



# VICTOR KHANYE

LOCAL MUNICIPALITY – PLAASLIKE MUNISIPALITEIT

## SUPPLY CHAIN MANAGEMENT POLICY

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

The Council of the Victor Khanye Local Municipality resolves in terms of section 111 of the Local Government: Municipal Finance Management Act (no. 56 of 2003) to adopt the following as the Supply Chain Management Policy of the 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 –

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

- (ii) **“competitive bid”** means a bid in terms of a competitive bidding process;
- (iii) **“final award”**, in relation to bids or quotations submitted for a contract, means the final decision on which bid or quote to accept;
- (iv) **“formal written price quotation”** means quotations referred to in paragraph 12 (1) (c) of this policy;
- (v) **“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;
- (vi) **“long term contract”** means a contract with a duration period exceeding one year;
- (vii) **“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;
- (viii) **“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);
  - (c) the Construction Industry Development Board Act, 2000 (Act No.38 of 2000); and
  - (d) the Prevention and Combating of Corrupt Activities Act, 2004 [Act 12 of 2004].
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- (ix) **“Regulation”** means the Local Government: Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations, published in Notice 868 of 30 May 2005;
  - (x) **“Treasury guidelines”** means any guidelines on supply chain management issued by the Minister in terms of section 168 of the Act;
  - (xi) **“the Act”** means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);
  - (xii) **“written quotations”** means quotations referred to in paragraph 12(1)(b) of this policy.
  - (xiii) **“specific goals”** means specific goals as contemplated in section 2(1)(d) of the Act which may include contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender and disability including the implementation of programmes of the Reconstruction and development Programme as published in Government Gazette No. 16085 dated 23 November 1994;

**CHAPTER 1**  
**ESTABLISHMENT AND IMPLEMENTATION OF SUPPLY CHAIN**  
**MANAGEMENT POLICY**

**Supply chain management policy**

2. (1) The principles of this policy are that it -
- (a) gives effect to –
    - (i) section 217 of the Constitution; and
    - (ii) Part 1 of Chapter 11 and other applicable provisions of the Act;
  - (b) is fair, equitable, transparent, competitive and cost effective;
  - (c) complies with –
    - (i) the regulatory framework prescribed in Chapter 2 of the Regulations; and
    - (ii) any minimum norms and standards that may be prescribed in terms of section 168 of the Act;
  - (d) is consistent with other applicable legislation;
  - (e) does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and
  - (f) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.
- (2) The municipality may not act otherwise than in accordance with this supply chain management policy when –
- (a) procuring goods or services;
  - (b) disposing of goods no longer needed;
  - (c) selecting contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies; or

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

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

- 3. (1) The accounting officer must –
  - (a) at least annually review the implementation of this policy;  
and
  - (b) when the accounting officer considers it necessary, submit proposals for the amendment of this policy to the council.
- (2) If the accounting officer submits a draft policy to the council that differs from the model policy, the accounting officer must ensure that such draft policy complies with the Regulations. The accounting officer must report any deviation from the model policy to the National Treasury and the relevant provincial treasury.
- (3) When amending this supply chain management policy the need for uniformity in supply chain practices, procedures and forms between organs of state in all spheres, particularly to promote accessibility of supply chain management systems for small businesses must be taken into account.
- (4) The accounting officer of the municipality must in terms of section 62(1)(f)(iv) of the Act, take all reasonable steps to ensure that the municipality has and implements this supply chain management policy.



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

4. (1) The council hereby delegates and is required to further delegate such additional powers and duties to the accounting officer so as to enable the accounting officer –
  - (a) to discharge the supply chain management responsibilities conferred on accounting officers in terms of –
    - (i) Chapter 8 or 10 of the Act; and
    - (ii) the supply chain management policy;
  - (b) to maximise administrative and operational efficiency in the implementation of the supply chain management policy;
  - (c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of the supply chain management policy; and
  - (d) to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.
- (2) Section 79 of the Act apply to the subdelegation of powers and duties delegated to the accounting officer in terms of subparagraph (1) of this policy.
- (3) The council or accounting officer may not delegate or subdelegate 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) The accounting officer may not delegate or sub-delegate the authority to enter into negotiations in terms of paragraph 24 of this policy.

### **Sub-delegations**

5. (1) The accounting officer may in terms of section 79 of the Act sub-delegate any supply chain management powers and duties, including those delegated to the accounting officer in terms of this policy, but any such subdelegation must be consistent with subparagraph (2) and paragraph 4 of this policy.
- (2) The power to make a final award –
- (a) Above R10 million (VAT included) may not be sub-delegated by the accounting officer;
  - (b) Above R2 million (VAT included), but not exceeding R10 million (VAT included), may be sub-delegated but only to –
    - (i) The chief financial officer;
    - (ii) A senior manager; or
    - (iii) A bid adjudication committee of which the chief financial officer or a senior manager is a member; or
  - (c) Not exceeding R 2 million (VAT included) may be sub-delegated but only to –
    - (i) the chief financial officer;
    - (ii) a senior manager;
    - (iii) a manager directly accountable to the chief financial officer or a senior manager; or
    - (iv) a bid adjudication committee.

