

BA-PHALABORWA LOCAL MUNICIPALITY



Reviewed - Supply Chain Management Policy

(Incorporating Preferential Procurement January 2018)

Ba-Phalaborwa Local Municipality Supply Chain Policy

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TERMS AND DEFINITIONS

TERMS	DEFINITIONS
B-BBEE	Broad-based black economic employment as defined in section 1 of the Broad-Based Black Economic Empowerment Act.
B-BBEE status level of contributor	The B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act.
Black Economic Empowerment Act	Means the Broad Black Economic Empowerment Act Number 53 of 2003.
Black designated groups	Has the meaning assigned to it in the codes of good practice issued in terms of Section 9 (1) of the Broad Based Black Economic Empowerment Act
Black people	Has the meaning assigned to it in section 1 of the Broad Based Black Economic Empowerment Act
Co-operative	Means a co-operative registered in terms of the section 7 of the Co-operatives Act, 2005 (Act No. 14 of 2005)
Competitive Bidding Process	a competitive bidding process referred to in Regulation 12 (1) (d) of the SCM Regulations.
Competitive Bid	a bid in terms of a competitive bidding process.
Designated groups	Means – <ul style="list-style-type: none"> (a) Black designated groups (b) Black people (c) Women (d) People with disabilities; or (e) Small enterprises, as defined in section 1 of the National Small Enterprise Act No. 102 of 1996

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TERMS	DEFINITIONS
Designated sectors	Means a sector, sub-sector or industry or product designated in terms of regulation 8(1) (a) of the PPPFA Regulation 2017
EME	Means an exempted micro enterprise in terms of a code of good practice on black economic empowerment issued in terms of the (9) (1) of the Broad-based black economic empowerment Act
Final award	In relation to bids or quotations submitted for a contract, means the final decision on which a bid or quote to accept
Formal written price quotation	Means quotations referred to in Supply Chain Management Regulation 12 (1) (c)
Functionality	Means the ability of a tenderer to provide goods or service in accordance with specifications as set out in the tender document
In the service of the state	<p>(a) Means to be:- any municipal council, any provincial legislature or the National Assembly or the National Council of Provinces;</p> <p>(b) A member of the board of directors of any municipal entity</p> <p>(c) an official of any municipality or municipal entity;</p> <p>(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, 1 of 1999;</p> <p>(e) a member of the accounting authority of any national or provincial public entity; or</p> <p>(f) an employee of Parliament or a provincial legislature</p>
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 Ba-Phalaborwa municipality must keep in terms of regulation 14 The municipality uses the Central Supplier Database to select accredited prospective providers in terms of MFMA Circular 81
Military veteran	Has the meaning assigned to it in terms of section 1 of the Military Veterans Act, 2011 (Act No.18 of 2011)
National Treasury	Has the meaning assigned to it in section 1 of the Public Finance Management Act, 1999 (Act No.1 of 1999)
Other applicable legislation	Means any other legislation applicable to municipal supply chain management, including-

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TERMS	DEFINITIONS
	<ul style="list-style-type: none"> (a) The Constitution of RSA (b) Supply Chain Management Regulation 2005 (c) The Preferential Procurement Policy Framework Act 2000 and the revised Preferential Procurement Regulation 2017 (d) The Broad-based black economic empowerment act No. 53 of 2003 (e) The Construction Industry Development Board Act No. 38 of 2000 (f) Prevention and combating of corruption activities Act no 12 of 2004 (g) State information technology act and regulation (act no. 88 of 1998)
People with disabilities	Has the meaning assigned to it in section 1 of the Employment of Equity Act No. 55 of 1998
Price	Includes all applicable taxes less all unconditional discounts
Proof of B-BBEE status level of contributor	<p>Means-</p> <ul style="list-style-type: none"> (a) The B-BBEE status level certificate issued by an authorized body or person (b) A sworn affidavit as prescribed by the B-BBEE Code of Good Practice; or (c) Any other requirement prescribed in terms of the Broad-Based Black Economic Empowerment Act
QSE	Means a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of Broad-Based Black Economic Empowerment Act
Rand value	Means the total estimated value of a contract in Rand, calculated at the time of the tender invitation
Stipulated minimum threshold	Means the minimum threshold stipulated in terms of regulation 8 (1) (b) of the PPPFA Regulation 2017
The act	(a) Means the local Government: Municipal Finance Management Act No. 56 of 2003

