

# **SWARTLAND MUNICIPALITY**

## **SUPPLY CHAIN MANAGEMENT POLICY**

**MUNICIPAL SUPPLY CHAIN MANAGEMENT POLICY**  
**LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, No 56 of 2003**

Date of adoption: 1 January 2006

Amended: 11 May 2011  
 Amended: 16 May 2012  
 Amended: 15 May 2013  
 Amended: 21 May 2014  
 Amended: 13 May 2015  
 Amended: 26 May 2016  
 Amended: 24 November 2016  
 Amended: 23 March 2017  
 Amended: 28 June 2017  
 Amended: 29 March 2018  
 Amended: 30 May 2018  
 Amended: 31 January 2019  
 Amended: 30 January 2020  
 Amended: 30 March 2021  
 Amended: 29 July 2021  
 Amended: 30 March 2022  
 Amended: 14 December 2022  
 Amended: 14 December 2023  
 Amended: 28 March 2024  
 Amended: 31 March 2025

The Council of the Swartland Municipality resolves in terms of section 111 of the Local Government: Municipal Finance Management Act (Act No 56 of 2003) to adopt the following as the Supply Chain Management Policy of the municipality:

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**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 –
  - “**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;
  - “**contracts of a long term nature**” means a contract with a duration exceeding three years;
  - “**final award**”, in relation to bids or quotations submitted for a contract, means the final decision on which bid or quote to accept;
  - “**formal written price quotation**” means quotations referred to in paragraph 12(1)(c) of this Policy;
  - “**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) an executive 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 the municipality must keep in terms of paragraph 14 of this Policy;

**“other applicable legislation”** means any other legislation applicable to municipal supply chain management, including –

- (a) the Constitution of the Republic of South Africa Act, 1996 (Act No 108 of 1996);
- (b) the Preferential Procurement Policy Framework Act, 2000 (Act No 5 of 2000);
- (c) the Broad-Based Black Economic Empowerment Act, 2003 (Act No 53 of 2003);
- (d) the Construction Industry Development Board Act, 2000 (Act No 38 of 2000); and
- (e) the Prevention and Combating of Corrupt Activities Act, 2004 (Act No 12 of 2004);
- (f) the Preferential Procurement Regulations, 2022 ;
- (g) the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000);
- (h) the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);
- (i) National Treasury, MFMA Circular No. 34, Municipal Finance Management Act No. 56 of 2003, Reporting of awards above R 100 000
- (j) National Treasury, MFMA Circular No. 46, Municipal Finance Management Act No. 56 of 2003, Checking the prohibition status of recommended bidders
- (k) National Treasury, MFMA Circular No. 50, Municipal Finance Management Act No. 56 of 2003, Preparation of the municipal audit file (Stores & Consumables)
- (l) National Treasury, MFMA Circular No. 52, Municipal Finance Management Act No. 56 of 2003, Prohibition of restricted practices
- (m) National Treasury, MFMA Circular No. 53, Municipal Finance Management Act No. 56 of 2003, Amended guidelines in respect of bids that include functionality as a criterion for evaluation

- (n) National Treasury, MFMA Circular No. 56, Municipal Finance Management Act No. 56 of 2003, Database of restricted suppliers
- (o) National Treasury, MFMA Circular No. 62, Municipal Finance Management Act No. 56 of 2003, Enhancing compliance and accountability
- (p) National Treasury, MFMA Circular No. 68, Municipal Finance Management Act No. 56 of 2003, Unauthorised, irregular, fruitless and wasteful expenditure
- (q) National Treasury, MFMA Circular No. 82, Municipal Finance Management Act No. 56 of 2003, Cost Containment Measures (as qualified under section 35.5)
- (r) National Treasury, MFMA Circular No. 81, Municipal Finance Management Act No. 56 of 2003, Web Based Central Supplier Database (CSD)
- (s) National Treasury, MFMA Circular No. 83, Municipal Finance Management Act No. 56 of 2003, Advertisement of bids and the publication of notices in respect of awarded bids, cancelled bids, variations and extensions of existing contracts on the eTender publication portal
- (t) National Treasury, MFMA Circular No. 90, Municipal Finance Management Act No. 56 of 2003, Tax Compliance Status