- (3) An official or bid adjudication committee to which the power to make final awards has been sub-delegated in accordance with subparagraph (2) of this policy must within **five (05)** working days of the end of each month submit to the official referred to in subparagraph (4) of this policy a written report containing particulars of each final award made by such official or committee during that month, including–
  - (a) the amount of the award;
  - (b) the name of the person to whom the award was made; and
  - (c) the reason why the award was made to that person.
- (4) A written report referred to in subparagraph (3) of this policy must be submitted –
  - (a) to the accounting officer, in the case of an award by –
    - (i) the chief financial officer;
    - (ii) a senior manager; or
    - (iii) a bid adjudication committee of which the chief financial officer or a senior manager is a member; or
  - (b) to the chief financial officer or the senior manager responsible for the relevant bid, in the case of an award by –
    - (i) a manager referred to in subparagraph (2)(c)(iii) of this policy; or
    - (ii) a bid adjudication committee of which the chief financial officer or a senior manager is not a member.
- (5) Subparagraphs (3) and (4) of this policy do not apply to procurements out of petty cash.
- (6) This paragraph may not be interpreted as permitting an official to whom the power to make final awards has been sub-delegated, to

make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this policy.

- (7) The Accounting Officer may sub-delegate the Chairpersonship of the Bid Adjudication Committee to any Senior Official reporting directly to the chief financial officer or Deputy chief financial officer.
- (8) No supply chain management decision-making powers may be delegated to an advisor or consultant.

### **Oversight role of council**

- 6. (1) The council must maintain oversight over the implementation of this supply chain management policy.
- (2) For the purposes of such oversight the accounting officer must –
  - (a) (i) within 30 days of the end of each financial year, submit a report on the implementation of the supply chain management policy of the municipality and of any municipal entity under its sole or shared control, to the council of the municipality,
  - (ii) whenever there are serious and material problems in the implementation of the supply chain management policy, immediately submit a report to the council.
- (3) The accounting officer must, within twenty [20] days of the end of each quarter, submit a report on the implementation of the supply chain management policy to the executive committee.
- (4) The reports must be made public in accordance with section 21A of the Municipal Systems Act.

### **Supply chain management unit**

7. (1) A supply chain management unit is hereby established to implement this supply chain management policy.
  - (2) The supply chain management unit must, where possible, operate under the direct supervision of the chief financial officer or an official to whom this duty has been delegated in terms of section 82 of the Act.

**Training of supply chain management officials**

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

## CHAPTER 2 FRAMEWORK FOR SUPPLY CHAIN MANAGEMENT

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

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

### ***Part 1: Demand management*** **System of demand management**

10. In order to ensure that the resources required to support the strategic and operational commitments are delivered at the correct time, at the right price and at the right location, and that the quantity and quality satisfy needs, an effective system of demand management must include the following:
  - (a) Planning for future requirements. Acquisition and disposals of all goods required to meet the strategic goals outlined in the Integrated Development Plan must be quantified, budgeted and planned to ensure timely and effective delivery, appropriate quality at a fair cost to meet the needs of the municipality and community. Critical delivery dates must be determined and adhered to as set out in the service delivery and budget implementation plan contemplated in section 69[3][a] of the Act.
  - (b) If the requirement is of a repetitive nature and there are benefits of economies of scale a contract for a specific commodity should be arranged.

- (c) In order to compile the correct specifications an industry analysis / research should be undertaken to ensure future needs and technology benefits are maximised.

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

### **System of acquisition management**

- 11. (1) Through operational procedures, an effective system of acquisition management is established in Part 2 of this policy in order to ensure –
  - (a) that goods and services are procured by the municipality in accordance with authorized processes only;
  - (b) that expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the Act;
  - (c) that the threshold values for the different procurement processes are complied with;
  - (d) that bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation;and
  - (e) that any Treasury guidelines on acquisition management are properly taken into account.
  
- (2) This supply chain management policy, except where provided otherwise in the policy, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Act, including –
  - (a) water from the Department of Water and Sanitation or a public entity, another municipality or a municipal entity; and
  - (b) electricity from ESKOM or another public entity, another municipality or a municipal entity.

- (3) The following information must be made public wherever goods or services contemplated in section 110(2) of the Act are procured other than through the supply chain management system -
- (a) the kind of goods or services; and
  - (b) the name of the supplier.

(4) For quotations (up to and including R300 000.00) bidders are required to be registered on the Central Supplier Database (CSD) prior to the acceptance of their quotation (the issue of an official order) in respect of the goods or services required. Procurements above R300 000.00 go through a competitive bidding process.

(5) where bids exceed R300 000.00, bidders who are not registered on the Central Supplier Database are not precluded from submitting bids but must however be registered prior to the awarding of the tender.

(6) All parties to a Joint Venture or Consortium must individually comply with the requirements of clauses.

### **Range of procurement processes**

12. (1) The procurement of goods and services through this policy is provided by way of –
- (a) Petty cash purchases shall be incurred up to a value of R500 (VAT included);
  - (b) Verbal quotation / one quotation up to value of R2.000 (VAT included);
  - (c) Three written quotations for procurements of a transaction value over R2.000 up to R29 999 (VAT included);
  - (d) Formal written price quotations for procurements of a transaction value over R29 999 up to R300.000 (VAT included); and
  - (e) a competitive bidding process for–
    - (i) procurements above a transaction value of R300.000 (VAT included); and



- (ii) the procurement of long term contracts.
- (2) The accounting officer may, in writing-
  - (a) lower, but not increase, the different threshold values specified in subsection (1); or
  - (b) direct that –
    - (i) written or verbal quotation be obtained for any specific procurement of a transaction value lower than R2.000;
    - (ii) three formal written price quotations be obtained for any specific procurement of a transaction value lower than R29 999; or
    - (iii) a three formal written price quotations process may be followed for any specific procurement of a transaction value lower than R300.000.
- (3) Goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of the policy. When determining transaction values, a requirement for goods or services consisting of different parts or items shall as far as possible be treated and dealt with as a single transaction.