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TERMS	DEFINITIONS
Treasury guidelines	Means any guidelines on supply chain management issued by the Minister in terms of section 168 of the MFMA
Townships	Means an urban living area that any time from the late 19 th century until 27 April 1994 was reserved for black people, including areas developed for historically disadvantaged individuals post 27 April 1994
Youth	Has the meaning assigned to it in section 1 of the National Youth Development Agency Act No. 54 of 2008
Written or verbal quotation	Means quotations referred to in Supply Chain Management regulation 12 (1) (b)

ACRONYMS AND ABBREVIATIONS

ACRONYMS	ABBREVIATIONS
AG	Auditor General
AO/ AA	Accounting Officer/ Municipal Manager
B-BBEE	Broad-Based Black Economic Empowerment
B-BBEEA	Broad Based Black Economic Empowerment Act
BAC	Bid Adjudication Committee
BEC	Bid Evaluation Committee
BVA	BEE Verification Agency
CFO	Chief Financial Officer
CIDB	The Construction Industry Development Board
EME's	Exempted Micro Enterprises
GCC	General Conditions of Contract
GTM	Ba-Phalaborwa Municipality
MFMA	Municipal Finance Management Act,

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ACRONYMS	ABBREVIATIONS
MM/AO	Municipal Manager/Accounting Officer
PFMA	Public Finance Management Act
PPP	Public Private Partnership
PPFA	Preferential Procurement Policy Framework Act
QBS	Quality Based Selection
QCBS	Quality and Cost Based Selection
QSE	Qualifying Small Enterprises
RDP	Reconstruction and Development Program
RFI	Request for Information
RFP	Request for Proposal
RFQ	Request for Quotation
SANAS	South African National Accreditation System
SAPS	South African Police Service
SARS	South Africa Revenue Service
SCM	Supply Chain Management
SLA	Service Level Agreement
SMME	Small Medium and Micro Enterprise
VAT	Value Added Tax

POLICY STATEMENT

1. Introduction

Section 111 of the Municipal Finance Management Act requires each municipality and municipal entity to adopt and implement a SCM policy, which gives effect to the requirements of the Act.

In addition, the Preferential Procurement Policy Framework Act requires an Organ of State to determine its Preferential Procurement Policy and to implement it within the framework prescribed. Effect to this requirement is provided for in this Policy.

2. Goal

The goal of this Policy is to provide a mechanism to ensure sound, sustainable and accountable SCM Within the Ba-Phalaborwa Municipality, whilst promoting black economic empowerment, which includes general principles for achieving the following socio-economic objectives:

- a. To stimulate and promote local economic development in a targeted and focused manner;
- b. To promote resource efficiency and greening;
- c. To facilitate creation of employment and business opportunities;
- d. To promote the competitiveness;
- e. To increase the small business sector access, in general, to procurement business opportunities created by the municipality; and
- f. To increase participation by small, medium and micro enterprises (SMME's)

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3. Objectives

- a. The objectives of this Policy are: to give effect to section 217 of the Constitution of the Republic of South Africa by implementing a system that is fair, equitable, transparent, competitive and cost effective;
- b. To comply with all applicable provisions of the Municipal Finance Management Act including the Municipal SCM Regulations published under GN868 in Government Gazette 27636 30 May 2005 and any National Treasury Guidelines issued in terms of the MFMA;
- c. To ensure consistency with all other applicable legislation and any regulations pertaining thereto
- d. This Policy will also strive to ensure that the objectives for uniformity in SCM systems between organs of state, in all spheres are not undermined and that consistency with national economic policy on the promotion of investments and doing business with the public sector is maintained.

4. Oversight

- a. Section 117 of the Municipal Finance Management Act prohibit a municipal councilor from being a member of a bid committee or any other committee evaluating or approving quotations or bids nor may a municipal councilor attend any such meeting as an observer.
- b. Council, however, has an oversight role to ensure that the Accounting Officer implements this SCM Policy.
- c. The Mayor must provide general political guidance over the fiscal and financial affairs of the Municipality and may monitor and oversee the exercise of responsibilities assigned to the MM and Chief Financial Officer (CFO) in terms of the Municipal Finance Management Act.
- d. For the purposes of such oversight, the Accounting Officer shall, within 10 (ten) days of the end of each quarter, submit a report on the implementation of this Policy to the Mayor and, within 30 days of the end of each financial year, shall submit a similar such report to Council.
- e. In addition, if any serious problem arises in relation to the implementation of this Policy, the Accounting Officer shall immediately report to Council accordingly.
- f. All such reports shall be made public in accordance with section 21. (1)(a) of the Systems Act.

