

# UMSOBOMVU

MUNISIPALITEIT

MUNICIPALITY



## SUPPLY CHAIN MANAGEMENT POLICY

**UMSOBOMVU MUNICIPAL SUPPLY CHAIN MANAGEMENT POLICY  
DRAFTED IN TERMS OF THE LOCAL GOVERNMENT: MUNICIPAL FINANCE  
MANAGEMENT ACT, 2003 (Act 56 of 2003)**

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

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## 1. Definitions

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, 2000 (Act 5 of 2000);

“**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 contributor**” means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard containing the Codes of Good Practice on Black Economic Empowerment, issued in terms of section (9)(1) of the Broad-Based Black Economic Empowerment Act;

“**bid**” means a written offer or bid in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of services or goods.

“**Bid Committee**” means a committee established by the UMSOBOMVU MUNICIPALITY in terms of section 6 (2) of the Supply Chain Management Framework.

“**contract**” means the agreement that results from the acceptance of a tender by the Municipality;

“**control**” the possession and exercise of legal authority and power to manage the assets, goodwill and daily operations of a business and the active and continuous expertise of appropriate managerial authority and power in determining the policies and directing the operations of the business;

“**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;

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

“**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;

“**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;

“**employer**” means the UMSOBOMVU MUNICIPALITY;

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

“**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;

**“functionality”** means the measurement according to the 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, amongst other factors, the quality, reliability, viability and durability of a service and the technical capacity of a tenderer;

**“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) a member of the accounting authority of any national or provincial public entity; or

(f) an employee of Parliament or a provincial legislature;

**“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 costs, such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African port of entry;

**“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;

**“local content”** means that portion of the tender price which is not included in the imported content, provided that local manufacture does take place;

**“Municipal Council or Council”** means a municipal council referred to in section 157(1) of the Constitution, 1996.

**“municipality”** when referred to as –

(a) an entity, means a municipality as described in the definitions section, and

(b) a geographic area, means a municipal area determined in terms of the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998)

(c) reference to UMSOBOMVU MUNICIPALITY as the Municipality hereafter.

**“Municipal Manager”** means a person appointed by the Municipality in terms of section 82 of the Municipal Structures Act and who is the head of administration and also the accounting officer for the Municipality.

**“non-firm prices”** means all prices other than “firm” prices;

**“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);

**“person”** includes a juristic person;

**“Procurement Officer”** means an official appointed/designated by the UMSOBOMVU MUNICIPALITY to fulfil a vital role in the implementation, the monitoring and the continued application of the UMSOBOMVU MUNICIPALITY Procurement Policy.

**“Sub-Contracting”** means the primary contractor’s assigning or leasing or making out work to, or employing, another person to support the primary contractor in the execution of part of a project in terms of the contract.

**“stipulated minimum threshold”** means that portion of local production and content as determined by the Department of Trade and Industry;

**“Regulation”** means the Local Government: Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations published by Government Notice 868 of 2005;

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

**“tender”** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of services, works or goods, through price quotations, advertised competitive tendering processes or proposals;

**“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;

**“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; and

**“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;

**“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);

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

## CHAPTER 1 IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

### 2. Supply chain management policy

- (1) All officials and other role players in the supply chain management system of the **Umsobomvu Municipality** must implement this Policy in a way 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 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) This Policy applies when the Umsobomvu Municipality –
- (a) procures goods or services;
  - (b) disposes goods no longer needed;
  - (c) selects 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) selects 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) This Policy, except where provided otherwise, 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. Amendment of the supply chain management policy

- (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 proposed amendments to the Council that differs from the model policy issued by the National Treasury, the accounting officer must –
- (a) ensure that such proposed amendments comply 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 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. Delegation of supply chain management powers and duties**

- (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 or 10 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) 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).
- (3) The accounting officer may not 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.

#### **5. Sub delegations**

- (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) of this paragraph and paragraph 4 of this Policy.
- (2) The power to make a final award –
    - (a) above R10 million (all taxes included) may not be sub delegated by the accounting officer;
    - (b) above R2 million (all taxes included), but not exceeding R10 million (all taxes 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 (all taxes 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) must within five days of the end of each month submit to the official referred to in subparagraph (4) 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) 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); 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.