**“Regulations”** means the Local Government: Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations;

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

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

**“written”** 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 principles of this policy are that it -
  - (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 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 pledges effective and efficient service delivery by acquiring goods and services of optimum value through best purchasing practices. The acquisition of goods, works and / or services are dealt with in accordance with the municipality's Preferential Procurement Policy and the PPPFA Regulations.
- (3) The municipality further supports the creation and maintenance of a good, sound business relationship with the bidding public in general, as well as with its valued supplier base, without which it cannot survive in a competitive market.
- (4) The municipality also seeks to develop and maintain positive, long term relationships based on mutual trust and respect with those suppliers who demonstrate their commitment to the municipality's shared goals. The municipality also commits itself to clarity in its communication of requirements, and to be professional, courteous, fair, factual and responsive in its business dealings.
- (5) The municipality may not act otherwise than in accordance with this 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) 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.
- (6) This Policy, except where provided otherwise, does not apply in respect of:
- (a) the procurement of goods and services contemplated in section 110(2) of the Act, including –
    - (i) water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and
    - (ii) electricity from ESKOM or another public entity, another municipality or a municipal entity;
  - (b) the acquisition of services of management consultants in respect of the financial systems will be dealt with in terms of the delegated powers as provided for in the Municipality's delegation register, as amended from time to time;
  - (c) insurance claims;
  - (d) repairs and servicing of vehicles, where the vehicles must be repaired and or serviced by the relevant agency/authorized dealer or manufacturer, with a value equal to or less than R30 000.00 (including VAT).
  - (e) training, courses, seminars, conferences and/or workshops presented by the municipality's systems providers or a single provider, with a value equal to or less than R30 000.00 (including VAT).
  - (f) provision of material for structural damage in a disaster situation in terms of the Municipality's Disaster Management Plan, with a value equal to or less than R30 000.00 (including VAT).
  - (g) machinery or other equipment serviced and repaired by the agent of that machinery or equipment, with a value equal to or less than R30 000.00 (including VAT)
  - (h) The acquisition of services of medical specialists as may be required from time to time and in terms of the Pension Funds Amendment Act, Act 65 of 2001 and



related regulations and amendments, with a value equal to or less than R30 000.00 (including VAT).

- (i) refresher training courses where initial training has already been provided by the same supplier, with a value equal to or less than R30 000.00 (including VAT)
- (j) In the event of a strip and quote or adhoc repairs to plant, equipment and machinery where it is not possible to ascertain the nature or extent of the work required in order to call for quotations, authorised by the relevant Director with a value equal to or less than R30 000.00 (including VAT),
- (k) subscription fees, franking machine postage and membership fees for Council and employees of municipal institutes/bodies, with a value equal to or less than R30 000.00 (including VAT)
- (l) local travel agencies for booking of accommodation, air travel reservations or any other specified reservations, with a value equal to or less than R30 000.00 (including VAT)
- (m) emergency repair of tyres (excluding replace and purchase of new tyres), with a value equal to or less than R30 000.00 (including VAT).

### **Adoption and amendment of the Supply Chain Management Policy**

- 3.** (1) The Accounting Officer must –
- (a) at least annually review the execution of provisions contained in 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 issued by the National Treasury, the Accounting Officer must –
- (a) ensure that such draft policy complies with the regulations; and
  - (b) report any deviation from the model policy to the National Treasury and the relevant provincial treasury.
- (3) When amending this 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 must, in terms of section 62(1)(f)(iv) of the Act, take all reasonable steps to ensure that the municipality has and implements this Supply Chain Management Policy.

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

4. (1) The Council hereby delegates all powers and duties to the Accounting Officer which are necessary to enable the Accounting Officer –
- (a) to discharge the supply chain management responsibilities conferred on accounting officers in terms of –
    - (i) Chapter 8 of the Act; and
    - (ii) this policy;
  - (b) to maximise administrative and operational efficiency in the implementation of this policy;
  - (c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of this policy; and
  - (d) to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.
- (2) Section 79 and 106 of the Act applies to the sub delegation of powers and duties delegated to the Accounting Officer in terms of paragraph 4(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 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 paragraph 4 and paragraph 5(2) 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 Director of a department; or
    - (iii) a bid adjudication committee of which the Chief Financial Officer and Director of a department is a member.
  - (c) not exceeding R2 million (VAT included) may be sub delegated, but only to–
    - (i) the Chief Financial Officer;
    - (ii) a Director of a department;
    - (iii) an official directly accountable to the Chief Financial Officer or a Director; 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 paragraph 5(2) of this policy must within five (5) working days of the end of each month submit to the official referred to in paragraph 5(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 supplier or person to whom the award was made; and
  - (c) the reason why the award was made to that supplier or person.
- (4) A written report referred to in paragraph 5(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 Director of a department; or
    - (iii) a bid adjudication committee of which the Chief Financial Officer or a Director is a member; or
  - (b) to the Chief Financial Officer or the Director responsible for the relevant bid, in the case of an award by –
    - (i) an official referred to in paragraph 5(2)(c)(iii) of this policy; or
    - (ii) a bid adjudication committee of which the Chief Financial Officer or a Director is not a member.

- (5) Paragraphs 5(3) and 5(4) do not apply to procurements by way of direct purchases described in paragraph 15 of this policy.
- (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.
- (8) The power to cancel bids on recommendation by the relevant department.

### **Oversight role of Council**

- 6. (1) The Council must maintain oversight over the implementation of this policy.
- (2) For the purposes of such oversight the Accounting Officer must –
  - (a) 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 to the council of the municipality; and
  - (b) whenever there are serious and material problems in the implementation of such Supply Chain Management Policy, immediately submit a report to the Council.
- (3) The Accounting Officer must, within ten (10) working 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) One supply chain management unit is hereby established to implement this policy.
- (2) The supply chain management unit operates 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 this policy should be in accordance with any Treasury guidelines on supply chain management training.

- (a) The accounting officer and all other officials of the municipality involved in the implementation of the supply chain management policy of the municipality or municipal entity must meet the prescribed competency levels.
- (b) The municipality must for the purposes of subsection (a) provide resources or opportunities for the training of officials referred to in that subsection to meet the prescribed competency levels.
- (c) The National Treasury or a provincial treasury may assist municipalities and municipal entities in the training of officials referred to in subsection (a).