5. Compliance with Ethical Standards

- a. In order to create an environment where business can be conducted with integrity and in a fair and reasonable manner, this Policy will strive to ensure that the Accounting Officer and all representatives of the Ba-Phalaborwa Municipality involved in SCM activities shall

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act with integrity and in accordance with the highest ethical standards.

- b. All SCM representatives shall adhere to the code of conduct of municipal staff contained in schedule 2 of the Systems Act, and this Policy's Code of Ethical Standards.

6. GUIDING PRINCIPLES

- a. The Ba-Phalaborwa Municipality, undertakes all of its procurement and tendering in accordance with a system which is fair, equitable, transparent, competitive and cost-effective. The Ba-Phalaborwa Municipality ensures effective competition and transparency in its procurement processes, in line with the provisions of Section 217 (1) of the Constitution of the Republic of South Africa.

CHAPTER 1

IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

1. Application of Supply chain management policy

All officials and other role players in the supply chain management system of the **Ba-Phalaborwa 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 MFMA;
- (b) is fair, equitable, transparent, competitive and cost effective;
- (c) Complies with –
 - (i) The Regulations; and
 - (ii) Any circular, minimum norms and standards that may be prescribed in terms of section 168 of the MFMA;
- (d) is consistent with other applicable legislation;
- (e) Does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and
- (f) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.

2. **Ba-Phalaborwa Municipality may not act otherwise than in accordance with its supply chain management policy when –**

- (a) procures goods or services;

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- (b) Disposing of goods no longer needed;
- (c) Selecting contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies; or
- (d) In the case of a municipality, selecting external mechanisms referred to in section 80 (1) (b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in section 83 of that Act.

3. Adoption and Amendment of the supply chain management policy

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 **Ba-Phalaborwa Municipality**
- (c) 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. The accounting officer must report any deviation from the guideline standard to the National Treasury and the relevant provincial treasury.

4. Delegation of supply chain management powers and duties

The **Ba-Phalaborwa Municipality** 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 maximize administrative and operational efficiency in the implementation of this Policy;
- (c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favoritism 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.
- (e) 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 (4).
- (f) Ba-Phalaborwa Local Municipal council or accounting officer may delegate or sub-delegate any supply chain management powers or duties-

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- (g) to a person who is not an official of **Ba-Phalaborwa Municipality** or
- (h) to a committee which is not exclusively composed of officials of the Ba-Phalaborwa municipality
- (i) This paragraph may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in this policy

5. Sub delegations

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 on delegation in the Policy.

The delegation are as per approval of the council

- (a) The power to make a final award for all competitive bids remains with the accounting officer
- (b) Below R200 000 (VAT included) may be sub-delegated but only to –
 - (i) The Chief Financial Officer
- (c) An official to which the power to make final awards has been sub delegated in must within five days of the end of each month submit to the Accounting Officer a written report containing particulars of each final award made by such official during that month, including–
 - (i) The amount of the award;
 - (ii) The name of the person to whom the award was made; and
- (d) The reason why the award was made to that person.
 - (i) This paragraph may not be interpreted as permitting an official to whom the power to make final awards has been sub delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in this Policy.
 - (ii) No supply chain management decision-making powers may be delegated to an advisor or consultant.

6. SUPPLY CHAIN MANAGEMENT UNIT

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Ba-Phalaborwa Municipality must establish a SCM Unit to implement this Policy. The SCM unit must operate under the direct supervision of the chief financial officer or an official to whom this duty has been delegated in terms of section 82 of the MFMA.

7. TRAINING OF SUPPLY CHAIN MANAGEMENT OFFICIAL

The training of officials involved in implementing the supply chain management policy should be in accordance with any Treasury guidelines on supply chain management training and aligned with the minimum competency levels as stipulate in section 119 of the MFMA

8. Communication with the Municipality

All correspondence with regard to this Policy shall be addressed to the Accounting Officer.

9. Availability of SCM Policy

A copy of the Policy and other relevant documentation should be made available on the Municipality's website (**COPY FOR PERUSAL AVAILABLE AT LIBRARY/OFFICE**)

CHAPTER 2 SUPPLY CHAIN MANAGEMENT SYSTEM

The Policy provides for the following SCM systems:

- Part 1. Demand management system;
- Part 2. Acquisition management system;
- Part 3. Logistics management system, Disposal, Risk and Performance management system

These systems must be adhered to in all SCM activities undertaken by the Municipality.