**General preconditions for consideration of written quotations, formal written price quotations or bids**

13. A written quotation, formal written price 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;

- (iv) tax clearance from the South African Revenue Services that the provider's tax matters are in order; and
- (b) has indicated –
  - (i) whether he or she is in the service of the state, or has been in the service of the state in the previous twelve months;
  - (ii) if the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the state, or has been in the service of the state in the previous twelve months; or
- (iv) whether a spouse, life partner, 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.

#### **PREFERENTIAL PROCUREMENT AIM**

14. (a) The aim of this section of the Municipality's Supply Chain Management Policy is to give effect to, and to ensure compliance with, all applicable legislation and national directives in respect of preferential procurement and broad-based black economic empowerment.

(b) The following procurement strategies are addressed in this section:

the application of a preference point system in terms of the revised Preferential Procurement Regulations (PPR), 2022.

(c) the unbundling of large projects, where appropriate, into smaller contracts to ensure that a spread of opportunities is made available to suppliers, service providers and construction contractors of various sizes.

(d) the use of functionality/quality, where appropriate, in procurement processes to ensure that goods supplied are fit for purpose, or that a minimum level of experience and competence in respect of service providers or construction contractors is attained.

(e) the increase of employment opportunities by ensuring the use of labour-intensive technologies.

(f) the targeting of labour and/or enterprises from specific areas within the boundaries of the Victor Khanye Municipal area.

- (g) Preferential procurement is further enhanced by provisions aimed at improved access to information, simplification of documentation; deduct performance from payment invoices, reduced payment cycles and good governance.

### **KEY PRINCIPLES OF THE PREFERENTIAL PROCUREMENT SYSTEM**

(a) The key principles of this system are:

Identification of preference point system;

(b) The application of 80/20 preference point system for acquisition of goods or services with Rand value equal to or below **R50 million**;

(c) The application of 90/10 preference point system for acquisition of goods or services with Rand value **above R50 million**;

(d) The application of 80/20 preference points system for tenders to generate income or to dispose of or lease assets with Rand value equal to or **below R50 million**;

(e) The application of 90/10 preference point system for tenders to generate income or to dispose of or lease assets with Rand value **above R50 million**;

(f) That bids may be declared non-responsive if they fail to achieve a minimum score for functionality (quality), if indicated in the bid documents.

(g) The preference point system shall be used in the evaluation of responsive bids for the purposes of determining preferred/recommended bidders, and for the adjudication thereof.

The preference point system is not applicable to petty cash purchases.

### **PLANNING AND IDENTIFICATION OF PREFERENCE POINT SYSTEM**

(a) Prior to embarking on any procurement process, the responsible Department must properly plan for, and, as far as possible, accurately estimate the cost of the goods, services or construction works for which bids are to be invited.

(b) The Bid Specifications Committee shall determine the appropriate preference point system to be used in the evaluation and adjudication of bids and shall ensure that such is clearly stipulated in the bid documentation as contemplated in section 2 of the Preferential

(c) Procurement Policy Framework Act (PPPFA), 2000 including the implementation of programmes of the Reconstruction and Development Programme as published in

Government Gazette No. 16085 dated 23 November 1994.

(d) An organ of state must, in the tender documents, stipulate—the applicable preference point system as envisaged in Preferential Procurement Regulations (PPR) 2022, section 4, 5, 6 or 7;

(e) The specific goal in the invitation to submit the tender for which a point may be awarded, and the number of points that will be awarded to each goal, and proof of the claim for such goal.

(f) If it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—

an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or

any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system.

(g) That the bid specifications and the advert must be approved by the Accounting Officer or his/her delegate before it can be advertised.

### **EVALUATION OF BIDS BASED ON FUNCTIONALITY (QUALITY)**

(a) Functionality (otherwise known as quality) may be included in the bid evaluation process as a qualifying (eligibility) criterion.

(b) If a bid is to be evaluated on functionality, this must be clearly stated in the invitation to submit a bid, and in the bid documentation.

(c) The evaluation criteria for measuring functionality must be objective. When evaluating bids on functionality the:

(d) evaluation criteria for measuring functionality;  
weight of each criterion;

applicable values; and

(e) minimum qualifying score for functionality, must be clearly stipulated in the bid document.

## **CLOSED BIDDING MAY BE CONSIDERED FOR CONTRACT MANAGEMENT FOR SPECIALIZED PROJECTS**

(a) If a bid fails to achieve the minimum qualifying score for compliance or functionality requirements as indicated in the bid document, it must be regarded as non-responsive, and be rejected (not considered any further in the evaluation process).

(b) Bids that have achieved the minimum score for functionality, and passed any other responsiveness tests, must be evaluated further in terms of the preference point system prescribed below.

(c) The municipality is allowed to request documents from bidders for completeness of compliance purposes which may not provide an added advantage/ standing above other bidders.

