

MBIZANA LOCAL MUNICIPALITY



SUPPLY CHAIN MANAGEMENT POLICY

(FOR IMPLEMENTATION ON 1 JULY 2013)

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MBIZANA LOCAL MUNICIPALITY
SUPPLY CHAIN MANAGEMENT POLICY

1. Preamble

The Mbizana Local Municipality seeks to comply with the constitutional requirements that the procurement of goods and services is conducted through a system that is fair, equitable, transparent, competitive, and cost effective. The policy is compiled in accordance with:

- Municipal Finance Management Act, No. 56 of 2003, Sections 112 (1) and (2) and 113-118;
- National Treasury: Guidelines for Municipal Bid Adjudication Committees, June 2006;
- National Treasury: Supply Chain Management: A Guide for Accounting Officers of Municipalities and Municipal Entities, October 2005;
- National Treasury: Municipal Supply Chain Management Model Policy, August 2005;
- National Treasury: Municipality Code of Conduct for Supply Chain Management Practitioners and other Role Players, August 2005;
- National Treasury: Municipal Supply Chain Management Regulations, May 2005 – Government Gazette No. 27636;
- National Treasury: MFMA Circulars No. 2, 22, 25, 29, 33 and 34 on Supply Chain Management from 2004 to 2006;
- Preferential Procurement Policy Framework Act, No.5 of 2000;
- Preferential Procurement Policy Framework Act, No.5 of 2000: Preferential Procurement Regulations, 2001 and draft Preferential Procurement, Regulations, 2004;
- Broad-Based Black Economic Empowerment Act, No.53 of 2003; and
- Construction Industry Development Board Act, No.38 of 2000.

2. Purpose

This SCM policy aims to ensure that Mbizana Local Municipality procures goods and services in a manner that is efficient, timely and cost-effective, ensures customer satisfaction, pursues socio-economic objectives through a preference system and demonstrates compliance with the constitution and all relevant legislation.

3. Definitions

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

| | |
|---------------------------|---|
| Accounting officer | the Municipal Manager |
| Allocation | in relation to a municipality means: <ul style="list-style-type: none">• municipality's share of the local government's equitable share referred to in Section 214 (1) (a) of the Constitution;• an allocation of money to a municipality in terms of Section 214 (1) (c) of the Constitution; |

| | |
|---|---|
| | <ul style="list-style-type: none"> • an allocation of money to a municipality in terms of a provincial budget; or • any other allocation of money to a municipality by an organ of state, including by another municipality, otherwise than in compliance with a commercial or other business transaction. |
| Bid | means a written offer or bid in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of services or goods. |
| Break-out procurement | means the procurement of goods and services for any project of the Municipality in the smallest possible quantities without compromising the quality, coverage, cost or developmental impact of the goods and services |
| Competitive bidding process | means a competitive bidding process |
| Competitive bid | means a bid in terms of a competitive bidding process |
| Comparative price | means the price after the factors of a non-firm price and all unconditional discounts that can be utilised have been taken into consideration |
| Municipal council or council | means a municipal council referred to in section 157(1) of the Constitution, 1996 |
| Final award | in relation to bids or quotations submitted for a contract, means the final decision on which bid or quote to accept |
| Firm price | is the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy or tax which in terms of a law or regulation is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract |
| Formal written price quotation | means quotations referred to in section 24 of this policy |
| Fruitless and wasteful expenditure | means expenditure that was made in vain and would have been avoided had reasonable care been exercised |
| In the service of the state | means to be a member of: <ul style="list-style-type: none"> any municipal council; any provincial legislature; or the National Assembly or the National Council of Provinces; <ul style="list-style-type: none"> • a member of the board of directors of any municipal entity; • an official of any municipality or municipal entity; • 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); • a member of the accounting authority of any national or provincial public entity; or an employee of Parliament or a provincial legislature |

| | |
|---|---|
| Long term contract | means a contract with a duration period exceeding one year |
| List of accredited prospective providers | means the list of accredited prospective providers which a municipality or municipal entity must keep in terms of section 21 of this policy |
| Municipal systems act | means the Local Government : Municipal Systems Act, 2000 (Act No. 32 of 2000) |
| Other applicable legislation | means any other legislation applicable to municipal supply chain management, including: <ul style="list-style-type: none"> • the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000); • the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003); and • the Construction Industry Development Board Act, 2000 (Act No.38 of 2000) |
| Privileged or confidential information | means any information: <ul style="list-style-type: none"> • determined by the bid specification, evaluation or adjudication committee to be privileged or confidential; • discussed in close sessions by any of the bid committees; • disclosure of what would violate a person's right to privacy; • declared to be privileged, confidential or secret in terms of any legislative framework |
| Regulation | means a Municipal Supply Chain Management Regulation published in terms of Section 168 of the Act |
| Service providers | are divided into: <ul style="list-style-type: none"> • "Professional Service Provider": Any person or body corporate that is under contract to the Employer for the provision of Professional Services. • "General Service Provider": Any person or body that is under contract to the Employer for the provision of any type of service |
| Supply chain manager | means an official appointed by the Mbizana Local Municipality to fulfill a vital role in the implementation, the monitoring and the continued application of the Mbizana Local Municipality Supply Chain Management Policy |
| The Act | means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003). |
| The Constitution | means the Constitution of the Republic of South Africa Act, 1996 (Act No. 109 of 1996). |
| Treasury guidelines | means any guidelines on supply chain management issued by the Minister in terms of section 168 of the Act; |
| Written or verbal quotations | means quotations referred to in section 23 of this policy |

4. Establishment and Implementation of Supply Chain Management Policy

4.1 This policy applies when Mbizana Local Municipality in accordance with the Supply Chain Management policy is:

- Procuring goods and services;
- disposing of goods no longer needed;
- 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
- in the case of the municipality, selecting external mechanisms referred to in section 80(1) (b) of the Municipal Systems Act for the provisions of municipal services in circumstances contemplated in section 83 of that Act.

5. Adoption and Amendment of the Supply Chain Management Policy

5.1 The accounting officer must:

- at least annually review the implementation of this policy; and
- when the accounting officer considers it necessary, submit proposals for the amendment of this policy to the council.

5.2 If the accounting officer submits an amendment 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 Eastern Cape Provincial Treasury.

5.3 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 for small businesses must be taken into account.

5.4 The accounting officer of Mbizana Municipality must in terms of section 62(1)(f)(iv) of the Act, take all reasonable steps to ensure that Mbizana Municipality has and implements this supply chain policy.

