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.

**"comparative price"** means the price after the factors of a non-firm price and all unconditional discounts that can be utilized have been taken into consideration;

**“competitive bidding process”** means a competitive bidding process referred to in paragraph 12 (1) (d) of this policy;

**“competitive bid”** means a bid in terms of a competitive bidding process;

**"consortium or joint venture"** means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract;

**“construction”** means any work in connection with:

- c) the erection, maintenance, alteration, renovation, repair, demolition or dismantling of or addition to a building or any similar structure;
- d) the installation, erection, dismantling or maintenance of a fixed plant;
- e) the construction, maintenance, demolition or dismantling of any bridge, dam, canal, road, railway, sewer or water reticulation system or any similar civil engineering structure; or
- f) the moving of earth, clearing of land, the making of an excavation, piling or any similar type of work.

**“consultant”** means a person or entity providing services requiring knowledge based expertise

**"contract"** means the agreement that results from the acceptance of a tender by an organ of state;

**“day (s)”** means calendar days unless the context indicates otherwise;

**“delegation”** means in relation to a duty, includes an instruction a request to perform, or to assist in performing the duty.

**"designated sector"** means 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 services, works or goods or locally manufactured goods meet the stipulated minimum threshold for local production and content;

**“director”** means a manager referred to in section 56 of the Municipal Systems Act.

**“emergency”** means an emergency is an unforeseeable and sudden event with harmful or potentially harmful consequences for the municipality which requires urgent action to address.

**“final award”**, in relation to bids or quotations submitted for a contract, means the final decision on which bid or quote to accept;

**“financial year”** means a twelve-month period ending 30 June of every year.

**“firm price”** means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy, or tax, which, in terms of the 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 the contract;

**“formal written price quotation”** means quotations referred to in paragraph 12(c) of this policy;

**“functionality”** means the measurement according to predetermined norms, as set out in the tender 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 tenderer;

**“Head: Supply Chain Management”** means any post in the approved organisational structure to whom the entire SCM Unit reports to functionally

**“imported content”** means that portion of the tender price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or its subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs, such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African port of entry;

**“in the service of the state”** 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 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;
- “long term contract”** means a contract with a duration period exceeding one year;
- “list of accredited prospective providers”** means the list of accredited prospective providers which a municipality or municipal entity must keep in terms of paragraph 14 of this policy;
- “non-firm prices”** means all prices other than "firm" prices;
- “notice boards”** means the official notice boards at the municipal offices and libraries;
- “municipality”** means Moses Kotane Local Municipality;
- “other applicable legislation”** means any other legislation applicable to municipal supply chain management, including –
- (a) the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);
  - (b) the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003); and
  - (c) the Construction Industry Development Board Act, 2000 (Act No.38 of 2000);
- “policy”** means the Supply Chain Management Policy of Moses Kotane Local Municipality;
- “person”** includes a juristic person;





**“quotation”** means a stated price that a supplier expects to receive for the provision of specified services, works or goods; means the Local Government: Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations published by Government Notice 868 of 30 May 2005;

**“rand value”** means the total estimated value of a contract in South African currency, calculated at the time of tender invitations, and includes all applicable taxes and excise duties;

**“Regulation”** means the Local Government: Municipal Supply Chain Management Regulations;

**“single provider”** means sole supplier - One and Only (Alone of its kind) Supplier (Oxford Dictionary). If such goods or services are produced or available from a single provider only. There is no competition and only one provider exists in South Africa (for example, sole distribution rights)

**“small business”** means a separate and distinct business entity, including cooperative enterprises and non-governmental organisations, managed by one owner or more which, including its branches or subsidiaries, if any, is predominantly carried on in any sector or sub-sector of the economy mentioned in column 1 of the Small Business Classification Schedule, and which can be classified as a micro-, a very small, a small or a medium enterprise by satisfying the criteria mentioned in columns 3,4 and 5 of the Schedule opposite the smallest relevant sizeor class as mentioned in column 2 of the Schedule.

**“sub-contract”** means the primary contractor's assigning, leasing, making out work to, or employing, another person to support such primary contractor in the execution of part of a project in terms of the contract;

**“supply chain management practitioners”** includes the Chief Financial Officer and the Head: Supply Chain Management;

**“tender”** means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;

**“tender for income-generating contracts”** means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;

**“total revenue”** bears the same meaning assigned to this expression in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act and promulgated in the *Government Gazette* on 9 February 2007;



**“Treasury guidelines”** means any guidelines on supply chain management issued by the Minister in terms of section 168 of the Act;

**“trust”** means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person;

**“trustee”** means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person;

**“the Act”** where indicated, means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);

**“written or verbal quotations”** means quotations referred to in paragraph 12(1)(b) of this policy.

## CHAPTER 1

### ESTABLISHMENT AND IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

#### Supply chain management policy

2. (1) The Moses Kotane Local Municipality resolves in terms of section 111 of the Act to have and implement a supply chain management policy that –

(a) gives effect to –

(i) section 217 of the Constitution; and

(ii) Part 1 of Chapter 11 and other applicable provisions of the Act;

(b) is fair, equitable, transparent, competitive and cost effective;

(c) complies with –

(i) the regulatory framework prescribed in Chapter 2 of the Regulations; and

(ii) any minimum norms and standards that may be prescribed in terms of section 168 of the Act;



- (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 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 Municipal Systems Act applies; or
  - (d) in the case of a municipality, selecting external mechanisms referred to in section 80 (1) (b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in section 83 of that Act.
- (3) Subparagraphs (1) and (2) of this policy do not apply in the circumstances described in section 110 (2) of the Act except where specifically provided otherwise in this policy.

### **Adoption and amendment of the supply chain management policy**

- 3. (1)** The accounting officer must –
- (a) at least annually review the implementation of this policy; and
  - (b) when the accounting officer considers it necessary, submit proposals for the amendment of this policy to the council.
- (2) If the accounting officer submits a draft policy to the council that differs from the model policy, the accounting officer must ensure that such draft policy complies with the Regulations. The accounting officer must report any deviation from the model policy to the National Treasury and the relevant provincial treasury.
- (3) When amending this supply chain management policy the need for uniformity in supply chain practices, procedures and forms between organs of state in all spheres, particularly to



promote accessibility of supply chain management systems for small businesses must be taken into account.

- (4) The accounting officer of a municipality must in terms of section 62(1)(f)(iv) of the Act, take all reasonable steps to ensure that the municipality implements this supply chain management policy.