## **EVALUATION OF BIDS BASED ON THE PREFERENTIAL POINTS SYSTEM**

(a) The municipality must, in the tender documents, stipulate -

The applicable preference point system applicable to the tender as envisaged in

(b) Preferential Procurement Regulations (PPR) 2022, section 4, 5, 6 or 7;

the specific goal in the invitation to submit the tender for which a point may be

awarded, and the number of points that will be awarded to each goal, and proof of the claim for such goal.

(c) If it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—

an invitation for tender for income-generating contracts, that either the 80/20 or

90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or

any other invitation for tender, that either the 80/20 or 90/10 preference point

system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system.

## **THE APPLICATION OF 80/20 PREFERENCE POINT SYSTEM FOR ACQUISITION OF GOODS OR**

### **SERVICES WITH RAND VALUE EQUAL TO OR BELOW R50 MILLION**

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

$$Ps = \frac{(80(1 - \frac{PT - Pmin}{Pmin}))}{Pmin}$$

Where-

Ps = Points scored for price of tender under consideration;

Pt = Price of tender under consideration; and

Pmin = Price of lowest acceptable tender.

A maximum of 20 points may be awarded to a tenderer for the specific goal specified for the tender in the tender document as follows:

Race 30%

Gender 30%

Disability 30%

RDP 10%

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

Subject to section 2(1)(f) of the Preferential Procurement Policy Framework Act (PPPFA), 2000 the contract must be awarded to the tenderer scoring the highest points.

### **THE APPLICATION OF 90/10 PREFERENCE POINT SYSTEM FOR ACQUISITION OF GOODS OR SERVICES WITH RAND VALUE ABOVE R50 MILLION**

The following formula must be used to calculate the points out 90 for price in respect of an invitation for tender with a Rand value above R50 million, inclusive of all applicable taxes:

$$Ps = \frac{(90(1 - \frac{PT - Pmin}{Pmin}))}{Pmin}$$

Where-

Ps = Points scored for price of tender under consideration;

Pt = Price of tender under consideration; and

Pmin = Price of lowest acceptable tender.

A maximum of 10 points may be awarded to a tenderer for the specific goal specified for the tender in the tender document as follows:

Race 30%

Gender 30%

Disability 30%

RDP 10%

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

Subject to section 2(1)(f) of the Preferential Procurement Policy Framework Act (PPPFA), 2000 the contract must be awarded to the tenderer scoring the highest points.

**THE APPLICATION OF 80/20 PREFERENCE POINTS SYSTEM FOR TENDERS FOR INCOME-GENERATING CONTRACTS WITH RAND VALUE EQUAL TO OR BELOW R50 MILLION**

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

$$Ps = \frac{80(1 + PT - Pmax)}{Pmax}$$

Where-

Ps = Points scored for price of tender under consideration;

Pt = Price of tender under consideration; and

Pmax = Price of highest acceptable tender.

A maximum of 20 points may be awarded to a tenderer for the specific goal specified for the tender in the tender document as follows:

Race 30%

Gender 30%

Disability 30%

RDP 10%

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

Subject to section 2(1)(f) of the Preferential Procurement Policy Framework Act (PPPFA), 2000 the contract must be awarded to the tenderer scoring the highest points.

**THE APPLICATION OF 90/10 PREFERENCE POINT SYSTEM FOR TENDERS FOR INCOME-GENERATING CONTRACTS WITH RAND VALUE ABOVE R50 MILLION**

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

$$Ps = \frac{90(1 + PT - Pmax)}{Pmax}$$

Where-

Ps = Points scored for price of tender under consideration;

Pt = Price of tender under consideration; and

Pmax = Price of highest acceptable tender.

A maximum of 10 points may be awarded to a tenderer for the specific goal specified for the tender in the tender document as follows:

Race 30%

Gender 30%

Disability 30%

RDP 10%

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

Subject to section 2(1)(f) of the Preferential Procurement Policy Framework Act (PPPFA), 2000 the contract must be awarded to the tenderer scoring the highest points.

#### **CRITERIA FOR BREAKING OF DEADLOCK IN SCORING**

If two or more tenderers score an equal total number of points, the contract must be awarded to the tenderer that scored the highest points for specific goals.

If two or more tenderers score equal total points in all respects, the award must be decided by the drawing of lots.

#### **REMEDIES**

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

inform the tenderer accordingly; and

give the tenderer an opportunity to make representations within 14 days as to why the tender may not be disqualified or, if the tender has already been awarded to the tenderer, the contract should not be terminated in whole or in part.

After considering the representations referred to in subregulation 13.13.1.2, the organ of state may, if it concludes that such information is false—

disqualify the tenderer or terminate the contract in whole or in part; and

if applicable, claim damages from the tenderer.

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

20. (1) The accounting officer must –
  - (a) keep a list and encourage service providers to register on central supplier database (CSD) 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 register on Central Supplier database (CSD);
  - (c) specify the listing criteria for accredited prospective providers including compliance with SARS tax matters; and
  - (d) disallow the use 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) registration on CSD is an ongoing process

#### **Petty cash purchases**

15. (1) The conditions for the procurement of goods and services by means of petty cash purchases of this policy, are that minor items are purchased for up to R 500, 00 (Five Hundred Rand) (VAT included) where it is impractical, impossible or not cost-effective to follow the official supply chain management procedures.
- (2) The chief financial officer will authorize officials from his department to keep petty cash registers and to grant refunds for cash purposes or allow cash advances.
  - (3) Cash advances can only be granted for out-of-pocket expenses for delegated representatives of the municipality or upon a written quotation but in all instances a petty cash voucher should be approved by the related departmental head.
  - (4) Officially delegated persons will agree to the deduction from his next remuneration any cash advances of which no proof of expenditure is presented on return from the attended event.
  - (5) A monthly reconciliation report from holder of a petty cash must be provided to the chief financial officer, including –

- (i) the total amount of petty cash purchases for that month; and
- (ii) receipts and appropriate documents for each purchase.