PART 1: DEMAND MANAGEMENT SYSTEMS

- a. Demand management provides for an effective system to ensure that the resources required to support the strategic operational commitments of Ba-Phalaborwa Municipality are delivered at the correct time, at the right price and at the right location, and that the quantity and quality satisfy the needs of the Municipality.
- b. The resource required by the municipality supports the strategic goals of the municipality as outlined in the Integrated Development Plan and Service Delivery Budget and Implementation Plan.

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- c. In order to achieve effective demand management, the Accounting Officer shall continuously ensure:
 - i. That efficient and effective provisioning and procurement systems and practices are implemented to enable the Municipality to deliver the required quantity and quality of goods and services to the communities;
 - ii. Take into account any benefits of economies of scale that may be derived in the case of acquisitions of a repetitive nature and provide for the compilation of the required specifications to ensure that the need are met,

iii To undertake appropriate industry analysis and research to ensure that innovation and technological benefits are maximized

iv Develop Procurement Plans aligned to the Integrated development plan (IDP) and SDBIP, which includes major activities associated with identifying demand such as:-

- a. establishing requirements
- b. linking the requirement to the budget
- c. Deciding on appropriate procurement strategies.
- d. identifying critical delivery dates;
- e. submit the procurement plan to the provincial treasury together with the adopted budget and Integrated development plan (IDP)

v. Determine the need for pre-qualification criteria for preferential procurement and sub-contracting in terms of PPPFA Regulation 4 and 9

If an organ of state decides to apply pre-qualifying criteria to advance certain designated groups, that organ of state must advertise the tender with a specific tendering condition that only one or more of the following tenderers may respond-

- (a) a tenderer having a stipulated minimum B-BBEE status level of contributor;
- (b) an EME or QSE;
- (c) a tenderer subcontracting a minimum of 30% to-
 - (i) an EME or QSE which is at least 51% owned by black people;
 - (ii) an EME or QSE which is at least 51% owned by black people who are youth;
 - (iii) an EME or QSE which is at least 51% owned by black people who are women;
 - (iv) an EME or QSE which is at least 51% owned by black people with disabilities;
 - (v) an EME or QSE which is 51% owned by black people living in rural or underdeveloped areas or townships;
 - (vi) a cooperative which is at least 51% owned by black people;
 - (vii) an EME or QSE which is at least 51% owned by black people who are

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Military veterans; (viii) an
EME or QSE.

(d) A tender that fails to meet any pre-qualifying criteria stipulated in the tender documents is an unacceptable tender.

Part 2: ACQUISITION MANAGEMENT SYSTEM

2.1 The accounting officer must implement the system of acquisition management to ensure:

- a. that goods and services, including construction works and consultant services are procured by the Municipality only in accordance with the authorized processes only;
- b. that expenditure on goods and services including construction works and consultant services are incurred in terms of an approved budget in terms of section 15 of the Act ;
 - i. that the threshold values of the different procurement procedures are complied with;
 - ii. that bid documentation, evaluation and adjudication criteria, and general conditions of contracts are in accordance with the requirements of relevant legislation including, the Preferential Procurement Policy Framework Act, and any conditions of the Construction Industry Development Board Act amongst others; and
- c. That any treasury guidelines on acquisition management are properly taken into account.

2.2 Range of procurement processes

2.2.1 Goods and services may only be procured by way of –

- (a) petty cash purchases, up to a transaction value of R500 (VAT included);
- (b) Written **or verbal** quotations for procurements of a transaction value over R2 000 up to R10 000 (VAT included);
- (c) Formal written price quotations for procurements of a transaction value over R10 000 up to R200 000 (VAT included); and

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- (d) a competitive bidding process for–
 - (i) Procurements above a transaction value of R200 000 (VAT included); and
 - (ii) The procurement of long term contracts.

2.2.2 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;
 - (ii) Formal written price quotations be obtained for any specific procurement of a transaction value lower than R10 000; or
 - (iii) A competitive bidding process be followed for any specific procurement of a transaction value lower than R200 000.

2.2.3 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.

2.3 General preconditions for consideration of written quotations or bids

2.3.1 A written quotation or bid may not be considered unless the provider who submitted the quotation or bid –

- (a) Has furnished the municipality with that provider's –
 - (i) Full name;
 - (ii) Identification number or company or other registration number; and
 - (iii) Tax reference number and VAT registration number, if any;
- (b) Has indicated –

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- (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.