#### **Delegation of supply chain management powers and duties**

4. (1) The council hereby delegates such additional powers and duties to the accounting officer so as to enable the accounting officer –

- (a) to discharge the supply chain management responsibilities conferred on accounting officers in terms of –

(i) Chapter 8 or 10 of the Act; and

(ii) the supply chain management policy;

(b) to maximise administrative and operational efficiency in the implementation of the supply chain management policy;

(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 policy; and

(d) to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.

(2) Sections 79 and 106 of the Act apply to the sub delegation of powers and duties delegated to an accounting officer in terms of subparagraph (1) of this policy.

(3) The council or accounting officer may not delegate or sub delegate any supply chain management powers or duties to a person who is not an official of the municipality or to a committee which is not exclusively composed of officials of the municipality;

(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 paragraph 26 of this policy.

#### **Sub delegations**



5. (1) The accounting officer may in terms of section 79 or 106 of the Act sub-delegate any supply chain management powers and duties, including those delegated to the accounting officer in terms of this policy, but any such sub-delegation must be consistent with subparagraph (2) and paragraph 4 of this policy.

(2) The power to make a final award –

(a) above R10 million (VAT included) may not be sub-delegated by the accounting officer;

(b) above R2 million (VAT included), but not exceeding R10 million (VAT included), may be sub-delegated but only to –

(i) the chief financial officer;

(ii) a senior manager; or

(iii) a bid adjudication committee of which the chief financial officer or a senior manager is a member; or

(c) not exceeding R2 million (VAT included) may be sub-delegated but only to –

(i) the chief financial officer;

(ii) a senior manager;

(iii) a manager directly accountable to the chief financial officer or a senior manager; or

(iv) a 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 subparagraph (2) of this policy must within five days of the end of each month submit to the official referred to in subparagraph (4) of this policy 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 subparagraph (3) of this policy must be submitted –
- (a) to the accounting officer, in the case of an award by –
    - (i) the chief financial officer;
    - (ii) a senior manager; or
    - (iii) a bid adjudication committee of which the chief financial officer or a senior manager is a member; or
  - (b) to the chief financial officer or the senior manager responsible for the relevant bid, in the case of an award by –
    - (i) a manager referred to in subparagraph (2)(c)(iii) of this policy; or
    - (ii) a bid adjudication committee of which the chief financial officer or a senior manager is not a member.
- (5) Subparagraphs (3) and (4) of this policy 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 paragraph 26 of this policy.
- (7) No supply chain management decision-making powers may be delegated to an advisor or consultant.

### **Oversight role of council**

6. (1) The council must maintain oversight over the implementation of this supply chain management policy.
- (2) For the purposes of such oversight the accounting officer must –
- (a) (i) within 30 days of the end of each financial year, submit a report on the implementation of the supply chain management policy of the municipality and of any municipal entity under its sole or shared control, to the council of the municipality,



- (3) The accounting officer must, within 10 days of the end of each quarter, submit a report on the implementation of the supply chain management policy to the mayor.
- (4) The reports must be made public in accordance with section 21A of the Municipal Systems Act.

### **Supply chain management unit**

7. (1) The accounting officer must establish a supply chain management unit to implement this supply chain management 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 section 82 of the Act.

### **Training of supply chain management officials**

8. The training of officials involved in implementing the supply chain management policy should be in accordance with any Treasury guidelines on supply chain management training.

## **CHAPTER 2**

### **FRAMEWORK FOR SUPPLY CHAIN MANAGEMENT**

#### **Format of supply chain management**

9. This supply chain management policy provides systems for –
  - (i) demand management;
  - (ii) acquisition management;
  - (iii) logistics management;
  - (iv) disposal management;
  - (v) risk management; and
  - (vi) performance management.

#### ***Part 1: Demand management***





## **System of demand management**

**10.** The accounting officer must establish, through operational procedures, an effective system of demand management in order to ensure that the resources required to support the strategic and operational commitments are delivered at the correct time, at the right price and at the right location, and that the quantity and quality satisfy the needs.

- (i) The Accounting Officer must make available to provincial treasury a procurement plan containing all planned procurement for every financial year, in respect of the procurement of goods, services and infrastructure projects which exceed R200 000 (all applicable taxes included)
- (ii) Procurement plan must be approved by the Accounting Officer or his or her delegate.
- (iii) All user departments are required to submit their procurement plans to the Head Supply Chain Management to improve planning and management of resources.
- (iv) The relevant information should be furnished in the format contained in the Procurement Plan Template enclosed as Annexure B. Municipalities.
- (v) Demand management must be coordinated by SCM officials of the Municipality in consultation with budget holders. The outcome of this activity should be a detailed planning document that outlines what goods, works or services should be procured, the manner in which they should be procured as well as the timelines to execute the procurement functions.

## ***Part 2: Acquisition management***

### **System of acquisition management**

**11.** (1) The accounting officer must establish, through operational procedures, an effective system of acquisition management in order to ensure –

- (a) that goods and services are procured by the municipality or municipal entity in accordance with authorized processes only;
- (b) that expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the Act;
- (c) that the threshold values for the different procurement processes are complied with;





- (d) that bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation; and
  - (e) that any Treasury guidelines on acquisition management are properly considered.
- (2) This supply chain management policy, except where provided otherwise in the policy, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Act, including –
- (a) water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and
  - (b) electricity from Eskom or another public entity, another municipality or a municipal entity.
- (3) The following information must be made public wherever goods or services contemplated in section 110(2) of the Act are procured other than through the supply chain management system –
- (a) the kind of goods or services; and
  - (b) the name of the supplier.

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

- 12.** (1) The procurement of goods and services through this policy is provided by way of –
- (a) petty cash purchases, up to a transaction value of **R2 000** (including VAT);
  - (b) written or verbal quotations for procurements of a transaction value exceeding **R2 000** up to **R30 000** (including VAT);
  - (c) Formal written quotations for procurements of a transaction value from **R30 001** up to **R200 000** (including VAT); and
  - (d) a competitive bidding process for–
    - (i) Procurements where the estimated transaction value exceeds **R50 000 000** (including VAT) using the 80/20 preferential point scoring system;



- (ii) Procurements above a transaction value of over R50 000 000 (including VAT) using the 90/10 preferential point scoring system; and
  - (iii) The procurement of long-term contracts.
- (2) The accounting officer may, in writing, lower, but not increase, the different threshold values specified in subparagraph n (1); or
- (b) direct that –
- (i) written or verbal quotations be obtained for any specific procurement of a transaction value lower than R2 000;
  - (ii) formal written price quotations be obtained for any specific procurement of a transaction value lower than R30 000; or
  - (iii) a competitive bidding process be followed for any specific procurement of a transaction value lower than R200 000.
- (3) Goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of the policy. When determining transaction values, a requirement for goods or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction.