### **Written quotations**

16. The conditions for the procurement of goods or services through written 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 in the supply chain management policy required by 14(1)(b) and (c) of this policy;
- (b) providers must be requested to either submit or confirm 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; and
- (d) the accounting officer must record the names of the potential providers requested to provide such quotations with their quoted prices.

### **Formal written price quotations**

17. (1) The conditions for the procurement of goods or services through formal written price quotations, are as follows-

- (a) quotations must be obtained in writing from at least three different providers whose names appear on the list of accredited prospective providers of the municipality;
- (b) quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria in the supply chain management policy required by paragraph 14(1)(b) and (c);

- (c) 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.
- (2) A designated official referred to in subparagraph (1) (c) must within three (3) working days of the end of each month report to the chief financial officer on any approvals given during that month by that official in terms of that subparagraph.

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

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

written price quotations accepted by an official acting in terms of a subdelegation, and;

- (e) the chief financial officer must set requirements for proper record keeping of written quotations and final written price quotations.

### **Competitive bids**

19. (1) Goods or services above a transaction value of R300 000 (VAT included) and long term contracts may only be procured through a competitive bidding process, subject to paragraphs 11(2) and 36 of this policy; and

- (2) No requirement for goods or services above an estimated transaction value of R300 000 (VAT included), may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.

### **Process for competitive bidding**

20. The procedures for a competitive bidding process are established in Part 2 of this policy for each of the following stages:

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

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

21. The criteria to which bid documentation for a competitive bidding process must comply, must –
- (a) take into account –
    - (i) the general conditions of contract;
    - (ii) any Treasury guidelines on bid documentation; and
    - (iii) the requirements of the Construction Industry Development Board (CIDB), in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;
  - (b) include evaluation and adjudication criteria, including any criteria required by other applicable legislation;
  - (c) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;
  - (d) if the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish–
    - (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.
- (2) A non-refundable charge shall be raised for bid forms, plans, specifications, samples and any other bid documentation, depending on the nature, magnitude and value of technical information or samples provided by the municipality.

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

22. (1) The procedure for the invitation of competitive bids, are 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);
    - (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.
- (2) The accounting officer may determine a closure date for the submission of bids which is less than the 30 or 14 days requirement, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process.
- (3) Bids submitted must be sealed.
- (4) Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies.

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

23. The procedures for the handling, opening and recording of bids, are as follows:
- (a) Bids–
    - (i) must be opened only in public; and
    - (ii) must be opened at the same time and as soon as possible after the period for the submission of bids has expired;
  - (b) Any bidder or member of the public has the right to request that the names of the bidders who submitted bids in time must be read out and, if practical, also each bidder's total bidding price; and
  - (c) The accounting officer must –
    - (i) record in a register all bids received in time;
    - (ii) make the register available for public inspection; and
    - (iii) publish the entries in the register and the bid results on the website.

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

24. (1) The accounting officer may, subject to paragraph 4(5) of this policy, negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provided that such negotiation –
- (a) does not allow any preferred bidder a second or unfair opportunity;
  - (b) is not to the detriment of any other bidder; and
  - (c) does not lead to a higher price than the bid as submitted.
- (2) Minutes of such negotiations must be kept for record purposes.

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

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

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

26. (1) The following committees are hereby established -
- (a) bid specification committees as required, depending on the department of the municipality involved;
  - (b) a bid evaluation committee; and
  - (c) a bid adjudication committee;



- (2) The accounting officer is required to appoint the members of each committee, taking into account section 117 of the Act; and
- (3) The accounting officer is required to provide for an attendance or oversight process by a neutral or independent observer, appointed by the accounting officer, when this is appropriate for ensuring fairness and promoting transparency.
- (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.

#### **Bid specification committees**

- 27. (1) The appropriate bid specification committee must, depending on the department involved, 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) 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 2001; and
  - (g) must be approved by the accounting officer prior to publication of the invitation for bids in terms of paragraph 22 of this policy.
- (3) The bid specification committee must be composed of one or more officials of the municipality, preferably the manager responsible for the function involved, and may, when appropriate, include external specialist advisors.
- (4) No person, advisor or corporate entity involved with the bid specification committee, or director of such a corporate entity, may bid for any resulting contracts.

### **Bid evaluation committees**

28. (1) The bid evaluation committee must –
- (a) evaluate bids in accordance with –
    - (i) the specifications for a specific procurement; and
    - (ii) the points system set out in terms of paragraph 27(2)(f).
  - (b) objectively evaluate each bidder’s ability to execute the contract;

- (c) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears, and;
  - (d) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.
- (2) The bid evaluation committee must as far as possible be composed of–
- (a) officials from departments requiring the goods or services; and
  - (b) at least one supply chain management practitioner of the municipality.