6. Delegation of Supply Chain Management Powers and Duties

6.1 Mbizana Municipality hereby delegates such additional powers and duties to the accounting officer so as to enable the accounting officer –

- (a) to discharge the supply chain management responsibilities conferred on accounting officers in terms of –
- (i) Chapter 8 or 10 of the Act; and
 - (ii) the supply chain management policy;

- (b) to maximise administrative and operational efficiency in the implementation of the supply chain management policy;
- (c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of the supply chain management policy; and
- (d) to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.

6.2 Sections 79 and 106 of the Act apply to the sub-delegation of powers and duties delegated to an accounting officer in terms of section 7 this policy.

6.3 The council or accounting officer may not delegate or sub-delegate any supply chain management powers or duties to a person who is not an official of Mbizana Municipality or to a committee which is not exclusively composed of officials of Mbizana Municipality;

6.4 This section 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 section 27 of this policy.

7. Sub delegations

7.1 The accounting officer may in terms of section 79 or 106 of the Act sub-delegate any supply chain management powers and duties, including those delegated to the accounting officer in terms of this policy, but any such sub-delegation must be consistent with section 6 of this policy.

7.2 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;
- (c) not exceeding R2 million (VAT included) may be sub-delegated but only to –
 - (i) the chief financial officer;
 - (ii) a senior manager; or
 - (iii) a manager directly accountable to the chief financial officer or a senior manager; or
 - (iv) a bid adjudication committee.

- 7.3 An official or bid adjudication committee to which the power to make final awards has been sub-delegated in accordance with this policy must within two days of the end of each month submit to the official referred to in subsection (4) below, 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.
- 7.4 A written report referred to in subsection (3) above 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;
 - (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 subsection (2)(c)(iii) above; or
 - (ii) a bid adjudication committee of which the chief financial officer or a senior manager is not a member.
- 7.5 Subsections (3) and (4) do not apply to procurements out of petty cash.
- 7.6 This section 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 section 27 of this policy.
- 7.7 No supply chain management decision-making powers may be delegated to an advisor or consultant.

8. Oversight role of Council

- 8.1 The council must maintain oversight over the implementation of this supply chain management policy.
- 8.2 For the purposes of such oversight the accounting officer must –
- (a) within 30 days of the end of each financial year, submit a report on the implementation of the supply chain management policy of the municipality and of any municipal entity under its sole or shared control, to the council of the municipality,
 - (b) whenever there are serious and material problems in the implementation of the Supply Chain Management Policy, immediately submit a report to the council of the municipality.

8.3 The accounting officer must, within 10 days of the end of each quarter, submit a report on the implementation of the supply chain management policy to the executive mayor and/or Executive Committee.

8.4 The reports must be made public in accordance with section 21A of the Municipal Systems Act.

9. Supply Chain Management Unit

9.1 The accounting officer must establish a supply chain management unit to implement this supply chain management policy.

9.2 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.

10. Training of Supply Chain Management Officials

10.1 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.

11. System of demand management

11.1 Duties of Directors

- Each Director or Head of Department shall during the preparation of his directorate's estimates for the budget year :
 - determine which functions it must perform;
 - determine the products and services it must provide in the performance of those functions;
 - conduct a condition assessment of the assets managed by his directorate;
 - on the basis of its analysis in terms of the above, determine its financial needs during the budget year for :
 - maintaining existing assets at an acceptable level calculated to ensure the continued productivity of the asset in question and minor repairs;
 - repairing existing assets;
 - refurbishing or renovating existing assets;
 - extensive repairing of existing assets;
 - replacing existing assets; and
 - acquiring new asset

11.2 Establishment of a corporate schedule of procurements

- The SCM Unit shall, after consultation with Directors, compile a schedule of procurements for capital projects in respect of each financial year, which schedule shall be attached to the municipality's budget implementation plan.

- During consultations between the SCM Unit and executive directors, all reasonable efforts shall be made to determine :
- the desired date and time at which a specific contract must be awarded;
- the desired date and time when specific goods must be delivered, services rendered or work executed;
- the place where any goods to be supplied shall be delivered;
- the quantity and quality of any goods to be supplied; and
- any other relevant matter

12. System of acquisition management

12.1 The accounting officer must establish, through operational procedures, an effective system of acquisition management in order to ensure –

- (a) that goods and services are procured by the municipality in accordance with authorised processes only;
- (b) that expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the Act;
- (c) that the threshold values for the different procurement processes are complied with;
- (d) that bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation; and
- (e) that any Treasury guidelines on acquisition management are properly taken into account.

12.2 This supply chain management policy, except where provided otherwise in the policy, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Act, including –

- (a) water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and
- (b) electricity from Eskom or another public entity, another municipality or a municipal entity.

12.3 When procuring goods or services contemplated in section 110(2) of the Act, the accounting officer must make public the fact that such goods or services are procured otherwise than through the municipality's supply chain management system, including –

- (a) the kind of goods or services; and
- (b) the name of the supplier.

13. Range of Procurement Processes

| STRUCTURE OF APPROVAL | | |
|--------------------------|---|---------------------------------|
| GOODS/SERVICE VALUE | PROCUREMENT METHOD MINIMUM | APPROVAL AUTHORITY |
| R0 – R2 000 | Petty Cash: One Quote | Head of Department |
| R2 001 – R10 000 | Three Quotations | Head of Department |
| R10 001 – R30 000 | Three Quotations | Head of Department |
| R30 001 – R200 000 | 1 Week Notice Board and Advertisement via Website; Three Quotations | Accounting Officer or delegated |
| R200 001 – R2 Million | Competitive Bidding Process | Accounting Officer |
| R2 Million – R10 Million | Competitive Bidding Process | Accounting Officer |
| Above R10 Million | Competitive Bidding Process | Accounting Officer |

13.1 The procurement of goods and services through this policy is provided by way of –

- (a) petty cash purchases, up to a transaction value of R2 000 (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
- (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.

13.2 The accounting officer may in writing –

- (a) lower, but not increase, the different threshold values specified in subsection (1) above; 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.

13.3 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.

14. General Preconditions for Consideration of Written Quotations or Bids

- 14.1 A written quotation or bid may not be considered unless the provider who submitted the quotation or bid –
- (a) has furnished that provider's –
 - (i) full name;
 - (ii) identification number or company or other registration number; and
 - (iii) tax reference number and VAT registration number, if any;
 - (b) has authorised Mbizana Municipality to obtain a tax clearance from the South African Revenue Services that the provider's tax matters are in order; and
 - (c) has indicated –
 - (i) whether he or she is in the service of the state, or has been in the service of the state in the previous twelve months;
 - (ii) if the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the state, or has been in the service of the state in the previous twelve months; or
 - (iii) whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in subsection (ii) is in the service of the state, or has been in the service of the state in the previous twelve months.