## **CHAPTER 2**

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

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

- 9.** This 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.** (1) The Accounting Officer must establish and implement an appropriate demand management system in order to ensure that the resources required by the municipality support its operational commitments and its strategic goals outlined in the Integrated Development Plan.
- (2) The demand management system must -
- (a) include timely planning and management processes to ensure that all goods and services required by the municipality are quantified, budgeted for and effectively delivered at the right locations and at the critical delivery dates, and are of the appropriate quality and quantity at a fair cost;
  - (b) take into account any benefits of economies of scale that may be derived in the case of acquisitions of a repetitive nature;
  - (c) provide for the compilation of the required specifications to ensure that its needs are met.
  - (d) undertake appropriate industry analysis and research to ensure that innovations and technological benefits are maximised.

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

### **System of acquisition management**

- 11.** (1) The Accounting Officer must implement an effective system of acquisition management in order to ensure that –
- (a) goods and services are procured by the municipality in accordance with authorised processes only;
  - (b) expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the Act;
  - (c) the threshold values for the different procurement processes are complied with;
  - (d) bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation; and
  - (e) any Treasury guidelines on acquisition management are properly taken into account.
- (2) When procuring goods or services contemplated in section 110(2) of the Act, the Accounting Officer must make public the fact that such goods or services are procured otherwise than through the supply chain management system, including -
- (a) the kind of goods or services; and
  - (b) the name of the supplier.

### **Range of procurement processes**

- 12.** (1) Goods and services may only be provided by way of –
- (a) direct purchases, up to a transaction value of R2 000 (VAT included);
  - (b) formal written price quotations for procurement of a transaction value over R2000 up to R300 000 (VAT included);
  - (c) a competitive bidding process for–
    - (i) procurement above a transaction value of R300 000 (VAT included); and
    - (ii) the procurement of long term contracts.
- (2) The Accounting Officer may, in writing -
- (a) lower, but not increase, the different threshold values specified in paragraph 12(1); or

- (b) direct that –
  - (i) formal written price quotations be obtained for any specific procurement of a transaction value lower than R10 000 (VAT included); or
  - (ii) a competitive bidding process be followed for any specific procurement of a transaction value lower than R300 000 (VAT included).
- (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 this 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**

**13.1** 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;
  - (iii) tax reference number and VAT registration number, if any; and
  - (iv) tax clearance from the South African Revenue Services that the provider's tax matters are in order; in those cases where the quotation or bid is more than R30 000,00 (VAT included)
- (b) 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 paragraph 13(b)(ii) is in the service of the state, or has been in the service of the state in the previous twelve months.

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

**14.** The municipality utilises the Web based Central Supplier Database of National Treasury.



**Direct purchases** (value up to R2 000, VAT included)

- 15.** (1) The conditions for the procurement of goods by means of direct purchases referred to in paragraph 12(1) (a) of this policy, are that –
- (a) minor items are purchased for up to a transaction value of R2 000 (VAT included) where it is impractical, impossible or not cost-effective to obtain written or formal quotations, subject to normal internal control procedures;
  - (b) orders must be placed with providers whose names appear on the list of accredited prospective providers of the municipality, if they are capable to deliver the required goods; or from providers who are not listed but who meet the listing criteria referred to in paragraph 14(1)(c), and
  - (c) the procurement is made by the supply chain management unit.
- (2) A monthly reconciliation report from the supply chain management unit must be provided to the Chief Financial Officer, including –
- (a) the total amount of direct purchases for that month; and
  - (b) goods receipt notes and appropriate documents for each purchase.

**Written quotations**

- 16.** Deleted

**Formal written price quotations**

- 17.** (1) The conditions for the procurement of goods or services through formal written price quotations are as follows:-
- (a) quotations must be obtained in writing from at least three different providers whose names appear on National Treasury's Central Supplier Database (CSD); provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria set out in paragraph 13.1 of this Policy;
  - (b) 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
  - (c) the Accounting Officer must record the names of the potential providers requested to provide such quotations and their formal written price quotations.

- (2) The designated official referred to in paragraph 17(1)(b) must within three (3) working 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 paragraph.

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

**18.** The procedure for the procurement of goods or services through formal written price quotations, is as follows:–

- (a) when using the list of accredited prospective providers the Accounting Officer must promote ongoing competition amongst providers by inviting providers to submit quotations on a rotation basis;
- (b) 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 the official notice boards of the municipality;
- (c) offers received must be evaluated on a comparative basis taking into account unconditional discounts;
- (d) the Accounting Officer must take all reasonable steps to ensure that the procurement of goods and services through formal written price quotations is not abused;
- (e) the Accounting Officer or Chief Financial Officer must on a monthly basis be notified in writing of all written quotations and formal written price quotations accepted by an official acting in terms of a sub delegation;
- (f) offers equal to or below R10 000 (VAT included) must be awarded based on compliance to specifications and conditions of contract, ability and capability to deliver the goods and services and lowest price;
- (g) offers with a value more than R10 000 (VAT included) are subject to the preference points system (PPPFA) and associated regulations and must be dealt with according to the Council's Preferential Procurement Policy; and
- (h) the Chief Financial Officer must set requirements for proper record keeping of all informal written and formal written price quotations accepted on behalf of the municipality.