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

- 13.** A written quotation or bid may not be considered unless the provider who submitted the quotation or bid –
- (a) has furnished that provider's –
    - (i) full name;
    - (ii) identification number or company or other registration number; and
    - (iii) tax reference number and VAT registration number, if any; and has furnished the municipality with the SARS Tax Clearance Security Pin in order to access the tax related information on E-Filing for verification that provider's tax matters are in order
  - (iv) Persons conducting business with the State must be tax compliant when participating in quotations, tenders or other bidding processes.



(c) has indicated –

- (i) whether he or she is in the service of the state, or has been in the service of the state in the previous 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 twelve months; or
- (iii) whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in subparagraph (ii) is in the service of the state, or has been in the service of the state in the previous twelve months.

(d) Has registered on Web Based Central Supplier Database (CSD)

(i) Municipalities must use the CSD supplier number starting with (MAAA) which is auto generated by the Central Database System after successful registration and validation of the prospective provider as mandatory requirement as part of listing criteria for accrediting prospective provider in line with Section 14(1)(b) of the Municipal Supply Chain Management Regulations.

(ii) The CSD will automatically validate the following registration documents for Municipalities;

- Confirmation and status of Business Registration Documents
- Proof of Bank Account Registration
- Tax compliance status
- Employee in the service of state as defined in the Municipal Finance Management Regulations
- Identity Documentation
- Tender defaulters and restrictions status

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

**14. (1)** The accounting officer must –

- (a) keep a list of accredited prospective providers of goods and services that must be used for the procurement requirements of the through written or verbal quotations and formal written price quotations; and



- (b) at least once a year through newspapers commonly circulating locally, the website and any other appropriate ways, invite prospective providers of goods or services to apply for evaluation and listing as accredited prospective providers;
  - (c) specify the listing criteria for accredited prospective providers; and
  - (d) disallow the listing of any prospective provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector.
- (2) The list must be updated at least quarterly to include any additional prospective providers and any new commodities or types of services. Prospective providers must be allowed to submit applications for listing at any time.
- (3) The list must be compiled per commodity and per type of service.
- (4) Suppliers must be registered on the Central Supplier Database (CSD) of South Africa in order to pursue business with the municipality.

#### **Petty cash purchases**

15. The accounting officer must establish the conditions for the procurement of goods by means of petty cash purchases referred to in paragraph 12 (1) (a) of this policy, which must include conditions –
- (a) determining the terms on which a manager may delegate responsibility for petty cash to an official reporting to the manager;
  - (b) limiting the number of petty cash purchases or the maximum amounts per month for each manager;
  - (c) excluding any types of expenditure from petty cash purchases, where this is considered necessary; and
  - (d) requiring monthly reconciliation reports from each manager to the chief financial officer, including –
    - (i) the total amount of petty cash purchases for that month; and
    - (ii) receipts and appropriate documents for each purchase.

#### **Written or verbal quotations**



- 16.** The accounting officer must establish the conditions for the procurement of goods or services through written or verbal quotations, which must include conditions stating –
- (a) that quotations must be obtained from at least three different providers preferably from, but not limited to, providers whose names appear on the list of accredited prospective providers of the municipality or municipal entity, provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria in the supply chain management policy required by 14(1)(b) and (c) of this policy; (b) that, to the extent feasible, providers must be requested to submit such quotations in writing;
  - (d) that if it is not possible to obtain at least three quotations, the reasons must be recorded and reported quarterly to the accounting officer or another official designated by the accounting officer;
  - (e) that the accounting officer must record the names of the potential providers requested to provide such quotations with their quoted prices; and
  - (f) that if a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider.

**Formal written price quotations**

- 17.** (1) The accounting officer must establish the conditions for the procurement of goods or services through formal written price quotations, which must include conditions stating –
- (a) that quotations must be obtained in writing from at least three different providers whose names appear on the list of accredited prospective providers of the municipality or municipal entity;
  - (b) that quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria in the supply chain management policy required by paragraph 14(1)(b) and (c);
  - (c) that if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the chief financial officer or an official designated by the chief financial officer, and
  - (d) that the accounting officer must record the names of the potential providers and their written quotations.



- (2) A designated official referred to in subparagraph (1)(c) must within three days of the end of each month report to the chief financial officer on any approvals given during that month by that official in terms of that subparagraph.

### **Procedures for procuring goods or services through written or verbal quotations and formal written price quotations**

- 18.** The accounting officer must determine the operational procedure for the procurement of goods or services through written or verbal quotations or formal written price quotations, which must stipulate –
- (a) that all requirements in excess of **R30 000** (VAT included) that are to be procured by means of formal written price quotations must, in addition to the requirements of paragraph 17, be advertised for at least seven days on the website and an official notice board of the municipality;
  - (b) that when using the list of accredited prospective providers, the accounting officer must promote ongoing competition amongst providers, including by inviting providers to submit quotations on a rotation basis;
  - (c) that the accounting officer must take all reasonable steps to ensure that the procurement of goods and services through written or verbal quotations or formal written price quotations is not abused;
  - (d) that the accounting officer or chief financial officer must on a monthly basis be notified in writing of all written or verbal quotations and formal written price quotations accepted by an official acting in terms of a sub delegation, and;
  - (e) requirements for proper record keeping.

### **Competitive bidding process**

- 19.** (1) Goods or services above a transaction value of R200 000 (including VAT) and long-term contracts may only be procured through a competitive bidding process, subject to paragraph 11(2) of this policy –



- (i) the **80/20 preference point system** for acquisition of services, works or goods up to a rand value of R50 million must be used to calculate the points for price in respect of tenders (including price quotations) with a rand value up to R50 million (all applicable taxes inclusive).

The following formula must be used to calculate the points out of 80 for price in respect of an invitation for a tender with a Rand value equal to or below R50 million, inclusive of all applicable taxes (all applicable taxes included):

$$Ps = 80 \left( 1 - \frac{Pt - P \text{ min}}{P \text{ min}} \right)$$

Where:

Ps = Points scored for comparative price of tender or offer under consideration;

Pt = Comparative price of tender or offer under consideration; and

P min = Comparative price of lowest acceptable tender or offer.