15. Lists of Accredited Prospective Providers

- 15.1 The accounting officer must –
- (a) keep a list of accredited prospective providers of goods and services that must be used for the procurement requirements of Mbizana Municipality through written or verbal quotations and formal written price quotations; and
 - (b) at least once a year through newspapers commonly circulating locally, the website and any other appropriate ways, invite prospective providers of goods or services to apply for evaluation and listing as accredited prospective providers;
 - (c) specify the listing criteria for accredited prospective providers; and
 - (d) disallow the listing of any prospective provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector.
- 15.2 The list must be updated at least quarterly to include any additional prospective providers and any new commodities or types of services. Prospective providers must be allowed to submit applications for listing at any time.
- 15.3 The list must be compiled per commodity and per type of service.

16. Petty cash purchases

- 16.1 The accounting officer must establish the conditions for the procurement of goods by means of petty cash purchases referred to in section 12 (1) (a) above, which must include conditions –

- (a) determining the terms on which a manager may delegate responsibility for petty cash to an official reporting to the manager;
- (b) limiting the number of petty cash purchases or the maximum amounts per month for each manager;
- (c) excluding any types of expenditure from petty cash purchases, where this is considered necessary; and
- (d) requiring monthly reconciliation reports from each manager to the chief financial officer, including –
 - (i) the total amount of petty cash purchases for that month; and
 - (ii) receipts and appropriate documents for each purchase.

17. Written or verbal quotations

17.1 The accounting officer must establish the conditions for the procurement of goods or services through written or verbal quotations, which must include conditions stating –

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

18. Formal written price quotations

18.1 The accounting officer must establish the conditions for the procurement of goods or services through formal written price quotations, which must include conditions stating –

- (a) that quotations must be obtained in writing from at least three different providers whose names appear on the list of accredited prospective providers of the municipality;
- (b) that quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria in the supply chain management policy required by section 14(1)(a) and (c);
- (c) that if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the chief financial officer or an official designated by the chief financial officer, and
- (d) that the accounting officer must record the names of the potential providers and their written quotations.

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

19. Procedures for Procuring Goods or Services through Written or Verbal Quotations and Formal Written Price Quotations

19.1 The accounting officer must determine the operational procedure for the procurement of goods or services through written or verbal quotations or formal written price quotations, which must stipulate–

- (a) that when using the list of accredited prospective providers, the accounting officer must promote ongoing competition amongst providers by inviting providers to submit quotations on a rotation basis;
- (b) that all requirements in excess of R30 000 (VAT included) that are to be procured by means of formal written price quotations must, in addition to the requirements of section 16, be advertised for at least seven days on the website and an official notice board of the municipality;
- (c) that offers received must be evaluated on a comparative basis taking into account unconditional discounts;
- (d) that the accounting officer or chief financial officer must on a monthly basis be notified in writing of all written or verbal quotations and formal written price quotations accepted by an official acting in terms of a sub-delegation;
- (d) that 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 point system (PPPFA and associated regulations), must be awarded to the bidder who scored the highest points; and
- (f) that proper records, of procedures followed in procuring goods or services through written or verbal quotations and formal written price quotations be kept.

19.2 With regard to the procurement of goods and services with a transaction value lower than R200 000 –

- (a) the procurement of goods and services between R0 and R30 000 falls within the scope of the heads of departments;
- (b) the procurement of goods and services between R30 001 and R200 000 will be delegated by the accounting officer to a senior manager within the municipality.

18.3 For purposes of the procurement of goods and services in terms of sub-section 2 –

- (a) the municipality shall establish a database of service providers and suppliers which must be updated annually.
- (b) Three databases shall be established in terms of subsection 3 (a), namely :
 - (i) general services;
 - (ii) professional services; and
 - (iii) contractors' database.

- (c) In order to be considered for listing on any of the databases referred to in subsection (b), a service provider or supplier must produce proof of compliance with the following prerequisites:
- (i) good standing in respect of:
 - (aa) Mbizana Municipality levies (if applicable); and,
 - (bb) VAT and Income Tax (tax clearance certificate); and,
 - (ii) offices, preferably, to be located within the jurisdiction of Mbizana Municipality;
 - (iii) registration in terms of the Companies and Close Corporations Act, No. 61 of 1973; and,
 - (iv) registration with a professional body, where relevant;
- (d) the supply chain management policy unit must submit a quarterly report, including an analysis of the achievement of set goals.
- (e) the municipality must implement a valid service providers' and suppliers' database rotation system which must be administered by the supply chain management unit to ensure that such databases are managed fairly and equitably and the all service providers and suppliers are given a chance to bid for services and supplies required by the municipality.
- (i) The following prerequisites will apply in order to be considered for selection to be placed on the database:
 - (aa) current original certificate of good standing in terms of Mbizana Municipality Levies.
 - (bb) current original certificate of good standing in terms of VAT/Income Tax (tax clearance certificate).
 - (cc) offices should preferably be in the jurisdiction of Mbizana Municipality.
 - (dd) registration with the registrar of companies and close corporations.
 - (ee) professional registration with a professional body, where required.
 - (ii) Supply Chain Management unit will submit a quarterly report on the procurement of goods and services in this category. An analysis will be provided stating the achievement and/or failure in compliance with the set goals.

20. Competitive Bidding Process

- 20.1 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, subject to section 12 (2)
- 20.2 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.

21. Process for Competitive Bidding

- 21.1 The accounting officer must establish procedures for a competitive bidding process for each of the following stages:
- the compilation of bidding documentation as detailed in section 21;
 - the public invitation of bids as detailed in section 22;
 - site meetings or briefing sessions, if applicable, as detailed in section 22;

- the handling of bids submitted in response to public invitation as detailed in section 22;
- the evaluation of bids as detailed in section 29;
- the award of contracts as detailed in section 30;
- the administration of contracts;
- after approval of a bid, the accounting officer and the bidder must enter into a written agreement;
- proper record keeping;
- original/ legal copies of written contract agreements should be kept in a secure place for reference purposes.