### **Competitive bidding process**

- 19.** (1) Goods or services above a transaction value of R300 000 (VAT included) may only be procured through a competitive bidding process, subject to paragraphs 11(2) of this Policy.

- (2) No requirement for goods or services above an estimated transaction value of R300 000 (VAT included), 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.

### **Process for competitive bidding**

**20.** (1) The procedures for the following stages of a competitive bidding process are as follows:-

- (a) Compilation of bidding documentation, detailed in paragraph 21.
- (b) Public invitation of bids, detailed in paragraph 22.
- (c) Site meetings or briefing sessions, detailed in paragraph 22.
- (d) Handling of bids submitted in response to public invitation, detailed in paragraph 23.
- (e) Evaluation of bids, detailed in paragraph 28.
- (f) Awarding of contracts, detailed in paragraph 29.
- (g) Administration of contracts –
- (i) After approval of a bid, the Accounting Officer and the bidder must enter into a written agreement.
- (h) Proper record keeping –
- (i) Original / legal copies of written contracts and agreements must be kept in a secure place for reference purposes.

(2) The procedures for bids in excess of R10 million (all applicable taxes included):

(a) **Verification by the Chief Financial Officer prior to advertisement of bids above R10 million**

The following information must be submitted by the senior manager responsible for the Vote to the CFO **prior** to the public advertisement of any bids in excess of R10 million (all applicable taxes included):

- (a) Proof that budgetary provision exists for procurement of the goods, services and/or infrastructure projects;
- (b) Any ancillary budgetary implications related to the bid, for example, if the project is for the acquisition of a municipal asset, does budgetary provision exist for

the operation of the asset, maintenance costs relating to the asset, administration costs and rehabilitation/renewal costs;

- (c) Any multi-year budgetary implications, for example, if a project will take more than one financial year, the estimated expenditure per financial year.

Goods, services and/or infrastructure projects above the value of R10 million (all applicable taxes included) may only be advertised after the CFO has verified in writing that budgetary provision exists for the commencement of the particular project.

Requirements may not be deliberately split into parts or items of lesser value merely to avoid the information being submitted.

**(b) Verification from the Chief Financial Officer prior to the award of contracts above the value of R10 million**

Contracts above the value of R10 million (all applicable taxes included) may only be awarded to the preferred bidder after the Chief Financial Officer has verified in writing that budgetary provision exists for the acquisition of the goods, infrastructure projects and/or services and that it is consistent with the Integrated Development Plan.

**(c) Confirmation of bidding process for bids in excess of R10 million (all applicable taxes included)**

Internal audit units must compile risk based audit plans, review internal control measures, and ensure that supply chain management is sufficiently and adequately covered in the annual coverage plan.

Internal auditors must be alert to fraud risks and design audit procedures and indicators that would reasonably assist in preventing and detecting potential or actual fraud and corruption.

During competitive bidding and adjudication processes or before the award of a contract, the accounting officer may, at his or her discretion, specifically request the internal audit function to carry out audit procedures and provide an opinion on

compliance of the bidding process with the Municipal Supply Chain Management Regulations.

Where bids involve internal audit service, the audit of the bidding process may be outsourced to an independent external service provider or internal audit function of another organ of state, subject to the oversight of the audit committee.

The accounting officer may, at his or her discretion, decide to have a specific contract audited by external service providers prior to the award of the contract.

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

21. (1) The criteria to which bid documentation for a competitive bidding process must comply, must –
  - (a) take into account –
    - (i) the general conditions of contract and any special conditions of contract, if specified;
    - (ii) any Treasury guidelines on bid documentation; and
    - (iii) the requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;
  - (b) include the 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 –
    - (i) 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 is expected to be transferred out of the Republic;
  - (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;
  - (f) require a surety guarantee in appropriate cases;
  - (g) indicate the value or extent to which the execution of the contract should or should not be subcontracted; and
  - (h) submit a certificate from the Department of Labour indicating compliance with the Occupational Health and Safety Act, 1993 (Act No 85 of 1993).
  - (i) require bidders to furnish 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 3 months.
- (2) A non-refundable charge in terms of the Council's approved tariff structure shall be raised for bid forms, plans, specifications, samples and any other bid documentation, depending on the nature, magnitude and value of technical information or samples provided by the municipality.
  - (3) Bid documents may allow for bidders to bid for one or more items or for a part of one or more items but the municipality reserves the right to accept part of a bid or a complete bid or quotation even if it is not the lowest, provided the interests of the municipality are best served thereby. Bid documents must be specific as certain contracts, e.g. the construction of a bridge, may require that the whole contract is to be completed by the same contractor.
  - (4) Where bidders insert prices on price lists supplied by the municipality they shall delete items for which they do not bid or if the price has been included elsewhere in

the price list. After bid/quotations have been opened bidders may not supplement their original offer if the original offer was incomplete.