2.3.2 Implementation of the tax compliance status system

a. In order to comply with the new TCS system and the condition of bids that a successful bidder's tax matters must be in order, Accounting Officers of all municipalities should:

(i) Designate officials, preferably from the supply chain management unit, whose function will be to verify the tax compliance status of a taxpayer and to manage the TCS system on the SARS website and have the functionality to verify the tax compliance status of a taxpayer on the SARS' e-Filing system. Guidance to the Tax Compliance functionality on e-Filing is available on the SARS website www.sars.gov.za.

(ii) Utilize the Municipal Bid Document 1 (MBD1) when inviting bids.

a. As a bid condition, request bidders to register on government's Central Supplier Database (CSD) and include in their quotations or bids, their Master Registration Number or tax compliance status PIN to enable the municipality to verify the bidder's tax compliance status.

b. Utilize the Master Registration Number or tax compliance status PIN to verify bidders' tax compliance status.

c. Print the tax compliance status screen view or letter with the result of the bidder's status at the date and time of verification to file with the bidder's bid documents for audit purposes.

2.3.3 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; **Ba-Phalaborwa Municipality will use Central supplier database (CSD) as the list of accredited prospective providers.**

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- (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 on Central supplier database (**CSD**)

2.3.4 Central Supplier Database

- a. The CSD will automatically validate the following registration documents for the municipality:-

- (I) Confirmation and status of Business Registration Documents
- (ii) Proof of Bank Account Registration
- (iii) Tax compliance status
- (iv) Employee in the service of state as defined in the Municipal SCM Regulations
- (v) Identity Documentation
- (vi) Tender defaulters and restrictions status
- (vii) BBBEE Status
- (viii) CIDB grading

- (b) It is the responsibility of the municipality to continue with verification of other listing criteria which are not currently validated by Central supplier database (CSD), for instance, proof of municipal account

2.3.5 Petty cash purchases

The conditions for the procurement of goods by means of petty cash purchases referred to in this Policy, are as follows –

- (a) The municipality must determine the terms on which a manager/senior manager may be delegate responsibility for petty cash purchases, in terms of the system of delegation;
- (b) The value of petty cash purchases up to a transaction of R500 (VAT inclusive) for each senior manager ;(as per delegation)
- (c) The municipality must determine any types of expenditure from petty cash purchases that are excluded, where this is considered necessary; and
- (d) A monthly reconciliation report from each manager/senior manager must be provided to the chief financial officer, including –
 - (i) The total amount of petty cash purchases for that month; and

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- (ii) Receipts and appropriate documents for each purchase.

2.3.6 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 service providers whose names appear on the Central Supplier Database, any deviation must approved by the chief financial officer and accounting officer.
- (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.**

2.3.7 Formal written price quotations

- (i) 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 registered on CSD;
 - (c) if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the chief financial officer or an official designated by the chief financial officer, and
 - (d) The accounting officer must record the names of the potential providers and their written quotations.

- (iii) A designated official 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

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

- (i) 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 Central Supplier Database (CSD) 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 the formal written price quotation as stipulated in (paragraph 2.3.8) 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 monthly 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 (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;
 - (e) 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;
 - (f) The municipality must implement proper record keeping.

2.3.9 Competitive bids

- (1) Goods or services above a transaction value of R200 000 (VAT included) and long term contracts may only be procured through a competitive bidding process.

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(2) No requirement for goods or services above an estimated transaction value of R200 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.

2.3.10 Process for competitive bidding

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

- (a) Compilation of bidding documentation;
- (b) Public invitation of bids;
- (c) Site meetings or briefing sessions;
- (d) Handling of bids submitted in response to public invitation;
- (e) Evaluation of bids;
- (f) Award of contracts;
- (g) Administration of contracts
 - (i) After approval of a bid, the accounting officer and the bidder must enter into a written agreement **SLA**.
- (h) Proper record keeping
 - (i) Original / legal copies of written contracts agreements should be kept in a secure place for future reference purposes.

2.3.11 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 2017 and evaluation and adjudication criteria, including any criteria required by other applicable legislation;

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- (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 –
 - (a) for the past three years; or
 - (b) 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
- (d) 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.
- (e) Summary Central Supplier Database report (CSD).
- (f) Municipal rates and taxes not older than three months

2.3.12 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 including an advertisement the E-Tender portal; and
 - (b) The information contained in a public advertisement, must include –
 - (i) the closure date for the submission of bids, which may not be less than 30 days in the case of transactions over R10 million (VAT included), or which are of a long term nature, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper,;

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- (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.;
 - (iv) indicating whether or not the bid will be evaluated on functionality and stipulate the weighting criteria
 - (v) pre-qualification criteria in terms of the PPPFA Regulation number 4
 - (vi) indicate if the sub-contracting criteria (30 %) in terms of the PPPFA Regulation number 9 will be applied
- (c) 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
- (d) Bids submitted must be sealed.