22. Bid documentation for competitive bids

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

- (a) take into account –
 - (i) the general conditions of contract;
 - (ii) any Treasury guidelines on bid documentation; and
 - (iii) the requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;
- (b) include the preference points system to be used, goals as contemplated in the Preferential Procurement Regulations and evaluation and adjudication criteria, including any criteria required by other applicable legislation;
- (c) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;
- (d) if the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish–
 - (i) if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements –
 - (aa) for the past three years; or
 - (bb) since their establishment if established during the past three years;
 - (ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;
 - (iii) particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
 - (iv) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality is expected to be transferred out of the Republic; 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.

23. Public invitation for competitive bids

23.1 The accounting officer must determine the procedure for the invitation of competitive bids, which must stipulate that:

- (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, time and venue 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 subsection (2); and
 - (ii) a statement that bids may only be submitted on the bid documentation provided by the municipality.
 - (iii) date, time and venue of any proposed site meetings or briefing sessions.

23.2 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.

23.3 Bids submitted must be sealed.

23.4 Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies.

24. Procedure for Handling, Opening and Recording of Bids

24.1 The accounting officer must determine the procedures for the handling, opening and recording of bids, which must:

- (a) stipulate that bids :
 - (i) must be opened only in public;
 - (ii) must be opened at the same time and as soon as possible after the period for the submission of bids has expired; and
 - (iii) received after the closing time should not be considered and returned unopened immediately.
- (b) confer on any bidder or member of the public 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) no information, except the provisions in subparagraph (b), relating to the bid should be disclosed to bidders or other persons until the successful bidder is notified of the award; and
- (d) require the accounting officer:
 - (i) to record in a register all bids received in time;

- (ii) to make the register available for public inspection; and
- (iii) to publish the entries in the register and the bid results on the website.

25. Negotiations with Preferred Bidders

25.1 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.

26. Minutes of Meetings with Bidders

26.1 Minutes of such negotiations must be kept for record purposes.

27. Two-Stage Bidding Process

27.1 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.

27.2 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.

27.3 In the second stage final technical proposals and priced bids should be invited.

28. Committee System for Competitive Bids

28.1 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;

28.2 The accounting officer appoints the members of each committee, taking into account section 117 of the Act; and

28.3 A neutral or independent observer, appointed by the accounting officer, must attend or oversee a committee when this is appropriate for ensuring fairness and promoting transparency.

28.4 The committee system must be consistent with –

- (a) paragraph 28, 29 and 30 of this policy; and
- (b) any other applicable legislation.

28.5 The bid committees are accountable to the Accounting Officer.

29. Bid Specification Committees

29.1 The bid specification committee must compile the specifications for each procurement of goods or services by the municipality.

29.2 Specifications –

- (a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
- (b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organisation, or an authority accredited or recognised by the South African National Accreditation System with which the equipment or material or workmanship should comply;
- (c) must, where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;
- (d) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or 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 words “equivalent”;
- (f) must indicate each specific goal for which points may be awarded in terms of the points system set out in terms of 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 section 22 of this policy.

29.3 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.

29.4 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.

30. Bid Evaluation Committees

30.1 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 29 (2) (f);
- (b) evaluate each bidder's ability to execute the contract;
- (c) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears; and
- (d) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.

30.2 The bid evaluation committee must as far as possible be composed of –

- (a) officials from departments requiring the goods or services;
- (b) at least one supply chain management practitioner of the municipality to ensure compliance with SCM procedures.

30.3 Subject to subsection (2) the composition of the bid evaluation committee may change to accommodate different scenarios;

30.4 The chairperson of the bid evaluation committee may invite an external technical expertise if necessary, in an advisory capacity;

30.5 A copy of the minutes of the bid evaluation committee must after approval be submitted to the adjudication committee.

30.6 a member from the bid evaluation committee may present reports to the bid adjudication committee, but only as an advisor.

31. Bid Adjudication Committees

31.1 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 on how to proceed with the relevant procurement.

31.2 The bid adjudication committee must consist of at least four senior managers of the municipality which must include –

- (a) the chief financial officer or, if the chief financial officer is not available, another manager in the budget and treasury office reporting directly to the chief financial officer and designated by the chief financial officer;
- (b) the senior manager responsible for the bid or another manager reporting directly to that senior manager;
- (c) at least one senior supply chain management practitioner who is an official of the municipality; and
- (d) a technical expert in the relevant field who is an official, if such an expert exists.

- 31.3 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.
- 31.4 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.
- 31.5 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 –
- (a) (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 subsection (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.
- 31.6 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.
- 31.7 If a tender other than the one recommended in the normal course of implementing this policy is approved, the Accounting Officer must, in writing, notify the Auditor General, the Provincial and National Treasury of the reasons for such deviation.

32. The 80/20 Preference Point System

- 32.1 The following formula must be used to calculate the points for price in respect of bids/procurement with a Rand value equal to, or above R30 000 and up to a Rand value of R500 000:

$$Ps = 80 \cdot 1 \left[\frac{Pt - Pmin}{Pmin} \right]$$

Where

Ps = Points scored for price of bid under consideration

Pt = Rand value of offer bid under consideration

Pmin = Rand value of lowest acceptable bid

- 32.2 A maximum of 20 points may be awarded to a bidder for being an HDI and/or subcontracting with an HDI and/or achieving any of the specified goals.
- 32.3 The points scored by a bidder in respect of the goals specified in terms of the Preferential Procurement Policy Framework Act, 2000 must be added to the points scored for price.
- 32.4 Only the bid with the highest number of points scored may be selected.

33. The 90/10 Preference Point System

33.1 The following formula must be used to calculate the points for price in respect of bids/procurement with a Rand value above R500 000:

$$P_s = 90 + 1 \left[\frac{P_t - P_{min}}{P_{min}} \right]$$

Where

P_s = Points scored for price of bid under construction

P_t = Rand value of bid under consideration

P_{min} = Rand value of lowest acceptable bid

33.2 A maximum of 10 points may be awarded to a bid for being an HDI and/or subcontracting with an HDI and/or achieving any of the specified goals.

33.3 The points scored by a bidder in respect of the goals specified in terms of the Preferential Procurement Policy Framework Act, 2000 must be added to the points scored for price.

33.4 Only the bid with the highest number of points scored may be selected.

34. The 80/20 Preference Point System for the Sale and Letting of Assets

34.1 The following formula must be used to calculate the points for price in respect of bids with a Rand value equal to, or above R30 000.00 and up to a Rand value of R500 000 and which relate to the sale and letting of assets.

$$P_s = 80 + 1 \left[\frac{P_t - P_h}{P_h} \right]$$

Where

P_s = Points scored for price of bid under consideration

P_t = Rand value of bid under consideration

P_h = Rand value of highest acceptable bid

34.2 A maximum of 20 points may be awarded to a bidder for being an HDI and/or subcontracting with an HDI and/or achieving any of the specified goals.