2. A maximum of 20 points may be awarded to a tenderer for the specific goal specified for the tender.

Specific goal	Number of points	Proof of claim
<b>Locality</b>	<b>10</b>	Office address on the company registration document issued by CIPC
Moses Kotane Local Municipality	7	
Bojanala District	2	
North West	1	
Outside North West Province	0	
<b>Youth (18-35 years)</b>	<b>5</b>	Certified identity document
<b>Woman</b>	<b>3</b>	Certified identity document
<b>Disabled people</b>	<b>2</b>	Full CSD Report (Not summary)





- (ii) the **90/10 preference point system** for acquisition of services, works or goods with a rand value above R50 million.

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

$$Ps = 90 \left( 1 - \frac{Pt - P \text{ min}}{P \text{ min}} \right)$$

Where:

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

Pt = Comparative price of bid or offer under consideration; and

P min = Comparative price of lowest acceptable bid or offer.

A maximum of 10 points may be awarded to a tenderer for the specific goal specified for the tender.

Specific goal	Number of points	Proof of claim
<b>Locality</b>	<b>5</b>	Office address on the company registration document issued by CIPC
Moses Kotane Local Municipality	3	
Bojanala District	1	
North West	1	
Outside North West Province	0	
<b>Youth (18-35 years)</b>	<b>3</b>	Certified identity document
<b>Woman</b>	<b>1</b>	Certified identity document
<b>Disabled people</b>	<b>1</b>	Full CSD Report (Not summary)

- (iii) the **80/20 preference point system** for tenders for income generating contracts with rand value equal or below R50 million.





- The following formula must be used to calculate the points for price in respect of an invitation for tender for income-generating contracts, with a rand value equal to or below R50 million, inclusive of all applicable taxes:

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

Where:

$P_s$  = Points scored for price of tender under consideration

$P_t$  = Price of tender under consideration; and

$P_{max}$  = Price of highest acceptable tender.

- A maximum of 20 points may be awarded to a tenderer for the specific goal specified for the tender.

Specific goal	Number of points	Proof of claim
<b>Locality</b>	<b>10</b>	Office address on the company registration document issued by CIPC
Moses Kotane Local Municipality	7	
Bojanala District	2	
North West	1	
Outside North West Province	0	
<b>Youth (18-35 years)</b>	<b>5</b>	Certified identity document
<b>Woman</b>	<b>3</b>	Certified identity document
<b>Disabled people</b>	<b>2</b>	Full CSD Report (Not summary)

- The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.
- Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.



(iv) the **90/10 preference point system** for tenders for income generating contracts with rand value above R50 million.

1. The following formula must be used to calculate the points for price in respect of an invitation for tender for income-generating contracts, with a rand value above R50 million, inclusive of all applicable taxes:

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

Where:

$P_s$  = Points scored for price of tender under consideration

$P_t$  = Price of tender under consideration; and

$P_{max}$  = Price of highest acceptable tender.

2. A maximum of 10 points may be awarded to a tenderer for the specific goal specified for the tender.

Specific goal	Number of points	Proof of claim
<b>Locality</b>	<b>5</b>	Office address on the company registration document issued by CIPC
Moses Kotane Local Municipality	3	
Bojanala District	1	
North West	1	
Outside North West Province	0	
<b>Youth (18-35 years)</b>	<b>3</b>	Certified identity document
<b>Woman</b>	<b>1</b>	Certified identity document
<b>Disabled people</b>	<b>1</b>	Full CSD Report (Not summary)

3. The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.



4. Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.
  - (2) No requirement for goods or services above an estimated transaction value of R200 000 (including VAT), may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.
  - (3) Evaluation of tenders on functionality – If tenders will be evaluated on functionality it must be clearly specified in the tender invitation. The evaluation criteria must be objective and the following must be clearly specified:
    - (a) the evaluation criteria for measuring functionality;
    - (b) weight of each criterion;
    - (c) applicable values; and
    - (d) minimum qualifying score for functionality.
  - (4) Cancellation and re-invitation of tenders:
    - (i)
      - (a) in the event that the application of the 80/20 preference point systems, all bids received exceed the rand value of R 50 million, the tender invitation must be cancelled.
      - (b) If one or more of the acceptable bids received are within the prescribed threshold of R 50 million, all bids received must be evaluated on the 80/20 preference point system.
    - (ii)
      - (a) In the event that, in the application of the 90/10 preference point system as stipulated in the bid documents, all bids received are equal to, or below R 50 million, the bid must be cancelled.
      - (b) If one or more of the acceptable bids received are above the prescribed threshold of R 50 million, all bids received must be evaluated on the 90/10 preference point system.
    - (iii) An organ of state which has cancelled a tender invitation as contemplated in sub-regulations (1)(a) and (2)(a) must re-invite tenders and must, in the tender documents, stipulate the correct preference point system to be applied.
    - (iv) The decision to cancel a tender in terms of sub-regulation (4) must be published in the *Government Tender Bulletin* or the media in which the original tender invitation was advertised.

### **Procedures for competitive bidding**

**20.** The accounting officer must establish procedures for a competitive bidding process for each of the following stages:

- (a) the compilation of bidding documentation;
- (b) the public invitation of bids;
- (c) site meetings or briefing sessions, if applicable;
- (d) the handling of bids submitted in response to public invitation;
- (e) the evaluation of bids;
- (f) the award of contracts;
- (g) the administration of contracts; and
- (h) proper record keeping.

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

**21.** The accounting officer must establish the criteria to which bid documentation for a competitive bidding process must comply, which in addition to paragraph 13 of this policy, the bid documentation must –

- (a) take into account –
  - (i) the general conditions of contract;
  - (ii) any Treasury guidelines on bid documentation; and
  - (ii) the requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;
  - (iii) the requirements of registration on web based Central Supplier Database (CSD)



- (iv) the submission of unique personal identification (pin) issued by SARS to enable the municipality to view the tax payer's profile and tax status.
- (b) include evaluation and adjudication criteria, including any criteria required by other applicable legislation;
- (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 (VAT included), require bidders to furnish–
- (e) if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements –
  - (aa) for the past three years; or
  - (bb) since their establishment if established during the past 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 days;
- (iii) particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
- (iv) a statement indicating whether any portion of the goods 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 or municipal entity is expected to be transferred out of the Republic; and
- (e) stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law.