2.3.12 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.
 - (iv) 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;
 - (v) No information, except the provisions above, relating to the bid should be disclosed to bidders or other persons until the successful bidder is notified of the award; and
- (b) 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.

2.3.13 Negotiations with preferred bidders

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- (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.

2.3.14 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.

2.3.15 Tenders to be evaluated on functionality

An organ of state must state in the tender documents if the tender will be evaluated on functionality.

1. The evaluation criteria for measuring functionality must be objective.
 - (i) The tender documents must specify-
 - (a) the evaluation criteria for measuring functionality;
 - (b) the points for each criteria and, if any, each sub-criterion; and
 - (c) The minimum qualifying score for functionality.
 - (d) The minimum qualifying score for functionality for a tender to be considered further-
 - (2) Must be determined separately for each tender; and (b) may not be so-
 - (i) Low that it may jeopardize the quality of the required goods or services; or
 - (ii) High that it is unreasonably restrictive. Points scored for functionality must be rounded off to the nearest two decimal places.
 - (iii) A tender that fails to obtain the minimum qualifying score for functionality as indicated in the tender documents is not an acceptable tender.

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(iv) Each tender that obtained the minimum qualifying score for functionality must be evaluated further in terms of price and the preference point system and any objective criteria envisaged in PPPFA regulation 11.

2.3.16 Revised preferential points and BB-BEE level contributors

- (i) 80/20 preference points system for acquisition of goods and services for rand value equal to or above R30 000 and up to R50 million.
- (ii) 90/10 preference points system for acquisition of goods and services for rand value above R50 million
- (iii) B-BBEE points will be allocated as follow

80/20

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

90/10

B-BBEE Status Level of Contributor	Number of Points
1	10
2	9
3	6

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4	5
5	4
6	3
7	2
8	1
Non-compliant contributor	0

2.3.17 Local production and content

Municipality to use the minimum threshold for local production and content as set out by Department of Trade and Industry

2.3.18 Subcontracting

a. The revised regulations require organs of state to identify tenders, where it is feasible, to sub-contract a minimum of 30% of the value of the contract for contracts above R30 million.

b. The tenderer must sub-contract a minimum of 30% of the value of the contract to EMEs or QSEs or EMEs or QSEs which are 51% owned by either of the following:

(i) Blacks; Black Youth; Black Women; Black people with disabilities; Black people living in rural or underdeveloped areas or townships; cooperatives owned by Black people; Black people who are military veterans.

2.3.19 Subcontracting after award (25%)

(1) A person awarded a contract may only enter into a subcontracting arrangement with the approval of the organ of state.

(i) A person awarded a contract in relation to a designated sector, may not subcontract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.

(ii) A person awarded a contract may not subcontract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level of contributor than the person concerned, unless the contract is subcontracted to an EME that has the capability and ability to execute the subcontract.

2.3.20 Cancellation

- (1) An organ of state may, before the award of a tender, cancel a tender invitation if-
- (a) due to changed circumstances, there is no longer a need for the goods or services specified in the invitation;
 - (b) funds are no longer available to cover the total envisaged expenditure;
 - (c) no acceptable tender is received; or
 - (d) There is a material irregularity in the tender process.
- (2) The decision to cancel a tender invitation in terms of sub regulation (1) must be published in the same manner in which the original tender invitation was advertised.
- (3) An organ of state may only with the prior approval of the relevant treasury cancel a tender invitation for the second time.

2.3.21 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 MFMA; and
- (3) An attendance or oversight process by a neutral or independent observer appointed by the accounting officer when this is appropriate for ensuring fairness and promoting transparency.
- (4) The committee system must be consistent with the policy and any other applicable legislation.
The accounting officer may apply the committee system to formal written price quotations.

2.3.22 Bid specification committees

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- (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 Organization, or an authority accredited or recognized by the South African National Accreditation System with which the equipment or material or workmanship should comply;
 - (c) 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 labeling 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 2017; and
 - (g) Must be approved by the accounting officer prior to publication of the invitation for bids in terms of this Policy.
 - (g) indicating whether or not the bid will be evaluated on functionality and stipulate the weighting criteria
 - (h) pre-qualification criteria in terms of the PPPFA Regulation number 4
 - (i) sub-contracting criteria (30 %) in terms of the PPPFA Regulation number 9
- (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.