34.3 The points scored by a bidder in respect of the goals specified in terms of the Preferential Procurement Policy Framework Act, 2000 must be added to the points scored for price.

34.4 Only the bid with the highest number of points scored may be selected.

35. The 90/10 Preference Point System for the Sale and Letting of Assets

35.1 The following formula must be used to calculate the points for price in respect of bids with a Rand value above R500 000 and which relate to the sale and letting of assets:

$$P_s = 90 + 10 \left[\frac{P_t - P_h}{P_h} \right]$$

Where

P_s = Points scored for price of bid under consideration

P_t = Rand value of bid under consideration

P_h = Rand value of highest acceptable bid

35.2 A maximum of 10 points may be awarded to a bidder for being an HDI and/or subcontracting with an HDI and/or achieving any of the specified goals.

35.3 The points scored by a bidder in respect of the goals specified in terms of the Preferential Procurement Policy Framework Act, 2000 must be added to the points scored for price.

35.4 Only the bid with the highest number of points scored may be selected.

35.5 The new amendments of B-BBEE Act in regard to 80/20 and 90/10

- The PPPFA Act has been amended and the implementation is from the effect of **07 December 2011**.
- The 80/20 preference point system is applicable to bids with Rand value equal to, or above R30 000 and up to a Rand value of R1 million.
- Institutions may apply the 80/20 preference point system to price quotations with a value less than R30 000 if and when appropriate (not compulsory)
- The 90/10 preference point system is applicable to bids with a Rand value above R1 million (all applicable taxes included)
- Verification Certificates (indicating B-BBEE Status level of contributor) will be used to calculate points out of 10 or 20
- Ratings will be conducted by Verification Agencies accredited by SANAS or registered auditors approved by IRBA
- Bidders are required to, together with their bids, submit original and valid B-BBEE Status Level Verification Certificates or *Certified copies* thereof to substantiate their B-BBEE rating claim.
- Bidders who fail to submit B-BBEE Status Level Verification Certificates do not qualify for preference points for B-BBEE but **should not** be disqualified from the bidding process

| Status Level of Contributor | Number of Points (90/10 system) | Number of Points 80/20 system |
|-----------------------------|---------------------------------|-------------------------------|
| 1 | 10 | 20 |
| 2 | 9 | 18 |
| 3 | 8 | 16 |
| 4 | 5 | 12 |
| 5 | 4 | 8 |
| 6 | 3 | 6 |
| 7 | 3 | 4 |
| 8 | 2 | 2 |
| Non-compliant | 0 | 0 |

- All EMEs are exempted and they automatically qualify for points for a level 4 contributor.
- EME's have to submit proof for their status.

36. Stipulation of preference point system to be used

36.1 The municipality shall, in the bid documents, stipulate the preference point system which will be applied in the adjudication of bids.

37. Evaluation of bids on functionality and price

37.1 The municipality must, in the bid documents, indicate if, in respect of a particular bid invitation, bids will be evaluated on functionality and price.

37.2 The total combined points allowed for functionality and price may, in respect of bids with an estimated Rand value equal to, or below, R500 000, not exceed 80 points.

37.3 The total combined points allowed for functionality and price may, in respect of bids with an estimated Rand value above R500 000, not exceed 90 points.

- 37.4 When evaluating the bids contemplated in this item, the points for functionality must be calculated for each individual bidder.
- 37.5 The conditions of bid may stipulate that a bidder must score a specified minimum number of points for functionality to qualify for further adjudication.

37.6 The points for price, in respect of a bid which has scored the specified number of points contemplated in subsection (5) must, subject to the application of the evaluation system for functionality and price contemplated in this section, be established and be calculated in accordance with the provisions of sections 31 and 32.

37.7 Preferences for being an HDI and/or subcontracting with an HDI and/or achieving specified goals must be calculated separately and must be added to the points scored for functionality and price.

37.8 Only the bid with the highest number of points scored may be selected.

38. Award of Contract to Bid not scoring the Highest Number of Points

38.1 Despite subsections 31(4), 32(4), 33(4), 34(4) and 36(8), a contract may, on reasonable and justifiable grounds, be awarded to a bid that did not score the highest number of points.

39. Cancellation and Re-invitation of Bids

39.1 In the event that, in the application of the 80/20 preference point system as stipulated in the bid documents, all bids received exceed the estimated Rand value of R500 000, the bid invitation must be cancelled.

39.2 In the event that, in the application of the 90/10 preference point system as stipulated in the bid documents, all bids received are equal to, or below R500 000, the bid must be cancelled.

39.3 When the municipality cancels a bid invitation as stated above, a re-invitation of bids will be published and the bid document must stipulate the preference point system to be applied.

39.4 The municipality may, prior to the award of a bid, cancel a bid if:

- (a) due to changed circumstances, there is no longer need for the goods or services bided for; or
- (b) funds are no longer available to cover the total envisaged expenditure; or
- (c) no acceptable bids are received.

40. General Conditions

40.1 Only a bidder who has completed and signed the declaration part of the bid documentation may be considered for preference points.

40.2 The municipality may, before a bid is adjudicated or at any time, require a bidder to substantiate claims it has made with regard to preference.

40.3 The municipality must, when calculating comparative prices, take into account any discounts which have been offered unconditionally.

- 40.4 A discount which has been offered conditionally must, despite not being taken into account for evaluation purposes, be implemented when payment is effected.
- 40.5 In the event that different prices are tendered for different periods of a contract, the price for each period must be regarded as a firm price if it conforms to the definition of a “firm price”.
- 40.6 Points scored, must be rounded off to the nearest 2 decimals.
- 40.7 In the event that two or more bids have scored equal total points, the successful bid must be the one scoring the highest number of preference points for specified goals. Should two or more bids be equal in all respects, the award shall be decided by the drawing of lots.