#### **6. Oversight role of council**

- (1) The Council reserves its right to maintain oversight over the implementation of this 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 this Policy and the supply chain management policy of any municipal entity under the sole or shared control of the municipality, to the council of the municipality; and
  - (ii) whenever there are serious and material problems in the implementation of this Policy, immediately submit a report to the Council, who must then submit the report to the accounting officer of the parent municipality for submission to the Council.
- (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.

#### **7. Supply chain management unit**

- (1) A 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.

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

The training of officials involved in implementing this Policy should be in accordance with any Treasury guidelines on supply chain management training.

## CHAPTER 2 SUPPLY CHAIN MANAGEMENT SYSTEM

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

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***

### 10. **System of demand management**

- (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 timely 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; and
  - (c) provide for the compilation of the required specifications to ensure that its needs are met.
  - (d) To undertake appropriate industry analysis and research to ensure that innovations and technological benefits are maximized.

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

### 11. **System of acquisition management**

- (1) The accounting officer must implement the system of acquisition management set out in this Part in order to ensure –
  - (a) that goods and services are procured by the municipality in accordance with authorised 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 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 municipality's supply chain management system, including -
- (a) the kind of goods or services; and
  - (b) the name of the supplier.

## **12. Range of procurement processes**

- (1) Goods and services may only be procured by way of –
- (a) petty cash purchases, up to a transaction value of R2 000 (all taxes included); (To be read with clause 15)
  - (b) written or verbal quotations for procurements of a transaction value over R2 000 up to R10 000 (all taxes included); (To be read with clauses 13, 16 and 18)
  - (c) formal written price quotations for procurements of a transaction with a Rand value over R10 000.00 and up to a Rand value of R 200 000.00 (all taxes included); (To be read with clauses 13, 17 and 18)
  - (d) a competitive bidding process for–
  - (i) procurements above a transaction value of R 200 000.00 (all taxes included); and
  - (ii) the procurement of long term contracts;
  - (e) the 80/20 preference point system must be used to calculate the points for price in respect of tenders and price quotations with a Rand value equal to, or above R 30 000.00 and up to a Rand value of R 1 000 000.00 (all taxes included) as provided for in Regulation 5 of the Preferential Procurement Regulations No R. 501 dated 8 June 2011.
- (2) The accounting officer may, in writing-
- (a) lower, but not increase, the different threshold values specified in subparagraph (1); or
  - (b) direct that –
  - (i) written or verbal quotations be obtained for any specific procurement of a transaction value lower than R2 000 (all taxes included);
  - (ii) formal written price quotations be obtained for any specific procurement of a transaction value lower than R10 000 (all taxes included); or
  - (iii) a competitive bidding process be followed for any specific procurement of a transaction value lower than R200 000 (all taxes 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 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.

**13. General preconditions for consideration of written quotations or bids**

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;
- (b) has authorised the municipality to obtain a tax clearance from the South African Revenue Services that the provider's tax matters are in order; and
- (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.

**14. Lists of accredited prospective providers**

- (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 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.

#### **15. Petty cash purchases**

- (1) In certain cases it is not possible or economically viable to procure goods and services through written quotation or competitive bidding processes. This situation will arise where the total costs of engaging in written quotation or competitive bidding far outweighs the value of the item(s) or services been sought. This situation is envisaged for items or services below R2 000.00 (all taxes included) only. The R2 000.00 (all taxes included) should be the total value of all of the municipality's requirements for a particular item or service for the entire financial year or the requirements must be so incidental that it is not viable/feasible for the municipality to establish a contract or keep stock.
- (2) This mechanism might also be utilized in an emergency situation where the total value of the goods or service is below R2 000.00 (all taxes included) subject to authorized process being followed.
- (3) Only Heads of departments may authorize petty cash processes.

#### **16. Written or verbal quotations**

The conditions for the procurement of goods or services through written or verbal quotations are as follows:

- (a) 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 provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria set out in paragraph 14(1) (b) and (c) of this Policy;
- (b) to the extent feasible, providers must be requested to submit such quotations in writing;
- (c) 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;
- (d) the accounting officer must record the names of the potential providers requested to provide such quotations with their quoted prices; and
- (e) if a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider.

#### **17. Formal written price quotations**

- (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 the list of accredited prospective providers of the municipality;
  - (b) quotations may be obtained from providers who are not listed,
  - (c) provided that such providers meet the listing criteria set out in paragraph 14(1) (b) and (c) of this Policy;
  - (d) 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
  - (e) 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.