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(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.

2.3.23 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 PPPFA regulation

(a) Evaluate each bidder's ability to execute the contract;

(b) Check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears, and;

(c) 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

2.3.24 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 four senior managers of the Ba-Phalaborwa municipality which must include –

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- (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 of the municipality, 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.

(a) If the bid adjudication committee decides to recommend a bid other than the one recommended by the bid evaluation committee, the bid adjudication committee must prior to recommend 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.

(5) 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.

(6) The accounting officer must comply with section 114 of the Act within 10 working days

All bid committee member will sign the municipal code of conduct for Bid Committee and adhere to the **Guidelines for Municipal Bid Adjudication Committees June 2006**

2.3.25 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 MFMA; 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 SCM Regulation 22(1). Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

2.3.26 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 (VAT included); or
 - (b) The transaction value of a contract to be procured whether for one or more years exceeds R50 million (VAT included).

- (4) If SITA comments on the submission and the municipality disagrees with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the council, the National Treasury, the relevant provincial treasury and the Auditor General.

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

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- (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) *Competitive bidding processes must be the first option before considering participating in a SCM regulation 32. Delay in implementing the procurement plan should not be a reason for participating in SCM regulation 32*

2.3.28 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.

2.3.29 Proudly SA Campaign

(a) 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:

- (i) Firstly – suppliers and businesses within the municipality or district;
- (ii) Secondly – suppliers and businesses within the relevant province;
- (iii) Thirdly – suppliers and businesses within the Republic.

2.3.30 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 (VAT included); or
- (b) The duration period of the contract exceeds one year.

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(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) Accounting Officers must only contract with consultants after a gap analysis report has confirmed that the municipality does not have the requisite skills or resources in its permanent employment to perform the services required.

(i) Evidence of acute planning of the project must be visible to all relevant persons including the administration and political oversight mechanisms in place at the municipality

(ii) Accounting officers of municipalities must appoint consultants on a time and cost basis with specific start and end dates.

(iii) Travel and subsistence costs for the appointment of consultants must be in accordance with the travel policy of government and the contract price specifies all travel & subsistence costs.

2.3.31 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.

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(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) Submit the deviation register to provincial treasury on a quarterly basis

2.3.32 Unsolicited bids

(1) In accordance with section 113 of the MFMA 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 MFMA 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

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(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.

2.3.33 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, favoritism, 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;

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- (f) Cancel a contract awarded to a person if –
 - (i) The person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
 - (ii) An official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and
 - (g) Reject the bid of any bidder if that bidder or any of its directors –
 - (i) Has abused the supply chain management system of the municipality or has committed any improper conduct in relation to such system;
 - (ii) Has been convicted for fraud or corruption during the past five years;
 - (iii) has willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
 - (iv) Has been listed in the Register for Tender Defaulters in terms 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.

Where there are allegation of financial misconduct the municipality must refer the matter to the financial misconduct board in terms of the Municipal Regulation on Financial Misconduct. Allegations of financial offence must be reported to SAPS

Part 3: Logistics, Disposal, Risk and Performance Management

3.1 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;

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- (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.

3.2 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 MFMA, are as follows: municipal council must specify the ways in which assets may be disposed of by –

- (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.

(2) 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;

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- (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.

3.3 Risk management

- (1) The municipality must have criteria for the identification, consideration and avoidance of potential risks in the supply chain management system.
- (2) Risk management must include –
 - (a) The identification of risks on a case-by-case basis;
 - (b) The allocation of risks to the party best suited to manage such risks;
 - (c) Acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;
 - (d) The management of risks in a pro-active manner and the provision of adequate cover for residual risks; and
 - (e) The assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.

3.4 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 authorized supply chain management processes were followed and whether the objectives of this Policy were achieved.

Part 4: Other matters

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

- (1) No award above R15 000 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. The use Central supplier database (CSD) and the implementation of MFMA Circular 90 refers

4.2 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
 - (d) Should it come to light that a false declaration was made by the bidder after the municipality had awarded the bid, the contract should be immediately suspended and payments made, recovered.
 - (i) False declarations by bidders can be viewed as a criminal offence and charges must be laid by the municipality with the South African Police Services for further investigation.
 - (ii) Details will be reported to Council at its next meeting and information contained in the Annual Report of the municipality.
 - (iv) In the event that the Auditor-General detects irregular expenditure during the audit process as a result of possible false declarations and subsequent awards based on those declarations, the municipality will be informed of such irregular expenditure.
 - (v) The municipality will be required to rectify this matter by instituting the necessary remedial measures, by investigating the matter, recovering the funds spent, instituting disciplinary proceedings against those liable for such actions and possible criminal prosecution as may be appropriate.
 - (vi) The accounting officer must also apply the remedial measures contained under "Termination for Default" in the General Conditions of Contract.