41. Principles

- 41.1 Preference points stipulated in respect of a bid must include preference points for equity ownership by HDI’s
- 41.2 The equity ownership contemplated in subsection (1) must be equated to the percentage of an enterprise or business owned by individuals or, in respect of a company, the percentage of a company’s shares that are owned by individuals, who are actively involved in the management of the enterprise or business and exercise control over the enterprise, commensurate with their degree of ownership at the closing date of the bid.
- 41.3 In the event that the percentage of ownership contemplated in subsection (2) changes after the closing date of the bid, the bidder must notify the municipality and such bidder will not be eligible for any preference points.
- 41.4 Preference points may not be claimed in respect of individuals who are not actively involved in the management of an enterprise or business and who do not exercise control over an enterprise or business commensurate with their degree of ownership.
- 41.5 Subject to subsections (1), (2), (3) and (4), all claims made for equity ownership by an HDI must be considered according to the following criteria:
- (a) Equity within private companies must be based on the percentage of equity ownership;
 - (b) Preference points may not be awarded to public companies and tertiary institutions;
 - (c) EP = the percentage of equity ownership by an HDI within the business, determined in accordance with subsections (1), (2), (3) and (4).

$$NEP = NOP \times \frac{EP}{100}$$

Where

NEP = Points awarded for equity ownerships by an HDI

NOP = The maximum number of points awarded for equity ownership by an HDI

EP = the percentage of equity ownership by an HDI within the enterprise or business.

- 41.6 Equity claims for a Trust may only be allowed in respect of those persons who are both trustees and beneficiaries and who are actively involved in the management of the Trust.
- 41.7 Documentation to substantiate the validity of the credentials of the trustees must be submitted to the municipality.
- 41.8 A Consortium or Joint Venture may, based on the percentage of the contract value managed or executed by their HDI members, be entitled to equity ownership in respect of an HDI.
- 41.9 The number of points scored for a Consortium or Joint Venture must be added to the number of points scored for achieving specified goals.
- 41.10 The points contemplated in subsection (9) must be added to the points scored for price, in order to establish the total number of points scored.
- 41.11 Subject to sections 37 and 38, the contract must be awarded to the bid which scores the highest points.
- 41.12 A person awarded a contract as a result of preference for contracting with, or providing equity ownership to, an HDI, may not subcontract more than 25% of the value of the contract to a person who is not an HDI or does not qualify for such preference.

42. Declarations

- 42.1 A bidder must, in the stipulated manner, declare that-
- (a) the information provided is true and correct;
 - (b) the signatory to the bid document is duly authorized; and
 - (c) Documentary proof regarding any bid will, when required, be submitted to the satisfaction of the municipality.

43. Specific goals

- 43.1 The bid conditions may stipulate that specific goals, as contemplated in terms of the Preferential Procurement Policy Framework Act, 2000, be attained.
- 43.2 Over and above the awarding of preference points in favour of HDI's, the following activities may be regarded as a contribution towards achieving the goals contemplated in terms of the Preferential Procurement Policy Framework Act, 2000:
- (a) the promotion of South African owned enterprises;
 - (b) the promotion of export orientated production to create jobs;
 - (c) the promotion of SMME's;
 - (d) the creation of new jobs or the intensification of labour absorption;
 - (e) the promotion of enterprises located in the Eastern Cape Province for work to be done or services to be rendered in the aforesaid province;

- (f) the promotion of enterprises located within the jurisdiction of Mbizana for work to be done or services to be rendered within the aforesaid jurisdiction;
- (g) the promotion of enterprises located in a specific municipal area for work to be done or services to be rendered in that municipal area;
- (h) the promotion of enterprises located in rural areas;
- (i) the empowerment of the work force by standardizing the level of skill and knowledge of workers;
- (j) the development of human resources, including by assisting in tertiary and other advanced training programmes, in line with key indicators such as percentage of wage bill spent on education and training and improvement of management skills; and
- (k) the upliftment of communities through, but not limited to, housing, transport, schools, infrastructure donations, and charity organizations.

43.3 specific goals must be measurable and quantifiable and the municipality must monitor the execution of the contract for compliance with such goals.

44. Procurement of Banking Services

44.1 A contract for the provision of banking services to the municipality:

- (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.

44.2 The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.

44.3 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 section 29 (1). Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

45. Procurement of IT related goods or services

45.1 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.

45.2 Both parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to, SITA.

45.3 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).

45.4 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 provincial treasury and the Auditor General.

46. Procurement of Goods and Services Under Contracts Secured by other Organs of State

46.1 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.

46.2 Subsections (1) (c) and (d) do not apply if the municipality procures goods or services through a contract secured by a municipal entity of which it is the parent municipality.

47. Procurement of Goods Necessitating Special Safety Arrangements

47.1 The acquisition and storage of goods in bulk (other than water) which necessitate special safety arrangements, including gases and fuel, should be avoided where ever possible.

47.2 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.

48. Proudly SA Campaign

48.1 The accounting officer must determine internal operating procedures supporting the Proudly SA Campaign to the extent that preference is given, in the following order, to procuring local goods and services from suppliers and businesses located:

- (a) within the jurisdiction of Mbizana Municipality
- (b) within the Eastern Cape Province;
- (c) within the RSA.

49. Appointment of Consultants

49.1 The purpose of this section is to explain the procedures for selecting, contracting, and monitoring consultants required for projects. In general, the procedures described in the previous sections apply. Only the peculiarities of appointing consultants are dealt with herein, as the services to which these procedures apply are of an intellectual and advisory nature.

49.2 Where a conflict in interpretation or application arises between the contents of this chapter and the provisions contained elsewhere in this policy, the latter shall prevail.

50. Consultants defined

50.1 The term consultants includes consulting firms, engineering firms, construction managers, management firms, procurement agents, inspection agents, auditors, other multinational organizations, investment and merchant banks, universities, research agencies, government agencies, non-governmental organisations (NGOs), and individuals. Accounting officers may use these organizations as consultants to help in a wide range of activities such as policy advice, accounting officer's/authority's reform management, engineering services, construction supervision, financial services, procurement services, social and environmental studies, and identification, preparation, and implementation of projects to complement accounting officers' capabilities in these area.

51. Need for appointment

Consultants should only be engaged when:

- (a) the necessary skills and/or resources to perform a project/duty/study are not available; and
- (b) the accounting officer cannot be reasonably expected either to train or to recruit people in the time available.

52. Nature of appointment

52.1 Appointment by means of a formal contract

52.1.1 The relationship between the accounting officer and the consultant should be one of purchaser/provider and not employer/employee. The work undertaken for the accounting officer by a consultant should be regulated by a contract.

52.1.2 In procuring consulting services the accounting officer should satisfy himself/herself that

- (a) the procedures to be used will result in the selection of consultants who have the necessary professional qualifications;
- (b) the selected consultant will carry out the assignment in accordance with the agreed schedule, and
- (c) the scope of the services is consistent with the needs of the project.