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

**22.** (1) The procedure for the invitation of competitive bids is as follows:-

- (a) Any invitation to prospective providers to submit bids must be by means of National Treasury's eTender Publication Portal, a public advertisement in newspapers commonly circulating locally, the website of the municipality or any other appropriate ways (which may include an advertisement in the Government Bid Bulletin); 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 not less than 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to paragraph 22(2) of this Policy;
  - (ii) a statement that bids may only be submitted on the bid documentation provided by the municipality; and
  - (iii) date, time and venue of any proposed site meetings or briefing sessions.
- (c) All bids advertised on the eTender Publication Administrator must at least contain the following information:
  - Bid description;
  - Bid number;
  - Name of Municipality;
  - The physical location where the goods, services or works specified in the bid are required;
  - The closing date and time of the bid;
  - Municipality contact details (postal and physical address, telephone number, email address, etc.);
  - The physical location where hard copies of bids can be collected;
  - The physical location where bids should be delivered; and

- The bid documents (MBDs, Terms of Reference, GCC and any other relevant documents)
- (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 and recording of bids**

- 23.** (1) The procedures for the handling, opening and recording of bids, are as follows:-
- (a) Bids –
    - (i) must be opened only in public;
    - (ii) must be opened at the same time and as soon as possible after the period for the submission of bids has expired; and
    - (iii) received after the closing time should not be considered and returned unopened immediately.
  - (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;
  - (c) No information, except the provisions in paragraph 23(1)(b), relating to the bid should be disclosed to bidders or other persons until the successful bidder is notified of the award; and
  - (d) The Accounting Officer must –
    - (i) record in a register all bids received in time;
    - (ii) make the register available for public inspection;
    - (iii) publish the entries in the register and the bid results on the website;
    - (iv) after the closure of any advertised competitive bid (above the threshold value of R300 000- all applicable taxes included), publish on the municipality's website the reference number of the bid, the description of the goods, services or infrastructure project, names of all bidders, the B-BBEE status level of contribution of all bidders, where applicable,



the local content percentages of the goods offered and where practical, total price of the bids, by all bidders that submitted bids in relation to that particular advertisement. Copies should be made available at municipal offices and libraries. The municipality should endeavor to publish the aforementioned information within ten (10) working days after closure of the bid and it must remain on the website of the municipality for at least thirty (30) days;

- (v) in accordance with section 75 (1) (g) of the MFMA, place on the website all supply chain management contracts above the value of R300 000 (including all applicable taxes).

The following information on the successful bids must be made available on the municipal website:

- (a) Contract numbers and description of goods, services or infrastructure projects;
  - (b) Names of the successful bidder(s) and the B-BBEE level of contribution claimed;
  - (c) The contract price(s), and;
  - (d) Brand names and dates for completion of contracts.
- (vi) publish the awards of all competitive bids on the eTender Publication Portal as mentioned below.

The municipality must publish the following information on successful bids within seven (7) working days of awarding the bids:

- Names of the successful bidder(s) and preference points claimed;
- Contract price(s) ;
- Contract period;
- Contact details;
- Names of Directors; and
- Date of completion/award.

In addition to the information required above, accounting officers of municipalities are required to publish information on unsuccessful bids

on the eTender Publication Portal and publish the following data within the same time frame referred to above:

- Names of the unsuccessful bidder(s); and
- Contact details.

Notice of a cancelled bid must be published on the same day, or at the latest, the day after a municipality or municipal entity decided to cancel a bid.

Notice of all awards to suppliers through deviations from competitive bidding procedures must be published on the eTender Publication Portal within seven (7) working days after the award was made. Notice of all awards through variations and extensions of existing contracts must be published on the eTender Publication Portal within seven (7) working days after the award was made.

Records of such publication must be retained for audit purposes.

#### **Negotiations with preferred bidders and communication with prospective providers and 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 and as far as practical be made part of the final contract.

#### **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.

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

- 26.** (1) The following committees are hereby established -
- (a) bid specification committees;
  - (b) bid evaluation committees; and
  - (c) a bid adjudication committee.
- (2) The Accounting Officer is required to appoint the members of each committee, taking into account section 117 of the Act.
- (3) The Accounting Officer is required to appoint a neutral or independent observer to attend or oversee a committee when this is appropriate for ensuring fairness and promoting transparency.
- (4) The committee system must be consistent with –
- (a) paragraphs 27, 28 and 29 of this Policy; and
  - (b) any other applicable legislation.
- (5) The Accounting Officer may apply the committee system to formal written price quotations.

### **Bid specification committees**

- 27.** (1) The appropriate bid specification committee must compile the specifications for the procurement of goods or services by the municipality, depending on the department involved.
- (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 Organisation, or an authority accredited or recognised by the South African National Accreditation System with which the equipment or material or workmanship should comply;
  - (c) where possible, must 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 labelling of conformity certification;
  - (e) may not make reference 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 word “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 2022; 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) A bid specification committee must be composed of one or more officials of the municipality, 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**

- 28.** (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) verify the following in respect of the recommended tenderer:
    - i. the capability and capacity of a tenderer to perform the contract;
    - ii. the tenderer’s tax and municipal rates and taxes compliance status;
    - iii. confirm that the tenderer’s municipal rates and taxes and municipal service charges are not in arrears;
    - iv. the Compulsory Declaration has been completed; and
    - v. the tenderer is not listed in the National Treasury’s Register for Tender Defaulters or the List of Restricted Suppliers.
  - (c) 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.