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

- 22.** The accounting officer must determine the procedure for the invitation of competitive bids, which must stipulate that:



- (1) (a) Any invitation to prospective providers to submit bids must be by means of a public advertisement in newspapers commonly circulating locally, the website of the municipality or municipal entity or any other appropriate ways (which may include an advertisement in the Government Tender Bulletin), government E-tender portal; and
- (b) the information contained in a public advertisement, must include –
  - (i) the closure date for the submission of bids, which may not be less than 30 days in the case of transactions over R10 million (VAT included), or which are of a long-term nature, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to subparagraph (2) of this policy; and
  - (ii) a statement that bids may only be submitted on the bid documentation provided by the municipality.
- (2) The accounting officer may determine a closure date for the submission of bids which is less than the 30 or 14 days requirement, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process.
- (3) Bids submitted must be sealed.
- (4) Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies.

#### **Procedure for handling, opening, recording and awarding of bids**

**23.** The accounting officer must determine the procedures for the handling, opening and recording of bids, which must stipulate that:

- (a) Bids–
  - (i) must be opened only in public; and
  - (ii) must be opened at the same time and as soon as possible after the period for the submission of bids has expired;
- (b) Any bidder or member of the public has the right to request that the names of the bidders who submitted bids in time must be read out and, if practical, also each bidder's total bidding price; and

- (c) The accounting officer must –
- (i) record in a register all bids received in time;
  - (ii) make the register available for public inspection; and
  - (iii) publish the entries in the register and the bid results on the website.
- (e) A contract must be awarded to the tenderer who scored the highest points. However, it may be awarded to a tenderer that did not score the highest total number of points, but only in accordance with section 2(1)(f) of the Act if objective criteria justify the award.

#### **Negotiations with preferred bidders**

**24.** (1) The accounting officer may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provided that such negotiation –

- (a) does not allow any preferred bidder a second or unfair opportunity;
- (b) is not to the detriment of any other bidder; and
- (c) does not lead to a higher price than the bid as submitted.

(2) Minutes of such negotiations must be kept for record purposes.

#### **Two-stage bidding process**

**25.** (1) A two-stage bidding process is allowed for –

- (a) large complex projects;
  - (b) projects where it may be undesirable to prepare complete detailed technical specifications;  
or
  - (c) long term projects with a duration period exceeding three years.
- (2) In the first stage technical proposals on conceptual design or performance specifications should be invited, subject to technical as well as commercial clarifications and adjustments.
- (3) In the second stage final technical proposals and priced bids should be invited.





## Two-envelope system

**26.** 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. The financial offers will only be opened once the technical proposals have been evaluated.

### Financial Bid, comprising:

Pricing Schedule

Financial proposal Bid Prices

Prices indicated on the Pricing Schedule shall be the total price of services including, where applicable:

All duties and other taxes;

The price of any other incidental services required in terms of the tender deliverables;

Prices shall be quoted in South African Rands.

### Committee system for competitive bids

**27.** (1) The accounting officer is required to –

(a) establish a committee system for competitive bids consisting of at least –

- (i) a bid specification committee;
- (ii) a bid evaluation committee; and
- (iii) a bid adjudication committee;

(b) appoint the members of each committee, taking into account section 117 of the Act; and

(c) provide for an attendance or oversight process by a neutral or independent observer, appointed by the accounting officer, when this is appropriate for ensuring fairness and promoting transparency.

(2) The committee system must be consistent with –

(a) paragraph 27, 28 and 29 of this policy; and

(b) any other applicable legislation.

(3) The accounting officer may apply the committee system to formal written price quotations.

### Bid specification committees





**28. (1)** The bid specification committee must compile the specifications for each procurement of goods or services by the municipality or municipal entity.

(2) Specifications –

(a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;

(b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organization, or an authority accredited or recognized by the South African National Accreditation System with which the equipment or material or workmanship should comply;

(c) where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;

(d) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labeling of conformity certification;

(e) may not refer to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the words “equivalent”;

(f) must indicate each specific goal for which points may be awarded in terms of the points system set out in the Preferential Procurement Regulations 2001; and

(g) must be approved by the accounting officer prior to publication of the invitation for bids in terms of paragraph 22 of this policy.

(3) The bid specification committee must be composed of one or more officials of the municipality or municipal entity, preferably the manager responsible for the function involved, and may, when appropriate, include external specialist advisors.

(4) No person, advisor or corporate entity involved with the bid specification committee, or director of such a corporate entity, may bid for any resulting contracts.

### **Bid evaluation committees**

**29. (1)** The bid evaluation committee must –



- (a) evaluate bids in accordance with –
    - (i) the specifications for a specific procurement; and
    - (ii) the points system set out in terms of paragraph 27(2)(f).
  - (b) evaluate each bidder's ability to execute the contract;
  - (c) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears, and;
  - (d) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.
- (2) The bid evaluation committee must as far as possible be composed of –
- (a) officials from departments requiring the goods or services; and
  - (b) at least one supply chain management practitioner of the municipality.
  - (c) budget officials

#### **Bid adjudication committees**

- 30.** (1) The bid adjudication committee must –
- (a) consider the report and recommendations of the bid evaluation committee; and
  - (b) either –
    - (i) depending on its delegations, make a final award or a recommendation to the accounting officer to make the final award; or
    - (ii) make another recommendation to the accounting officer how to proceed with the relevant procurement.
- (2) The bid adjudication committee must consist of at least four senior managers of the municipality or municipal entity which must include –



- (i) the chief financial officer or, if the chief financial officer is not available, another manager in the budget and treasury office reporting directly to the chief financial officer and designated by the chief financial officer; and
  - (ii) at least one senior supply chain management practitioner who is an official of the municipality; and
  - (iii) a technical expert in the relevant field who is an official, if such an expert exists.
- (3) The accounting officer must appoint the chairperson of the committee. If the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside at the meeting.
- (4) Neither a member of a bid evaluation committee, nor an advisor or person assisting the evaluation committee, may be a member of a bid adjudication committee.
- (5) (a) If the bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee, the bid adjudication committee must prior to awarding the bid –
- (i) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears, and;
  - (ii) notify the accounting officer.
- (b) The accounting officer may –
- (i) after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in paragraph (a); and
  - (ii) if the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.
- (6) The accounting officer may at any stage of a bidding process, refer any recommendation made by the evaluation committee or the adjudication committee back to that committee for reconsideration of the recommendation.
- (7) The accounting officer must comply with section 114 of the Act within 10 working days.