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

The procedure for the procurement of goods or services through written or verbal quotations or 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 (all taxes 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;
- (c) offers received must be evaluated on a comparative basis taking into account unconditional discounts;
- (d) 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;
- (e) offers below R30 000 (all taxes included) must be awarded base on compliance to specifications and conditions of contract, ability and capability to deliver the goods and services and lowest price;
- (f) acceptable offers, which are subject to the preference points system (PPPFA and associated regulations), must be awarded to the bidder who scored the highest points;
- (g) all quotations and advertisements obtained in the course of the procurement process must be attached to the order, payment advice and invoice for proper record keeping and audit purposes.

## **19. Competitive bids**

- (1) Goods or services above a transaction value of R200 000 (all taxes included) and long term contracts may only be procured through a competitive bidding process, subject to paragraph 11(2) of this Policy.
- (2) No requirement for goods or services above an estimated transaction value of R200 000 (all taxes 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.

## **20. Process for competitive bidding**

The procedures for the following stages of a competitive bidding process are as follows:

- (a) Compilation of bidding documentation as detailed in paragraph 21;
- (b) Public invitation of bids as detailed in paragraph 22;
- (c) Site meetings or briefing sessions as detailed in paragraph 22;
- (d) Handling of bids submitted in response to public invitation as detailed in paragraph 23;
- (e) Evaluation of bids as detailed in paragraph 28;
- (f) Award of contracts as 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 agreements should be kept in a secure place for reference purposes.

## **21. Bid documentation for competitive bids**

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 preference points system to be used, goals as contemplated in the Preferential Procurement Regulations and 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 (all taxes 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 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.

## **22. Public invitation for competitive bids**

- (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 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 Tender 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 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;
    - (ii) a statement that bids may only be submitted on the bid documentation provided by the municipality; and
    - (ii) date, time and venue of any proposed site meetings or briefing sessions.;
- (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.

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

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 subparagraph (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; and
  - (iii) publish the entries in the register and the bid results on the website.

**24. Negotiations with preferred bidders**

- (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.

**25. Two-stage bidding process**

- (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.

**26. Committee system for competitive bids**

- (1) A committee system for competitive bids is hereby established, consisting of the following committees for each procurement or cluster of procurements as the accounting officer may determine:
  - (a) a bid specification committee;
  - (b) a bid evaluation committee; and
  - (c) a bid adjudication committee;
- (2) The accounting officer appoints the members of each committee, taking into account section 117 of the Act; and
- (3) A neutral or independent observer, appointed by the accounting officer, must attend or oversee a committee when this is appropriate for ensuring fairness and promoting transparency.
- (4) The committee system must be consistent with –
  - (a) paragraph 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.

**27. Bid specification committees**

- (1) A bid specification committee must compile the specifications for each procurement of goods or services by the municipality.
- (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) must, 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 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 2011; 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.

## **26. Bid evaluation committees**

- (1) A 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) A 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.

## **29. Bid adjudication committees**

- (1) A 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) A bid adjudication committee must consist of at least three 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) 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

### **30. Procurement of banking services**

- (1) A contract for 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).

**31. Procurement of IT related goods or services**

- (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 (all taxes included); or
  - (b) the transaction value of a contract to be procured whether for one or more years exceeds R50 million (all taxes included).
- (4) If a SITA comment 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.

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

- (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) Subparagraphs (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.

**33. Procurement of goods necessitating special safety arrangements**

- (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.

**34. Proudly SA Campaign**

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:

- Firstly – suppliers and businesses within the municipality or district;
- Secondly – suppliers and businesses within the relevant province;
- Thirdly – suppliers and businesses within the Republic.

**35. Appointment of consultants**

- (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 (all taxes 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.

**36. Deviation from, and ratification of minor breaches of, procurement processes**

- (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.

### **37. Unsolicited bids**

- (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) The accounting officer must submit all written comments received pursuant to subparagraph (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.

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

- (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, 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 Tender Defaulters in terms of 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***

#### **39. Logistics management**

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 incorporating, where practical, the coding of items to ensure that each item has a unique number;
- (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 other than those from petty cash;

- (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.