### **Bid adjudication committees**

29. (1) The bid adjudication committee must –
- (a) consider the report and recommendations of the bid evaluation committee; and
  - (b) either –
    - (i) depending on its delegations, make a final award or a recommendation to the accounting officer to make the final award; or
    - (ii) make another recommendation to the accounting officer how to proceed with the relevant procurement.
- (2) The bid adjudication committee must consist of at least four senior managers of the municipality which must include –
- (i) the chief financial officer or, if the chief financial officer is not available, another senior finance official heading either of the budget or treasury offices, reporting directly to the chief

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

- (6) The accounting officer may at any stage of a bidding process, refer any recommendation made by the evaluation committee or the adjudication committee back to that committee for reconsideration of the recommendation.
- (7) The accounting officer must comply with section 114 of the Act within 10 working days.

### **Procurement of banking services**

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

### **Procurement of IT related goods or services**

- 31. (1) The accounting officer **may** request the State Information Technology Agency (SITA) to assist with the acquisition of IT related goods or services through a competitive bidding process.
- (2) Both parties **must** enter into a written agreement to regulate the services rendered by, and the payments to be made to, SITA.

- (3) The accounting officer must notify SITA together with a motivation of the IT needs if –
  - (a) the transaction value of IT related goods or services required in any financial year will exceed R50 million (VAT included);  
or
  - (b) the transaction value of a contract to be procured whether for one or more years exceeds R50 million (VAT included).
  
- (4) If SITA comments on the submission and the municipality disagrees with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the council, the National Treasury, the relevant provincial treasury and the Auditor General.

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

32. (1) The accounting officer may procure goods or services under a contract secured by another organ of state, but only if –
- (a) the contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;
  - (b) there is no reason to believe that such contract was not validly procured;
  - (c) there are demonstrable discounts or benefits to do so; and
  - (d) that other organ of state and the provider have consented to such procurement in writing.
  - (e) after the process done as mentioned above (a)-(d), the receipt documents should be subjected to bid adjudication committee to confirm such prior the confirmation of the appointment.
- (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.

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

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

### **Proudly SA Campaign**

34. (1) The municipality supports the Proudly SA Campaign to the extent that, all things being equal, preference is given to procuring local goods and services from:
- (a) Firstly –suppliers and businesses within the municipality or district;
  - (b) Secondly – suppliers and businesses within the relevant province;
  - (c) Thirdly – suppliers and businesses within the Republic of South Africa.

### **Appointment of consultants**

35. (1) The accounting officer may procure consulting services provided that any Treasury guidelines and CIDB requirements in respect of consulting services are taken into account when such procurements are made.
- (2) Consultancy services must be procured through competitive bids if-
- (a) the value of the contract exceeds R300 000 ( VAT included);
- or

- (b) the duration period of the contract exceeds one year.
- (3) In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish particulars of –
- (a) all consultancy services provided to an organ of state in the last five years; and
  - (b) any similar consultancy services provided to an organ of state in the last five years.
- (4) The accounting officer must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, thing, system or process designed or devised, by a consultant in the course of the consultancy service is vested in the municipality.

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

36. (1) The accounting officer may –
- (a) dispense with the official procurement processes established by this policy and 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 food for such animals and botanical specimens for nature and game reserves; or



- (v) in any other exceptional case where it is impractical or impossible to follow the official procurement processes; and
  - (b) ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature.
- (2) The accounting officer must record the reasons for any deviations in terms of subparagraphs (1)(a) and (b) of this policy and report them to the next meeting of the council and include as a note to the annual financial statements.
- (3) Subparagraph (2) does not apply to the procurement of goods and services contemplated in paragraph 11(2) of this policy.

### **Unsolicited bids**

37. (1) In accordance with section 113 of the Act there is no obligation to consider unsolicited bids received outside a normal bidding process.
- (2) The accounting officer may decide in terms of section 113(2) of the Act to consider an unsolicited bid, only if –
- (a) the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;
  - (b) the product or service will be exceptionally beneficial to, or have exceptional cost advantages;
  - (c) the person who made the bid is the sole provider of the product or service; and
  - (d) the reasons for not going through the normal bidding processes are found to be sound by the accounting officer.

- (3) If the accounting officer decides to consider an unsolicited bid that complies with subparagraph (2) of this policy, the decision must be made public in accordance with section 21A of the Municipal Systems Act, together with –
  - (a) reasons as to why the bid should not be open to other competitors;
  - (b) an explanation of the potential benefits if the unsolicited bid were accepted; and
  - (c) an invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.
- (4) All written comments received pursuant to subparagraph (3), including any responses from the unsolicited bidder, must be submitted to the National Treasury and the relevant provincial treasury for comment.
- (5) The adjudication committee must consider the unsolicited bid and may award the bid or make a recommendation to the accounting officer, depending on its delegations.
- (6) A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.
- (7) When considering the matter, the adjudication committee must take into account –
  - (a) any comments submitted by the public; and
  - (b) any written comments and recommendations of the National Treasury or the relevant provincial treasury.
- (8) If any recommendations of the National Treasury or provincial treasury are rejected or not followed, the accounting officer must submit to the Auditor General, the relevant provincial treasury and

the National Treasury the reasons for rejecting or not following those recommendations.

- (9) Such submission must be made within seven days after the decision on the award of the unsolicited bid is taken, but no contract committing the municipality to the bid may be entered into or signed within 30 days of the submission.