52.2 Selection methods for the appointment of consultants

52.2.1 The accounting officer should be responsible for preparing and implementing the project, for selecting the consultant, awarding and subsequently administering the contract, as well as for the payment of consulting services under the project.

52.2.2 While the specific rules and procedures to be followed for employing consultants depend on the circumstances of the particular case, at least the following four major considerations should guide the accounting officer on the selection process:

- (a) the need for high-quality services;
- (b) the need for economy and efficiency;
- (c) the need to give qualified consultants an opportunity to compete in providing the services;
and
- (d) the importance of transparency in the selection process.

52.2.3 The particular method to be followed for the selection of consultants for any given project should be selected by the accounting officer in accordance with the criteria outlined in the Guide for Accounting Officers/Authorities.

52.2.4 The method selection is determined by the scope of the assignment, the quality of service, the complexity of the assignment and whether assignments are of a standard and routine nature.

52.2.5 The following are the methods most generally used for the appointment of consultants:

52.2.5.1 Quality and Cost Based Selection (QCBS)

In the majority of cases, the abovementioned major considerations can best be addressed through competition among firms in which the selection is based both on the quality of the services to be rendered and on the cost of the services to be provided, i.e. Quality and Cost-Based Selection (QCBS). This method is used in the event of an assignment not complex or specialized.

Cost as a factor of selection should be used judiciously.

The relative weight to be given to the quality and cost should be determined for each case depending on the nature of the assignment.

Investment and commercial banks, financial firms, and fund managers hired by accounting officer for the sale of assets, issuance of financial instruments, and other corporate financial transactions, notably in the context of privatization operations, should be selected under QCBS.

Auditors typically carry out auditing tasks under well-defined TOR and professional standards. They should be selected according to QCBS, with cost as a substantial selection factor (40-50 points), or by the "Least Cost Selection" outlined in paragraph iv below. When consultants are appointed to execute an audit function on behalf of the accounting officer, the tariffs agreed by the Auditor-General and the South African Institute for Chartered Accountants (SAICA) may be used as a guideline to determine the appropriate tariff or to, determine the reasonableness of the tariffs. These tariffs can be obtained from SAICA's website under www.saica.co.za. The tariffs are captured in a circular issued by SAICA.

In some circumstances, QCBS is not the most appropriate method for selecting consultants, and other methods are more appropriate. This section describes other selection methods and the circumstances under which they are generally appropriate.

52.2.5.2 Quality Based Selection (QBS)

- (aa) QBS is appropriate for the following types of assignments:
 - (aaa) Complex or highly specialized assignments for which consultants are expected to demonstrate innovation in their proposals (for example, financial sector reforms) for which it is difficult to define TOR and the required input from the consultants, and for which the client expects the consultants to demonstrate innovation in their proposals (for example, country economic or sector studies, multi-sectoral feasibility studies, design of a hazardous waste remediation plant or of an urban master plan, financial sector reforms);
 - (bbb) Assignments that have a high downstream impact and in which the objective is to have the best experts (for example, feasibility and structural engineering design of such major infrastructure as large dams, policy studies of national significance, management studies of large government agencies); and
 - (ccc) Assignments that can be carried out in substantially different ways, such that proposals will not be comparable (for example, management advice, and sector and policy studies in which the value of the services depends on the quality of the analysis).
- (bb) In QBS, the RFP may request submission of a technical proposal only (without the financial proposal), or request submission of both technical and financial proposals at the same time, but in separate envelopes (two-envelope system). The RFP should not provide the estimated budget, but it may provide the estimated number of key staff time, specify that this information is given as an indication only, and that consultants should be free to propose their own estimates.
- (cc) If technical proposals alone were invited, after evaluating the technical proposals using the same methodology as in QCBS, the accounting officer should request the consultant with the highest ranked technical proposal to submit a detailed financial proposal. The accounting officer and the consultant should then negotiate the financial proposal and the contract. All other aspects of the selection process should be identical to those of QCBS. If, however, consultants were requested to provide financial proposals initially together with the technical proposals, safeguards should be built in to ensure that the price envelope of only the selected proposal is opened and the rest returned unopened, after the negotiations are successfully concluded.

52.2.5.3 Selection under a fixed budget

The method is appropriate only when the assignment is simple and can be precisely defined and when the budget is fixed. The RFP should indicate the available budget and request the consultants to provide their best technical and financial proposals in separate envelopes, within the budget. The TOR should be particularly well prepared to ensure that the budget is sufficient for the consultants to perform the expected tasks. Evaluation of all technical proposals should be carried out first as in the QCBS method where after the price envelopes should be opened in public. Proposals that exceed the indicated budget should be rejected. The consultant who has submitted the highest ranked technical proposal should be selected and invited to negotiate a contract.

52.2.5.4 Least-cost selection

This method is more appropriate to selection of consultants for assignments of a standard or routine nature (audits, engineering design of noncomplex works, and so forth) where well-established practices and standards exist, and in which the contract amount is small. Under this method, a “minimum” qualifying mark for the “functionality” is established. Proposals to be submitted in two envelopes are invited. Potential suppliers may be obtained from the list of approved service providers. Technical envelopes are opened first and evaluated. Those securing less than the minimum mark should be rejected and the financial envelopes of the rest are opened in public.

The firm with the highest points should then be selected. Under this method, the qualifying minimum mark should be established, keeping in view that all proposals above the minimum compete only on “cost” and promotion of HDIs and RDP objectives. The minimum mark to qualify should be stated in the RFP.

52.2.5.5 Single-source selection

- (aa) Single-source selection of consultants does not provide the benefits of competition in regard to quality and cost and lacks transparency in selection, and could encourage unacceptable practices. Therefore, single-source selection should be used only in exceptional cases. The justification for single-source selection should be examined in the context of the overall interests of the client and the project.
- (bb) Single-source selection may be appropriate only if it presents a clear advantage over competition
 - (aaa) for tasks that represent a natural continuation of previous work carried out by the firm;
 - (bbb) where rapid selection is essential (for example, in an emergency operation);
 - (ccc) for very small assignments; or
 - (ddd) when only one firm is qualified or has experience of exceptional worth for the assignment.
- (cc) The reasons for a single-source selection must be recorded and approved by the accounting officer or his/her delegate prior to the conclusion of a contract.
- (dd) When continuity for downstream work is essential, the initial RFP should outline this prospect and if practical, the factors used for the selection of the consultant should take the likelihood of continuation into account. Continuity in the technical approach, experience acquired, and continued professional liability of the same consultant may make continuation with the initial consultant preferable to a new competition, subject to satisfactory performance in the initial assignment. For such downstream assignments, the accounting officer should ask the initially selected consultant to prepare technical and financial proposals on the basis of TOR furnished by the accounting officer, which should then be negotiated.
- (ee) If the initial assignment was not awarded on a competitive basis or was awarded under tied financing or reserved procurement or if the downstream assignment is substantially larger in value, a competitive process acceptable to the accounting officer should normally be followed in which the consultant carrying out the initial work is not excluded from the consideration if it expresses interest.