### **Bid adjudication committees**

- 29.** (1) The bid adjudication committee must –
- (a) consider the report and recommendations of the bid 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 Accounting Officer on the award of a tender, with or without conditions, together with reasons for such recommendation.
- (2) The bid adjudication committee must consist of at least four senior managers of the municipality which must include –
- (a) 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
  - (b) at least one senior supply chain management practitioner who is an official of the municipality; and
  - (c) 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) No member of the evaluation committee may serve on the tender committee. A member of an evaluation committee may, however, participate in the deliberations of a tender committee as a technical advisor or a subject matter expert.
- (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 29(5)(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**

- 30.** (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 sixty (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**

- 31.** (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 disagree 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**

- 32.** (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) Paragraphs 32(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**

- 33.** (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**

- 34.** (1) The municipality supports the Proudly SA Campaign to the extent that, all things being equal, preference is given to procuring local goods and services from:-
- (a) Firstly, suppliers and businesses within the municipality/municipal district;
  - (b) Secondly, suppliers and businesses within the relevant province; and
  - (c) Thirdly, suppliers and businesses within the Republic of South Africa.
- (2) These principles are to be embodied in the points allocated in terms of the Preferential Procurement Policy of the municipality.

### **Appointment of consultants**

- 35.** (1) The Accounting Officer may procure consulting services provided that any Treasury guidelines requirements 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 R300 000 (VAT included); 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.



- (5) The Accounting Officer shall as far as possible endeavour to realize the following cost containment measures when engaging with consultants:
- 5.1 The municipality may only appoint consultants if an assessment of the needs and requirements confirms that the municipality does not have the requisite skills or resources in its full-time employ to perform the function. For purposes of such assessment the template document as per **Annexure A** to this policy must be completed.
- 5.2 The Accounting Officer adopts the below-mentioned reference to rates as the municipality's fair and reasonable remuneration framework for consultants, provided that where no prescribed rates are available, the municipality may from time to time adjust the rates as per prevailing market conditions, limited however to one thousand rand (R1 000) in respect of 2019/20: -
- (a) "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) "Guide on Hourly Fee Rates for Consultants", issued by the Department of Public Service and Administration;
  - (c) rates as prescribed by the body regulating the profession of the consultant, including but not limited to
    - Engineering Council of South Africa (ECSA)
    - South African Council for the Quantity Surveying Profession (SACQSP)
    - South African Council for the Architectural Profession (SACAP)
    - South African Council for the Landscape Architectural Profession (SACLAP)
    - South African Council for Project and Construction Management Professions (SACPCMP)
    - 2018 Guideline Professional Fees in terms of section 29 of the Planning Professions Act (less 30%)
    - June 2009 fee scale as per Draft Guidelines issued by PLATO and SAGI (less 30%), or
  - (d) any other reasonable framework prescribed by Professional Bodies and/or spheres of Government.
- 5.3 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 4.2.

- 5.4 Taking into account the above-mentioned rates, the Accounting Officer has delegated powers to consider and approve or reject applications to exceed these rates based on a fully motivated written and signed request by the relevant senior manager in exceptional circumstances.
- 5.5 When negotiating cost-effective consultancy rates for international consultants, the Accounting Officer may take into account the relevant international and market-determined rates.
- 5.6 When consultants are appointed, the Accounting Officer or delegated official in terms of his/her System of Delegation 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 where applicable and appropriate;
  - (d) ensure the transfer of skills by consultants to the relevant officials of the municipality; and
  - (e) undertake all engagements of consultants in accordance with the Municipal Supply Chain Management Regulations, 2005 and the municipality's Supply Chain Management Policy.
- 5.7 The accounting officer or delegated official in terms of his/her System of Delegation must review its consultancy reduction plan on an annual basis and develop consultancy reduction plans to reduce the reliance on consultants where applicable and appropriate.
- 5.8 All contracts with consultants must include a fee retention or penalty clause for poor performance.
- 5.9 The municipality 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. The senior manager concerned must ensure that contractual deliverables as specified are met by the Service Provider.
- 5.10 No subsistence costs shall be paid to consultants, whereas travel costs of consultants shall be limited to a maximum tariff of R3,61 per km or the amended tariff as may be determined by the South Africa Revenue Service from time to time.

This provision shall not apply in respect of contracts entered into prior to the effective date of this policy, i.e. 1 July 2019.

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

**36.** (1) The Accounting Officer may –

- (a) Dispense with the official procurement processes established by this Policy and 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 botanical specimens for 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.
- (c) The Accounting Officer shall consider and only when merit for such exist, approve all deviations from procurement processes with a value above R30,000.00 (including VAT).
- (d) The relevant director shall after due consideration of the emergency, approve the deviation from procurement processes in line with paragraph 36(1)(a)(i), with a value equal to or less than R30,000.00 (including VAT),
- (e) The Manager: Supply Chain Management shall after having considered the merits informing a motivation received from the relevant director for a deviation from procurement processes referred to in paragraphs 36(1)(a)(ii) to 36(1)(a)(v) with a value equal to or less than R30,000.00 (including VAT), be mandated to approve same, but only where the services were not procured yet and the transaction has been considered and pre-approved by the relevant director.