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

38. The following measures are established to combat the abuse of the 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 supply chain management policy, and when justified –
    - (i) take appropriate steps against such official or other role player; or
    - (ii) report any alleged criminal conduct to the South African Police Service;
  - (c) check the National Treasury’s database prior to awarding any contract to ensure that no recommended bidder, or any of its directors, is listed as a person prohibited from doing business with the public sector;
  - (d) reject any bid from a bidder–
    - (i) if any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the municipality, or to any other municipality or

- municipal entity, are in arrears for more than three months; or
- (ii) who during the last five years has failed to perform satisfactorily on a previous contract with the municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;
- (e) reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;
  - (f) cancel a contract awarded to a person if –
    - (i) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
    - (ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and
  - (g) reject the bid of any bidder if that bidder or any of its directors –
    - (i) has abused the supply chain management system of the municipality or has committed any improper conduct in relation to such system;
    - (ii) has been convicted for fraud or corruption during the past five years;
    - (iii) has willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or

- (iv) has been listed in the Register for Tender Defaulters In terms section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).
- (2) The accounting officer must inform the National Treasury and relevant provincial treasury in writing of any actions taken in terms of subparagraphs (1)(b)(ii), (e) or (f) of this policy.

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

#### **Logistics management**

39. An effective system of logistics management must include the following:
- (a) monitoring of spending patterns on types or classes of goods and services which should where practical incorporate the coding of items to ensure that each item has a unique number for the purposes of monitoring
  - (b) setting of inventory levels that includes minimum and maximum levels and lead times wherever goods are placed in stock;
  - (c) placing of manual or electronic orders for all acquisitions other than petty cash;
  - (d) before payment is approved, a certification from 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 goods placed in stores are secure and only used for the purpose 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 a particular good or service.

### **Disposal management**

40. (1) The criteria for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to section 14 of the Act, are as follows:

- (a) Movable assets:
    - (i) the asset is uneconomical to repair;
    - (ii) the asset is irreparable;
    - (iii) the relevant department has no further use for the asset; and
    - (iv) no other department requires the asset.
  - (b) Immovable assets:
    - (i) the relevant department has no further use for the asset;
    - (ii) no other department requires the asset;
    - (iii) a member of the public wishing to acquire the asset can utilize the asset to the advantage of the community; or
    - (iv) where the assets were specifically created for the sale or rental thereof to the public.
- (2) The disposal of assets must—
- (a) be by one of the following methods:
    - (i) transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;

- (ii) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
  - (iii) selling the asset; or
  - (iv) destroying the asset;
- (b) provided that –
  - (i) immovable property may be sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
  - (ii) movable assets may be sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous;
  - (iii) in the case of the free disposal of computer equipment, the provincial department of education must first be approached to indicate within 30 days whether any of the local schools are interested in the equipment; and
  - (iv) in the case of the disposal of firearms, the National Conventional Arms Control Committee has approved any sale or donation of firearms to any person or institution within or outside the Republic;
- (c) furthermore ensure that –
  - (i) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise; and
  - (ii) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed; and

- (d) ensure that where assets are traded in for other assets, the highest possible trade-in price is negotiated.

### **Risk management**

- 41. (1) The criteria for the identification, consideration and avoidance of potential risks in the supply chain management system, are as follows-
  - (a) non compliance by the supplier to deliver within the agreed timeframes;
  - (b) supply of inferior goods or services by the supplier;
  - (c) inability of the supplier to provide goods or services as ordered;
  - (d) non adherence to the municipality policy with regards to utilization of preferred suppliers; and
  - (e) procurement of goods or services at prices or of a quality not in the best interest of the municipality.
- (2) Risk management must include –
  - (a) the identification of risks on a case-by-case basis;
  - (b) the allocation of risks to the party best suited to manage such risks;
  - (c) acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;
  - (d) the management of risks in a pro-active manner and the provision of adequate cover for residual risks; and
  - (e) the assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.

### **Performance management**

- 42. The accounting officer must ensure that an effective internal monitoring system is implemented in order to determine, on the basis of a retrospective analysis, whether the authorised supply chain management



processes were followed and whether the measurable performance objectives linked to and approved with the budget and the service delivery and budget implementation plan, were achieved.

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

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

43. (1) The accounting officer must ensure that, irrespective of the procurement process followed, no award above R15 000 is given to a person whose tax matters have not been declared by the South African Revenue Service to be in order.
- (2) Before making an award to a provider or bidder, a tax clearance certificate from SARS must first be provided as contemplated in paragraph 13(a)(iv).
- (3) Before making an award to a provider or bidder, where the annual turnover is expected to exceed R1 000 000, that the provider or bidder be registered for VAT as per the Income Tax Act 58 of 1962.

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

44. The accounting officer must ensure that irrespective of the procurement process followed, no award may be given to a person –
- (a) who is in the service of the state; or
- (b) if that person is not a natural person, of which any director, manager, majority shareholder or majority stakeholder is a person in the service of the state; or
- (c) who is an advisor or consultant contracted with the municipality in respect of a contract that would cause a conflict of interest.