### **Procurement of banking services**



**31. (1) Banking services –**

- (a) must be procured through competitive bids;
  - (b) must be consistent with section 7 or 85 of the Act; and
  - (c) may not be for a period of more than five years at a time.
- (2) The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.
- (3) The closure date for the submission of bids may not be less than 60 days from the date on which the advertisement is placed in a newspaper in terms of paragraph 22(1). Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

**Procurement of IT related goods or services**

- 32. (1)** The accounting officer may request the State Information Technology Agency (SITA) to assist with the acquisition of IT related goods or services through a competitive bidding process.
- (2) Both parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to, SITA.
- (3) The accounting officer must notify SITA together with a motivation of the IT needs if –
- (a) the transaction value of IT related goods or services required in any financial year will exceed R50 million (VAT included); or
  - (b) the transaction value of a contract to be procured whether for one or more years exceeds R50 million (VAT included).
- (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 must be submitted to the council, the National Treasury, the relevant Provincial Treasury and the Auditor General.

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

- 33. (1)** The accounting officer may procure goods or services 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) there is no reason to believe that such contract was not validly procured;
- (c) there are demonstrable discounts or benefits to do so; and
- (d) that other organ of state and the provider have consented to such procurement in writing.

(2) Subparagraph (1)(c) and (d) do not apply if –

- (a) a municipal entity procures goods or services through a contract secured by its parent municipality; or
- (b) a municipality procures goods or services through a contract secured by a municipal entity of which it is the parent municipality.

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

- 34. (1)** The acquisition and storage of goods in bulk (other than water) which necessitate special safety arrangements, including gasses and fuel, should be avoided where ever possible.
- (2) Where the storage of goods in bulk is justified, such justification must be based on sound reasons, including the total cost of ownership, cost advantages and environmental impact and must be approved by the accounting officer.

#### **Proudly SA Campaign**

- 35. (1)** The accounting officer must determine internal operating procedures supporting the Proudly SA Campaign to the extent that, all things being equal, preference is given to procuring local goods and services from:
  - Firstly –suppliers and businesses within the municipality or district;
  - Secondly – suppliers and businesses within the relevant province;
  - Thirdly – suppliers and businesses within the Republic of South Africa



### (3) Broad-Based Black Economic Empowerment Status Level Certificates

- (i) Tenderers with annual total revenue of R10 million or less qualify as Exempted Micro Enterprises (EMEs) in terms of the Broad-Based Black Economic Empowerment Act, and must submit a certificate issued by a registered auditor, accounting officer (as contemplated in section 60(4) of the Close Corporation Act, 1984 (Act No. 69 of 1984) or an accredited verification agency.
- (ii) Tenderers other than Exempted Micro-Enterprises (EMEs) must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof.
- (iii) 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) Conditions

- (i) Only a tenderer who has completed and signed the declaration part of the tender documentation may be considered.
- (ii) The municipality must, when calculating comparative prices, take into account any discounts which have been offered unconditionally.
- (iii) A discount which has been offered conditionally must, despite not being taken into account for evaluation purposes, be implemented when payment is effected.
- (iv) Points scored must be rounded off to the nearest 2 decimal places.
- (v) (a) In the event that two or more tenderers have scored equal total points, the successful tender must be the one scoring the highest number of points on specific goals.  
(b) In the event that two or more tenderers have scored equal total points in all respect, the award must be decided by the drawing of lots.
- (vi) A trust, consortium or joint venture will qualify for points for their specific goals as a legal entity, provided that the entity submits their proof of claim.
- (vii) A trust, consortium or joint venture will qualify for points for their specific goals as an unincorporated entity, provided that the entity submits their consolidated proof of claim as if they were a group structure and that such a consolidated proof of claim is prepared for every separate tender.



- (viii) When an organ of state is in need of a service provided by only tertiary institutions, such services must be procured through a tendering process from the identified tertiary institutions.
- (xi) Tertiary institutions referred to in sub-regulation (11) will be required to submit their proof of claim for specific goals.
- (xii) (a) Should an organ of state require a service that can be provided by 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 tendering process;
- (b) Public entities will be required to submit their proof of claim for specific goals.

#### (5) Declarations

(i) A tender must, in the manner stipulated in the tender document, declare that-

- (a) the information provided is true and correct;
- (b) the signatory to the tender document is duly authorized; and
- (c) documentary proof regarding any tendering issue will, when required, be submitted to the satisfaction of the relevant organ of state.

#### (6) Remedies

If an organ of state is of the view that a tenderer submitted false information regarding specific goal, it must—

- (a) inform the tenderer accordingly; and
- (b) give the tenderer an opportunity to make representations within 14 days as to why the tender may not be disqualified or, if the tender has already been awarded to the tenderer, the contract should not be terminated in whole or in part.

(2) After considering the representations referred to in subregulation (1)(b), the organ of state may, if it concludes that such information is false—

- (a) disqualify the tenderer or terminate the contract in whole or in part; and
- (b) if applicable, claim damages from the tenderer.

### **Appointment of consultants**





**36.** (1) The accounting officer may procure consulting services provided that any Treasury guidelines in respect of consulting services are taken into account when such procurements are made.

(2) Consultancy services must be procured through competitive bids if–

(a) the value of the contract exceeds R200 000 (including VAT); or

(b) the duration period of the contract exceeds one year.

(3) In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish particulars of –

(a) all consultancy services provided to an organ of state in the last five years;

and

(b) any similar consultancy services provided to an organ of state in the last five years.

(4) The accounting officer 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.

36. Use of consultants

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

**37.** (1) The accounting officer may –

(a) dispense with the official procurement processes established by this policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only –

(i) in an emergency;

(ii) if such goods 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) acquisition of animals for zoos and/or nature and game reserves; or
  - (v) in any other exceptional case where it is impractical or impossible to follow the official procurement processes; and
  - (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 accounting officer must record the reasons for any deviations in terms of subparagraphs (1)(a) and (b) of this policy and report them to the next meeting of the council and include as a note to the annual financial statements.
- (3) Subparagraph (2) does not apply to the procurement of goods and services contemplated in paragraph 11(2) of this policy.

#### **Unsolicited bids**

- 38.** (1) In accordance with section 113 of the Act there is no obligation to consider unsolicited bids received outside a normal bidding process.
- (2) The accounting officer may decide in terms of section 113(2) of the Act to consider an unsolicited bid, only 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;
  - (c) the person 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 accounting officer.
- (3) If the accounting officer decides to consider an unsolicited bid that complies with subparagraph (2) of this policy, the decision must be made public in accordance with section 21A of the Municipal Systems Act, together with –
- (a) reasons as to why the bid should not be open to other competitors;



- (b) an explanation of the potential benefits if the unsolicited bid were accepted; and
- (c) an invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.
- (4) All written comments received pursuant to subparagraph (3), including any responses from the unsolicited bidder, must be submitted to the National Treasury and the relevant provincial treasury for comment.
- (5) The adjudication committee must consider the unsolicited bid and may award the bid or make a recommendation to the accounting officer, 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) If any recommendations of the National Treasury or provincial treasury are rejected or not followed, the accounting officer 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 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 days of the submission.