- (2) The Accounting Officer must record the reasons for any deviations in terms of paragraphs 36(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) Paragraph 36(2) does not apply to the procurement of goods and services contemplated in paragraph 11(2) of this Policy.
- (4) In those cases where the terms of reference of a quotation or tender which had already been approved by either the supply chain manager or the bid adjudication committee in terms of delegated authority and which as a matter of sheer necessity has to be adjusted or expanded, the Accounting Officer may - in conjunction with the Chief Financial Officer – authorise the adjustment or expansion of such a contract, provided that –
  - (i) a written quotation be obtained from the contractor/service provider concerned for the proposed adjustment or expansion of the contract;
  - (ii) the adjustment or expansion of the contract does not result in an increase of more than 20% for construction related goods, services and/or infrastructure projects and 15% for all other goods and/or services of the original approved contract amount;
  - (iii) the increased contract amount does not exceed the amount that had been budgeted for the procurement of such goods or services;
  - (iv) this delegation shall not be construed to be an authorization to apply savings on an amount budgeted for a specific purpose to meet expenditure for another purpose, whether budgeted or not.

### **Unsolicited bids**

- 37.** (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 paragraph 37(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) The Accounting Officer must submit written comments received pursuant to paragraph 37(3), including any responses from the unsolicited bidder, 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**

- 38.** (1) In order to combat the abuse of the supply chain management system 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, favouritism, unfair or irregular practices or failure to comply with this 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 wilfully 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 Bid Defaulters In terms section 29 of the Prevention and Combating of Corrupt Activities Act (Act No 12 of 2004).
- (h) invalidate recommendations or decisions that were unlawfully or improperly made, taken or influenced, including recommendations or decisions that were made, taken or in any way influenced by—
  - (i) councillors in contravention of item 5 or 6 of the Code of Conduct for Councillors set out in Schedule 1 to the Municipal Systems Act; or
  - (ii) municipal officials in contravention of item 4 or 5 of the Code of Conduct for Municipal Staff Members set out in Schedule 2 to that Act;
- (2) The Accounting Officer must inform the National Treasury and relevant provincial treasury in writing of any actions taken in terms of paragraphs 38(1)(b)(ii), (e) or (f) of this policy.
- 3) Restrictive practices are prohibited
  - a) In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder is or a contractor was involved in collusive bidding.
  - b) If a bidder or contractor, based on reasonable grounds or evidence obtained by the municipality, has engaged in the restrictive practice referred to above, the municipality may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in section 59 of the Competition Act No. 89 of 1998.
  - c) If a bidder or contractor has been found guilty by the Competition Commission of the restrictive practice referred to above, the municipality may, in addition and without prejudice to any other remedy provided for, invalidate the bid for such

item(s) offered, and / or terminate the contract in whole or part, and / or restrict the bidder or contractor from conducting business with the public sector for a period not exceeding ten (10) years and / or claim damages from the bidder or contractor concerned.



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

#### **Logistics management**

- 39.** The Accounting Officer must establish and implement an effective system of logistics management, which must include -
- (a) the monitoring of spending patterns on types or classes of goods and services which should, where practical, incorporate the coding of items to ensure that each item has a unique number for the purposes of monitoring;
  - (b) the setting of inventory levels that includes minimum and maximum levels and lead times wherever goods are placed in stock;
  - (c) the placing of manual or electronic orders for all acquisitions;
  - (d) before payment is approved, certification by the responsible officer that the goods and services are received or rendered on time and is in accordance with the order, the general conditions of contract and specifications where applicable and that the price charged is as quoted / in terms of a contract;
  - (e) appropriate standards of internal control and warehouse management to ensure that goods placed in stores are secure and only used for the purpose for which they were purchased;
  - (f) regular checking to ensure that all assets, including official vehicles, are properly managed, appropriately maintained and only used for official purposes; and
  - (g) monitoring and review of the supply vendor performance to ensure compliance with specifications and contract conditions for particular goods or services.

#### **Disposal management**

- 40.** (1) The criteria for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to section 14 of the Act are as follows—
- (a) the asset is uneconomical to repair;
  - (b) the asset is irreparable;
  - (c) the useful life of the asset has expired;
  - (d) the relevant department has no further use for the asset;
  - (e) no other department requires the asset; and
- (2) Assets must be disposed of by—
- (a) transferring the asset to another organ of state in terms of a provision of the Act 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.
- (3) The Accounting Officer must ensure that –
- (a) immovable assets are sold or let in terms of the Municipality's Asset Transfer policy;
  - (b) movable assets are sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous;
  - (c) in the case of the free disposal of computer equipment, the provincial department of education is first approached to indicate within 30 days whether any of the local schools are interested in the equipment;
  - (d) 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;
  - (e) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise;
  - (f) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed; and
  - (g) where assets are traded in for other assets, the highest possible trade-in price is negotiated.