#### **40. Disposal management**

- (1) The criteria for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the Act, are as follows:
  - (2) Assets may be disposed of by one of the following –
    - (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.
  - (3) The accounting officer must ensure that –
    - (a) immovable property is sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
    - (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) firearms are not sold or donated to any person or institution within or outside the Republic unless approved by the National Conventional Arms Control Committee;
    - (d) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise;
    - (e) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed;
    - (f) where assets are traded in for other assets, the highest possible trade-in price is negotiated; and
    - (g) 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.

**41. Risk management**

- (1) The criteria for the identification, consideration and avoidance of potential risks in the supply chain management system, are contained in the Risk Management Policy 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.

**42. Performance management**

The accounting officer must establish and implement an internal monitoring system in order to determine, on the basis of a retrospective analysis, whether the authorised supply chain management processes were followed and whether the objectives of this Policy were achieved.

***Part 4: Other matters***

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

- (1) No award may be made in terms of this Policy 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 officer 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) It is an offence to deregister for VAT purposes after obtaining business from the municipality. Should the municipality establish that a supplier has deregistered post-contract award and is claiming VAT, the municipality will summarily cancel the contract and prohibit the offender from doing business with municipality in the future.

**44. Prohibition on awards to persons in the service of the state**

- (1) Irrespective of the procurement process followed, no award may be made to a person in terms of this Policy –
  - (a) who is in the service of the state;

- (b) if that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state; or
  - (c) a person who is an advisor or consultant contracted with the municipality.
- (2) The municipality will not award business to service providers owned directly or indirectly by politicians serving as councilors for any municipality unless the councilor has obtained prior written consent from the municipal council as per the Code of Conduct, Schedule 5, contained in the Local Government Municipal Structures Act (Act No 117 of 1998).
- (3) The municipality will not award business to service providers owned directly or indirectly by politicians serving in National Assembly, Provincial Legislatures and National Council of Provinces unless prior written consent has been obtained from the National Assembly, Provincial Legislature and National Council of Provinces.
- (4) Failure by the above mentioned persons to comply with the above shall lead to cancellation of the contract.

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

The accounting officer must ensure that the notes to the annual financial statements disclose particulars of any award of more than R2000 (all taxes 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.

**46. Ethical standards**

- (1) A code of ethical standards as set out in subparagraph (2) is hereby established 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 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 R350.00;
  - (d) notwithstanding subparagraph (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 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 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) 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

(d) chapter 15 of the Act.

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

- (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 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 R350.00 in value.

**48. Sponsorships**

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.

**49. Objections and complaints**

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.

**50. Resolution of disputes, objections, complaints and queries**

- (1) The accounting officer must within 14 days from receipt of an written complain detailing the bid or quotation number, the part of the municipality's policy, regulation or Act that has been violated, the details of the violation, the department or region involved and relief sought, appoint an independent and impartial person who was not involved in the transaction in question, within or from outside the municipality:
- (a) to investigate and propose dispute resolution;

- (b) to assist in the resolution of disputes between the municipality and other persons or service providers 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
  - (c) 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) The municipality may appoint an ombudsman on an ‘as and when’ required basis to investigate complaints submitted. The duties and functions of such a person will be contained in the Terms of Appointment.
- (6) Disputes relating to running contracts or completed contracts will be resolved strictly according to the disputes resolution mechanism provided for in the contract document.
- (7) 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.
- (8) This paragraph must not be read as affecting a person’s rights to approach a court at any time.

**51. Contracts providing for compensation based on turnover**

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
- (d) that such compensation must be performance based.

**52. Handling of proprietary information**

- (1) All information designed and prepared for the municipality is deemed as proprietary. No such information may be distributed, modified or customized for third parties without written permission.
- (2) All supplier information shall be treated confidential.
- (3) In appropriate instance, the municipality may require security clearance and confidentiality agreements to be entered into with suppliers.

**53. Limitation of Bids**

- (1) Tenderers who were awarded a contract and have not completed a project shall not be eligible to be awarded another bid.
- (2) In the event that a successful bidder did not complete at least 50% of a current contract, that bidder shall not be eligible for a new bid.

**54. Local Content**

All bids adjudicated and awarded by the municipality shall adhere to the prescriptions and procedures of the Department of Trade and Industry with regard to local content as outlined in the latest applicable directives, regulations and Acts, where applicable.