### **Combating of abuse of supply chain management system**

**39.** The accounting officer must establish measures for the combating of abuse of the supply chain management system, which must stipulate the following:

- (1) The accounting officer must–
  - (a) take all reasonable steps to prevent abuse of the supply chain management system;



- (b) investigate any allegations against an official or other role player of fraud, corruption, favoritism, unfair or irregular practices or failure to comply with this supply chain management policy, and when justified –
  - (i) take appropriate steps against such official or other role player; or
  - (ii) report any alleged criminal conduct to the South African Police Service;
- (c) check the National Treasury’s database prior to awarding any contract to ensure that no recommended bidder, or any of its directors, is listed as a person prohibited from doing business with the public sector;
- (d) reject any bid from a bidder–
  - (i) if any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the municipality, or to any other municipality or municipal entity, are in arrears for more than three months; or
  - (ii) who during the last five years has failed to perform satisfactorily on a previous contract with the municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;
- (e) reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;
- (f) cancel a contract awarded to a person if –
  - (i) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
  - (ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and
- (g) reject the bid of any bidder if that bidder or any of its directors –
  - (i) has abused the supply chain management system of the municipality or has committed any improper conduct in relation to such system;
  - (ii) has been convicted for fraud or corruption during the past five years;



- (iii) has willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
  - (iv) has been listed in the Register for Tender Defaulters In terms section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).
- (2) The accounting officer must inform the National Treasury and relevant provincial treasury in writing of any actions taken in terms of subparagraphs (1)(b)(ii), (e) or (f) of this policy.

### ***Part 3: Logistics, Disposal, Risk and Performance Management***

#### **Logistics management**

40. The accounting officer must establish an effective system of logistics management in order to provide 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.

#### **Disposal management**

41. (1) The accounting officer must establish an effective system of disposal management for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the Act, which must stipulate the following:

(2) The disposal of assets must–

(a) be by one of the following methods, in terms of the Municipal Finance Management Act: Municipal Asset Transfer Regulations:

(i) transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;

(ii) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;

(iii) selling the asset; or

(iv) destroying the asset;

(b) provided that –



- (i) immovable property may be sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
  - (ii) 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;
  - (iii) in the case of the free disposal of computer equipment, the provincial department of education must first be approached to indicate within 30 days whether any of the local schools are interested in the equipment; and
  - (iv) in the case of the disposal of firearms, the National Conventional Arms Control Committee has approved any sale or donation of firearms to any person or institution within or outside the Republic;
- (c) furthermore ensure that –
- (i) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise; and
  - (ii) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed; and
- (d) ensure that where assets are traded in for other assets, the highest possible trade-in price is negotiated.

### **Risk management**

- 42.** (1) The accounting officer must establish an effective system of risk management for the identification, consideration and avoidance of potential risks in the supply chain management system.
- (2) Risk management must include –
- (a) the identification of risks on a case-by-case basis;
  - (b) the allocation of risks to the party best suited to manage such risks;
  - (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 risks in a pro-active manner and the provision of adequate cover for residual risks; and
- (e) the assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.

### **Performance management**

- 43.** The accounting officer must establish an effective internal monitoring system in order to determine, on the basis of a retrospective analysis, whether the authorized supply chain management processes were followed and whether the desired objectives were achieved.

### **Part 4: Other matters**

#### **Prohibition on awards to persons whose tax matters are not in order**

- 44.** (1) The accounting officer must ensure that, irrespective of the procurement process followed, no award is given to a person whose tax matters have not been declared by the South African Revenue Service to be in order.
- (2) Before making an award to a person the accounting person must first check with SARS whether that person's tax matters are in order.
- (3) If SARS does not respond within 7 days such person's tax matters may for purposes of subparagraph (1) be presumed to be in order.
- (4) Bidders must submit unique personal identification (pin) issued by SARS to enable the municipality to view the tax payer's profile and tax status.

#### **Prohibition on awards to persons in the service of the state**

- 45.** The accounting officer must ensure that irrespective of the procurement process followed, no award may be given to a person –
- (a) who is in the service of the state; or
- (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) a person who is an advisor or consultant contracted with the municipality or municipal entity.

#### **Awards to close family members of persons in the service of the state**

**46.** The notes to the annual financial statements must disclose particulars of any award of more than R2000 to a person who is a spouse, child or parent of a person in the service of the state, or has been in the service of the state in the previous twelve months, including –

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

#### **Ethical standards**

**47.** (1) A code of ethical standards is hereby established, in accordance with subparagraph (2), for officials and other role players in the supply chain management system in order to promote –

- (a) mutual trust and respect; and
- (b) an environment where business can be conducted with integrity and in a fair and reasonable manner.

(2) An official or other role player involved in the implementation of the supply chain management 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 a value more than R350;
- (d) notwithstanding subparagraph (2)(c), must declare to the accounting officer details of any reward, gift, favor, 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 accounting officer 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 accounting officer in combating fraud, corruption, favoritism and unfair and irregular practices in the supply chain management system; and
  - (i) must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including –
    - (ii) any alleged fraud, corruption, favoritism or unfair conduct;
    - (iii) any alleged contravention of paragraph 47(1) of this policy; or
    - (iv) any alleged breach of this code of ethical standards.
- (3) Declarations in terms of subparagraphs (2)(d) and (e) –
- (a) must be recorded in a register which the accounting officer must keep for this purpose;
  - (b) by the accounting officer must be made to the mayor of the municipality who must ensure that such declarations are recorded in the register.
- (4) The National Treasury’s code of conduct must also be taken into account by supply chain management practitioners and other role players involved in supply chain management.
- (5) It is recommended that the municipality or municipal entity adopt the National Treasury’s code of conduct for supply chain management practitioners and other role players involved in supply chain management. When adopted, such code of conduct becomes binding on all officials and other role players involved in the implementation of the supply chain management policy of the municipality or municipal entity. A copy of the National Treasury code of conduct is available on the website [www.treasury.gov.za/mfma](http://www.treasury.gov.za/mfma) located under “legislation”. This code of conduct must be adopted by council.