4.3 Awards to close family members of persons in the service of the state

(1) The accounting officer must ensure that the notes to the annual financial statements disclose particulars of any award of more than R2000 to a person who is a spouse, child or parent of a person in the service of the state, or has been in the service of the state in the previous twelve months, including –

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

4.4 Contracts Having Budgetary Implications beyond three Financial Years

The Municipality may not enter into any contract that will impose financial obligations beyond the three years covered in the annual budget for that financial year, unless the requirements of section 33 of the Municipal Finance Management Act have been fully complied with.

4.5 Public-Private Partnerships

Part 2 of chapter 11 of the MFMA applies to the procurement of public-private partnership agreements. Section 33 also applies if the agreement will have multi-year budgetary implications for the Municipality within the meaning of that section.

4.6 Validity Periods (use GCC definition)

4.7 Ethical standards

(1) A code of ethical standards as set out in **the “National Treasury’s code of conduct for supply chain management practitioners and other role players involved in supply chain management”** 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

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(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, favor, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350;
- (d) notwithstanding subparagraph (2) (c), must declare to the accounting officer details of any reward, gift, favor, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;
- (e) must declare to the accounting officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by, the municipality;
- (f) Must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;
- (g) Must be scrupulous in his or her use of property belonging to municipality;
- (h) Must assist the accounting officer in combating fraud, corruption, favoritisms 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, favoritism or unfair conduct;
 - (ii) Any alleged contravention 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) Declarations made 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 -

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- (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;
- i. in the case a role player who is not an employee, through other appropriate means in recognition of the severity of the breach.
- ii. In all cases, financial misconduct must be dealt with in terms of chapter 15 of the MFMA

4.8 Inducements, rewards, gifts and favours to [municipalities / municipal entities], 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 in value.

4.9 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.

4.10 Objections and complaints

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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.

4.11 Resolution of disputes, objections, complaints and queries

(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

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- (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.

4.12 Remedies according to the PPPFA regulation number 14

(1) Upon detecting that a tenderer submitted false information regarding its BBEE status level of contributor, local production and content, or any other matter required in terms of these Regulations which will affect or has affected the evaluation of a tender, or where a tenderer has failed to declare any subcontracting arrangements, the organ of state must-

- (a) inform the tenderer accordingly;
- (b) give the tenderer an opportunity to make representations within 14 days as to why-
 - (i) the tender submitted should not be disqualified or, if the tender has already been awarded to the tenderer, the contract should not be terminated in whole or in part;
 - (ii) if the successful tenderer subcontracted a portion of the tender to another person without disclosing it, the tenderer should not be penalized up to 10 percent of the value of the contract; and
 - (iii) the tenderer should not be restricted by the National Treasury from conducting any business for a period not exceeding 10 years with any organ of state; and
- (c) if it concludes, after considering the representations referred to in sub regulation (1)(b), that-
 - (i) such false information was submitted by the tenderer-
 - (a) disqualify the tenderer or terminate the contract in whole or in part; and
 - (b) if applicable, claim damages from the tenderer; or
 - (ii) The successful tenderer subcontracted a portion of the tender to another person without disclosing, penalize the tenderer up to 10 percent of the value of the contract.

(2)(a) An organ of state must-

- (i) inform the National Treasury, in writing, of any actions taken in terms of sub regulation (1);
- (ii) provide written submissions as to whether the tenderer should be restricted from conducting business with any organ of state; and
- (iii) Submit written representations from the tenderer as to why that tenderer should not be restricted from conducting business with any organ of state.

(b) The National Treasury may request an organ of state to submit further information pertaining to sub regulation (1) within a specified period.

(3) The National Treasury must-

- (a) after considering the representations of the tenderer and any other relevant information, decide whether to restrict the tenderer from doing business with any organ of state for a period not exceeding 10 years; and Maintain and publish on its official website a list of restricted suppliers.

4.13 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
- (a) That such compensation must be performance based.

Commencement

This Policy takes effect on 01 July 2018