**55. Commencement**

This Policy takes effect on this 1<sup>st</sup> day of June 2012

**APPROVAL**

- (i) **Approved per Council Resolution 34/05/2013 dated 31 May 2013**

## UMSOBOMVU MUNICIPALITY

### CODE OF CONDUCT FOR SUPPLY CHAIN MANAGEMENT PRACTITIONERS AND OTHER ROLE PLAYERS

***In accordance with regulation 46(4) and 46(5) of the Local Government Municipal Finance Management Act, 2003: Municipal Supply Chain Management Regulations, the supply chain management policy of a municipality or municipal entity is required take into account the National Treasury's code of conduct for supply chain management practitioners and other role players. The municipality has adopted the National Treasury code of conduct. 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.***

The purpose of this Code of Conduct is to promote mutual trust and respect and an environment where business can be conducted with integrity and in a fair and reasonable manner.

#### **General Principles**

The Umsobomvu municipality commits itself to a policy of fair dealing and integrity in the conducting of its business. Officials and other role players involved in supply chain management (SCM) are in a position of trust, implying a duty to act in the public interest. Officials and other role players should not perform their duties to unlawfully gain any form of compensation, payment or gratuities from any person, or provider/contractor for themselves, their family or their friends.

Officials and other role players involved in SCM should ensure that they perform their duties efficiently, effectively and with integrity, in accordance with the

relevant legislation, policies and guidelines. They should ensure that public resources are administered responsibly.

Officials and other role players involved in SCM should be fair and impartial in the performance of their functions. They should at no time afford any undue preferential treatment to any group or individual or unfairly discriminate against any group or individual. They should not abuse the power and authority vested in them.

### **Conflict of interest**

An official or other role player involved with supply chain management –

- (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 R350.00;
- (d) 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, or in any award of a contract by the Umsobomvu 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 declare any business, commercial and financial interests or activities undertaken for financial gain that may raise a possible conflict of interest;
- (h) should not place him/herself under any financial or other obligation to outside individuals or organizations that might seek to influence them in the performance of their official duties; and
- (i) should not take improper advantage of their previous office after leaving their official position.

### **Accountability**

Practitioners are accountable for their decisions and actions to the public. Practitioners should use public property scrupulously.

Only accounting officers or their delegates have the authority to commit the Umsobomvu municipality to any transaction for the procurement of goods and / or services.

All transactions conducted by a practitioner should be recorded and accounted for in an appropriate accounting system. Practitioners should not make any false or misleading entries into such a system for any reason whatsoever.

Practitioners must assist the accounting officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system.

Practitioners 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 the policy on inducements, rewards, gifts and favours to municipalities or municipal entities, officials or other role players; and
- (iii) any alleged breach of this code of conduct.

Any declarations made must be recorded in a register which the accounting officer must keep for this purpose. Any declarations made by the accounting officer must be made to the mayor who must ensure that such declaration is recorded in the register.

### **Openness**

Practitioners should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only if it is in the public interest to do so.

### **Confidentiality**

Any information that is the property of the Umsobomvu municipality or its providers should be protected at all times. No information regarding any bid / contract / bidder / contractor may be revealed if such an action will infringe on the relevant bidder's / contractor's personal rights.

Matters of confidential nature in the possession of officials and other role players involved in Supply Chain Management should be kept confidential unless legislation, the performance of duty or the provisions of law requires otherwise. Such restrictions also apply to officials and other role players involved in SCM after separation from service.

### **Bid Specification / Evaluation / Adjudication Committees**

Bid specification, evaluation and adjudication committees should implement supply chain management on behalf of the Umsobomvu municipality in an honest, fair, impartial, transparent, cost-effective and accountable manner.

Bid evaluation / adjudication committees should be familiar with and adhere to the prescribed legislation, directives and procedures in respect of supply chain management in order to perform effectively and efficiently.

The entire members of bid adjudication committees should be cleared by the accounting officer at the level of "CONFIDENTIAL" and should be required to declare their financial interest annually.

No person should-

- interfere with the supply chain management system of the Umsobomvu municipality; or
- amend or tamper with any price quotation / bid after its submission.

### **Combative Practices**

Combative practices are unethical and illegal and should be avoided at all cost. They include but are not limited to:

- (i) Suggestions to fictitious lower quotations;
- (ii) Reference to non-existent competition;
- (iii) Exploiting errors in price quotations / bids;
- (iv) Soliciting price quotations / bids from bidders / contractors whose names appear on the Register for Tender Defaulters.

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