(6) A breach of the code of conduct adopted by the municipality must be dealt with in accordance with schedule 2 of the Systems Act.

### **Inducements, rewards, gifts and favours to municipalities, officials and other role players**

**48.** (1) No person who is a provider or prospective provider of goods or services, or a recipient or prospective recipient of goods disposed or to be disposed of 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 –

(i) any official; or

(ii) any other role player involved in the implementation of the supply chain management policy.

(2) The accounting officer must promptly report any alleged contravention of subparagraph (1) 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) Subparagraph (1) does not apply to gifts less than R350 in value.

### **Sponsorships**

**49.** The accounting officer must promptly disclose to the National Treasury and the relevant provincial treasury any sponsorship promised, offered or granted, whether directly or through a representative or intermediary, by any person who is –

(a) a provider or prospective provider of goods or services; or

(b) a recipient or prospective recipient of goods disposed or to be disposed.

### **Objections and complaints**



**50.** Persons aggrieved by decisions or actions taken in the implementation of this supply chain management system, may lodge within 14 days of the decision or action, a written objection or complaint against the decision or action.

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

**51.** (1) The accounting officer must appoint an independent and impartial person, not directly involved in the supply chain management processes –

(a) to assist in the resolution of disputes between the municipality and other persons regarding –

(i) any decisions or actions taken in the implementation of the supply chain management system; or

(ii) any matter arising from a contract awarded in the course of the 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 accounting officer, or another official designated by the accounting officer, is responsible for assisting the appointed person to perform his or her functions effectively.

(3) The person appointed must –

(a) strive to resolve promptly all disputes, objections, complaints or queries received; and

(b) submit monthly reports to the accounting officer 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 days; or

(b) no response is forthcoming within 60 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.

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

**52.** If a service provider acts on behalf of a 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.

### **53. Reforms issued by National treasury applicable to Moses Kotane Local Municipality SCM regulations and policy;**

- a) Municipal regulations on minimum competencies
- b) Circular 53 Functionality
- c) Circular 60 Minimum Competencies
- d) Circular 62 SCM enhancement, compliance and accountability
- e) Circular 62 Procurement plans
- f) Circular 68 Unauthorized, irregular, fruitless and wasteful expenditure
- g) Circular 69 Local production and contents
- h) Circular 73 System of delegations
- i) Circular 77 Standard Infrastructure procurement and delivery management (SIPDIM)
- j) Circular 76 Financial misconduct procedure and criminal
- k) Circular 80 MSCOA for SCM
- l) Circular 81 Web-Base Central supplier database (CSD)
- m) Circular 82 Cost containment measures
- n) Circular 83 E tender portal
- o) Circular 90 Tax clearance certificate
- p) Circular 94 Procurement plans
- q) Circular 96 SCM Regulation 32
- r) Circular 102 Emergency procurement in response to National State of Disaster
- s) Circular 103 Preventative measures in response to COVID-19
- t) Circular 105 Withdrawal of MFMA Circular 102 Emergency Procurement in Response to State of Disaster



- u) Circular 106 - LG Framework for Infrastructure Delivery and Procurement Management
- v) Circular 110 - Unfair Criteria Used in Bidding Processes Relating to Infrastructure Procurement and the Charging of Excessive Fees
- w) Circular 111 - UIF&W Reduction Strategy and Annexure A
- x) Circular 120 - Cession and Assignment
- y) Preferential procurement regulations 2022

## 55. Use of consultants

1. A municipality or municipal entity may only appoint consultants if an assessment of the needs and requirements confirms that the affected municipality or municipal entity does not have the requisite skills or resources in its full -time employ to perform the function.
2. An accounting officer must adopt a fair and reasonable remuneration framework for consultants taking into account the rates –
  - a. Determined in the "Guideline on fees for audits undertaken on behalf of the Auditor -General of South Africa ",issued by the South African Institute of Chartered Accountants;
  - b. Set out in the "Guide on Hourly Fee Rates for Consultants ", issued by the Department of Public Service and Administration; or
  - c. As prescribed by the body regulating the profession of the consultant.
3. The tender documentation for the appointment of consultants must include a clause that the remuneration rates will be subject to negotiation, not exceeding the applicable rates mentioned in sub -regulation (2).
4. When negotiating cost -effective consultancy rates for international consultants, the accounting officer may take into account the relevant international and market – determined rates.
5. When consultants are appointed, an accounting officer must –
  - a. Appoint consultants on a time and cost basis with specific start and end dates;
  - b. Where practical, appoint consultants on an output- specified basis, subject to specific measurable objectives and associated remuneration;
  - c. Ensure that contracts with consultants include overall cost ceilings by specifying whether the contract price is inclusive or exclusive of travel and subsistence disbursements;





- d. Ensure the transfer of skills by consultants to the relevant officials of a municipality or municipal entity;
  - e. Undertake all engagements of consultants in accordance with the Municipal Supply Chain Management Regulations, 2005 and the municipality or municipal entity's supply chain management policy; and monitored.
  - f. Develop consultancy reduction plans to reduce the reliance on consultants.
6. All contracts with consultants must include a fee retention or penalty clause for poor performance.
  7. A municipality or municipal entity must ensure that the specifications and performance are used as a monitoring tool for the work to be undertaken and are appropriately recorded and monitored.
  8. The travel and subsistence costs of consultants must be in accordance with the national travel policy issued by the National Department of Transport, as updated from time to time.
  9. The contract price must specify all travel and subsistence costs and if the travel and subsistence costs for appointed consultants are excluded from the contract price, such costs must be reimbursed in accordance with the national travel policy of the National Department of Transport.

#### Commencement

56. This policy is based on the **Local Government: Municipal Finance Management Act (Act No. 56 of 2003): Municipal Supply Chain Management Regulations**, as published in Government Gazette No. 27636 on 30 May 2005, as well as the **Preferential Procurement Policy Framework Act (Act No. 5 of 2000): Preferential Procurement Regulations**, as published in Government Gazette No. 34350 on 8 June 2011 and **Preferential Procurement Policy Framework Act (Act No. 5 of 2000): Preferential Procurement Regulations 2017** as published in Government Gazette No. 40553 on 20 January 2017 and **Preferential Procurement Policy Framework Act (Act No. 5 of 2000): Preferential Procurement Regulations 2022** as published in Government Gazette No. 47452 on 04 November 2022.

This policy takes effect on **01 February 2023**.