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

45. The notes to the annual financial statements must disclose particulars of any award of more than R2000 (Two Thousand Rand) to a person who is

a spouse, child or parent of a person in the service of the state, or has been in the service of the state in the previous twelve months, including –

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

### **Ethical standards**

46. (1) A code of ethical standards is hereby established, in accordance with subparagraph (2), for officials and other role players in the supply chain management system in order to promote –
- (a) mutual trust and respect; and
  - (b) an environment where business can be conducted with integrity and in a fair and reasonable manner.
- (2) An official or other role player involved in the implementation of the supply chain management policy –
- (a) must treat all providers and potential providers equitably;
  - (b) may not use his or her position for private gain or to improperly benefit another person;
  - (c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350;
  - (d) notwithstanding subparagraph (2)(c), must declare to the accounting officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;
  - (e) must declare to the accounting officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed

procurement or disposal process of, or in any award of a contract by, the municipality;

- (f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;
  - (g) must be scrupulous in his or her use of property belonging to the municipality;
  - (h) must assist the accounting officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system; and
  - (i) must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including –
    - (i) any alleged fraud, corruption, favouritism or unfair conduct;
    - (ii) any alleged contravention of paragraph 47(1) of this policy; or
    - (iii) any alleged breach of this code of ethical standards.
- (3) Declarations in terms of 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 conduct adopted by the municipality must be dealt with in accordance with schedule 2 of the Local Government: Municipal Systems Act, 2000.

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

47. (1) No person who is a provider or prospective provider of goods or services, or a recipient or prospective recipient of goods disposed or to be disposed of may either directly or through a representative or intermediary promise, offer or grant –
- (a) any inducement or reward to the municipality for or in connection with the award of a contract; or
  - (b) any reward, gift, favour or hospitality to –
    - (i) any official; or
    - (ii) any other role player involved in the implementation of the supply chain management policy.
- (2) The accounting officer must promptly report any alleged contravention of subparagraph (1) to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the public sector.
- (3) Subparagraph (1) does not apply to gifts less than R350 in value.

**Sponsorships**

48. The accounting officer must promptly disclose to the National Treasury and the relevant provincial treasury any sponsorship promised, offered or granted, whether directly or through a representative or intermediary, by any person who is –
- (a) a provider or prospective provider of goods or services; or

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

### **Objections and complaints**

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

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

50. (1) The accounting officer must appoint an independent and impartial person, not directly involved in the supply chain management processes –
- (a) to assist in the resolution of disputes between the municipality and other persons regarding -
    - (i) any decisions or actions taken in the implementation of the supply chain management system; or
    - (ii) any matter arising from a contract awarded in the course of the supply chain management system; or
  - (b) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.
- (2) The accounting officer, or another official designated by the accounting officer, is responsible for assisting the appointed person to perform his or her functions effectively.
- (3) The person appointed must –
- (a) strive to resolve promptly all disputes, objections, complaints or queries received; and

- (b) submit monthly reports to the accounting officer on all disputes, objections, complaints or queries received, attended to or resolved.
- (4) A dispute, objection, complaint or query may be referred to the relevant provincial treasury if –
  - (a) the dispute, objection, complaint or query is not resolved within 60 days; or
  - (b) no response is forthcoming within 60 days.
- (5) If the provincial treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.
- (6) This paragraph must not be read as affecting a person's rights to approach a court at any time.

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

51. If a service provider acts on behalf of 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
  - (h) that such compensation must be performance based.

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

52. The chief financial officer or an official designated by the chief financial officer may consent to the direct payment of sub-contractors or joint venture partners by way of:
- (a) an agreement for direct payment.

## **Extending or varying a contract**

53. (1) Subject to subsection (2), the municipality on its own initiative or upon receipt of an application from the person, body, organisation or corporation supplying goods or services to the municipality in terms of this policy, may resolve to extend or vary a contract if:-

- (a) the circumstances as contemplated in paragraph 36[1][a] prevail; or
- (b) with due regard to administrative efficiency and effectiveness, the accounting officer deems it appropriate.

(2) The municipality may not extend or vary a contract:-

- (a) for a period exceeding the duration of the original agreement; or
- (b) for an amount exceeding hundred [100] percent of the original bid value.

(3) Within one [1] month of the decision referred to in sub-paragraph (1), the matters specified in sub-paragraph (4) must be:-

- (a) displayed at a prominent place that is designed for that purpose by the municipality.

(4) The matters to be published or displayed are:-

- (a) the reasons for dispensing with the prescribed procedure;
- (b) a summary of the requirements of the goods or services; and
- (c) the details of the person, body, organization or corporation supplying the goods or services.

(5) The functions of the accounting officer in terms of this section may not be assigned nor delegated.

## **54. Register for tender defaulters**

- (1) The accounting officer shall keep a register of providers that have defaulted with the municipality in the past, stating reasons for defaulting in terms of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No 12 of 2004).

- (a) The accounting officer shall reject any bid if that bidder or any of its directors has been listed in the Register for Tender Defaulters of treasury.
- (b) The register determines the period, which may not be less than five years or more than 10 years, for which the convicted provider shall be prohibited from doing business with the public sector;
  - (i) if the period determined by the register has expired, the convicted provider would be prohibited from doing business with the public sector.

#### **55. Rotation on panel of service providers**

- (1) if the municipality has appointed a panel of service providers, which a rotation of such panel has to be implemented.
- (2) The rotation of such panel has to be monitored by both the scmu and the end user department for fairness on the panel.
- (3) The end user department must submit a request for approval to scmu before an order is issued for work to be done by one panellists.
- (4) The appointed panel of service providers will still be expected to submit quotations.
- (5) Then scum due processes will apply.

## **ANNEXURE A**

### **Infrastructure Procurement in terms of PPPA 2017**

#### **Short Title and Commencement**

This policy is called the Victor Khanye Local Municipality Supply Chain Management Policy and takes effect on 01 January 2006, and has been reviewed in 2008; 2009; 2010; 2011; 2012;2017,2018,2019,2020,2021,2022,2023