### **Risk management**

- 41.** (1) The criteria for the identification, consideration and avoidance of potential risks in the supply chain management system, are as follows –
- (a) non-compliance by the supplier to deliver within the agreed timeframes;
  - (b) supply of inferior goods or services by the supplier;
  - (c) inability of the supplier to provide goods or services as ordered;
  - (d) non adherence to the municipality's Policy with regards to utilisation of preferred suppliers; and
  - (e) procurement of goods or services at prices or of a quality not in the best interest of the municipality.

- (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**

42. The Accounting Officer must ensure that an effective internal monitoring system is implemented in order to determine, on the basis of a retrospective analysis, whether the authorised supply chain management processes were followed and whether the measurable performance objectives linked to and approved with the budget and the service delivery and budget implementation plan were achieved.

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

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

43. (1) The Accounting Officer must ensure that, irrespective of the procurement process followed, no award above R30 000 (VAT included) 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 provider or bidder, a tax clearance certificate from SARS must first be provided as contemplated in paragraph 13(a)(iv).
- (3) The bidder's tax compliance status must be verified prior to the finalisation of the award of the bid or price quotation.
- (4) Where the recommended bidder is not tax compliant, the bidder should be notified of their non-compliant status and the bidder must be requested to submit to the municipality, within 7 working days, written proof from SARS of their tax compliance status or proof from SARS that they have made an arrangement to meet their outstanding tax obligations. The proof of tax compliance status submitted by the bidder to the municipality or municipal entity must be verified via the CSD or e-Filing.

- (5) The accounting officer should reject a bid submitted by the bidder if such a bidder fails to provide proof of tax compliance status within the timeframe stated above.
- (6) Where goods or services have been delivered satisfactorily without any dispute, the accounting officer should not delay processing payment of invoices due to outstanding tax matters.

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

- 44.** The Accounting Officer must ensure that irrespective of the procurement process followed, no award may be made 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) who is an advisor or consultant contracted with the municipality in respect of a contract that would cause a conflict of interest.

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

- 45.** The notes to the annual financial statements must disclose particulars of any award of more than R2 000 (VAT included) 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**

- 46.** (1) A code of ethical standards is hereby established, in accordance with paragraph 46(2), for officials and other role players in the supply chain management system of the municipality 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 this 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 paragraph 46(2)(c), must declare to the Accounting Officer 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 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, favouritism 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 –
    - (i) any alleged fraud, corruption, favouritism or unfair conduct;
    - (ii) any alleged contravention of paragraph 47(1) of this Policy; or
    - (iii) any alleged breach of this code of ethical standards.
- (3) Declarations in terms of paragraphs 46(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) A breach of the code of ethics must be dealt with as follows -
  - (a) in the case of an employee, in terms of the disciplinary procedures of the municipality envisaged in section 67(1)(h) of the Municipal Systems Act;
  - (b) in the case a role player who is not an employee, through other appropriate means in recognition of the severity of the breach.
  - (c) In all cases, financial misconduct must be dealt with in terms of chapter 15 of the Act.

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

- 47.** (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 this Policy.
- (2) The Accounting Officer must promptly report any alleged contravention of paragraph 47(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) Paragraph 47(1) does not apply to gifts less than R350 in value.

#### **Sponsorships**

- 48.** 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**

- 49.** 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**

- 50.** (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**

- 51.** If 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.

**Payment of contractors, sub-contractors or joint venture partners**

- 52.** (1) The Municipality shall settle all accounts within 30 days of invoice or statement as provided for in the contract.
- (2) The Chief Financial Officer or an official designated by the Chief Financial Officer may consent to the direct payment of sub-contractors or joint venture partners by way of -
- (a) an approved cession; or
  - (b) an agreement for direct payment.

**Short title and commencement**

- 53.** This Policy is called the “*Supply Chain Management Policy of the Swartland Municipality*” and takes effect on 1 January 2006.



**ANNEXURE A****SWARTLAND MUNICIPALITY****REPORT TO THE MANAGER: SUPPLY CHAIN****SUBJECT: USE OF CONSULTANTS****DIRECTORATE:** .....**AUTHOR:** .....**DATE:** .....**1. Project Description**

Project name: .....

Vote no: .....

Financial year: .....

**2. Assessment of the skills and resources required to implement the project.**

2.1 Project scope of work  
Provide a short description of the scope of work required.

.....

.....

2.2 Skills and resources  
List/Discuss the skills and resources required to undertake the scope of work.

.....

.....

**3. Internal capacity and/ or resources**

Explain why internal capacity and / or resources required are not available to perform the scope of work.

.....

.....

.....

**4. Remuneration framework**

List the applicable remuneration framework and whether travel and subsistence cost is applicable.

.....

.....

**5. Transfer of skills**

Indicate if a transfer of skills is to be part of the appointment if applicable and if the specific service should be included in the consultant reduction plan.

.....  
 .....

**6. Budget provision for the appointment of consultant/s**

List the budget provision and vote no's.

.....

\_\_\_\_\_  
 Contract Manager

\_\_\_\_\_  
 DATE

\_\_\_\_\_  
 Director of Department

\_\_\_\_\_  
 DATE