52.2.5.6 Selection based on consultants' qualifications

This method may be used for very small assignments for which the need for preparing and evaluating competitive proposals is not justified. In such cases, the accounting officer should prepare the TOR, request expressions of interest and information on the consultants' experience and competence relevant to the assignment and select the firm with the most appropriate qualifications and references. Potential suppliers may be obtained from the list of accredited service providers. The selected firm should be requested to submit a combined technical-financial proposal and then be invited to negotiate the contract.

52.2.5.7 Selection of individual consultants

- (aa) Individual consultants may normally be employed on assignments for which
 - (aaa) teams of personnel are not required;
 - (bbb) no additional outside (home office) professional support is required; and
 - (ccc) the experience and qualifications of the individual are the paramount requirement.
- (bb) When coordination, administration, or collective responsibility may become difficult because of the number of individuals, it would be advisable to employ a firm.
- (cc) Individual consultants should be selected on the basis of their qualifications for the assignment. They may be selected on the basis of references or through comparison of qualifications among those expressing interest in the assignment or approached directly by the accounting officer. Individuals employed by the accounting officer should meet all relevant qualifications and should be fully capable of carrying out the assignment. Capability is judged on the basis of academic background, experience and, as appropriate, knowledge of the local conditions, such as local language, culture, administrative system, and local government environment.
- (dd) From time to time, permanent staff or associates of a consulting firm may be available as individual consultants. In such cases, the conflict of interest provisions described in these guidelines should apply to the parent firm.

52.2.5.8 Selection of particular types of consultants

- (aa) Use of Nongovernmental Organisations (NGO's)
NGO's are voluntarily non-profit organizations that may be uniquely qualified to assist in the preparation, management, and implementation of projects, essentially because of their involvement and knowledge of local issues, community needs, and/or participatory approaches. NGO's may be included in the short list if they express interest and provided that the accounting officer is satisfied with their qualifications. For assignments that emphasise participation and considerable local knowledge, the short list may comprise entirely NGO's. If so, the QCBS procedure should be followed, and the evaluation criteria should reflect the unique qualifications of NGO's, such as voluntarism, non-profit status, local knowledge, scale of operation, and reputation. An accounting officer may select the NGO on a single-source basis, provided the criteria outlined for single-source selection are fulfilled.

(bb) Inspection agents

Accounting officers may wish to employ inspection agencies to inspect and certify goods prior to shipment or on arrival on the country. The inspection by such agencies usually covers the quality and quantity of the goods concerned and reasonableness of price. Inspection agencies should be registered with the South African National Accreditation System (SANAS) and the services of these inspection agents should be obtained by means of competitive bidding.

(cc) Banks

Investment and commercial banks, financial firms, and fund managers hired by accounting officers for the sale of assets, issuance of financial instruments and other corporate financial transactions, notably in the context of privatization operations, should be selected under QCBS. The RFP should specify selection criteria relevant to the activity – for example, experience in similar assignments or network of potential purchasers – and the cost of the services. In addition to the conventional remuneration (called a “retainer fee”), the compensation includes a “success fee.” This fee can be fixed, but is usually expressed as a percentage of the value of the assets or other financial instruments to be sold. The RFP should indicate that the cost evaluation will take into the success fee, either in combination with the retainer fee or alone. If alone, a standard retainer fee should be prescribed for all short-listed consultants and indicated in the RFP, and the financial scores should be based on the success fee as a percentage of a pre-disclosed notional value of the assets. For the combined evaluation (notably for large contracts), cost may be accorded as weight higher or the selection may be based on cost alone among those who secure a minimum passing mark for the quality of the proposal. The RFP should specify clearly how proposals will be presented and how they will be compared.

(dd) Auditors

Auditors typically carry out auditing tasks under well-defined TOR and professional standards. They should be selected according to QCBS, with cost as a substantial selection factor (40-50 points), or by the “Least-Cost Selection.” When consultants are appointed to execute an audit function on behalf of the accounting officer, the tariffs agreed by the Auditor-General and the South African Institute for Chartered Accountants (SAICA) may be used as a guideline to determine the appropriate tariff or to determine the reasonableness of the tariffs. These tariffs can be obtained from SAICA’s website under www.saica.co.za. The tariffs are captured in a circular issued by SAICA.

(ee) Service Delivery Contractors

Projects in the social sectors in particular may involve hiring of large numbers of individuals who deliver services on a contract basis (for example, social workers, nurses and paramedics). The job descriptions, minimum qualifications, terms of employment and selection procedures should be described in the project documentation.

52.2.5.9 Association between consultants

Consultants may associate with each other to complement their respective areas of expertise, or for other reasons. Such an association may be for the long term (independent of any particular assignment) or for a specific assignment. The association may take the form of a joint venture or a sub-consultancy. In case of a joint venture, all members of the joint venture should sign the contract and are jointly and severally liable for the entire assignment. Once the bids or Requests for Proposals (RFP's) from service providers are issued, any association in the form of joint venture or sub-consultancy among firms should be permissible only with the approval of the accounting officer or his/her delegate. Accounting officers should not compel consultants to form associations with any specific firm or group of firms, but may encourage associations with the aim to enhance transfer of skills.

53. Deviation from, and Ratification of Minor Breaches of, Procurement Processes

53.1 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, nature reserves or game reserves; or
 - (v) in any other exceptional case where it is impractical or impossible to follow the official procurement processes such as when a project that has fairly advanced towards completion requires additional funding to complete and the accounting officer deems it impractical and undesirable to initiate another procurement process to enable the completion of such project. In such a case the accounting officer is allowed to authorise additional funding to the project, on a once-off basis, provided that such funding required to complete the project does not exceed 20% of the original tender amount tendered by the relevant service provider or contractor; 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.

53.2 The accounting officer must record the reasons for any deviations in terms of subsections (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.

53.3 Subsection (2) does not apply to the procurement of goods and services contemplated in section 11(2) of this policy.

54. Unsolicited bids

- 54.1 In accordance with section 113 of the Act there is no obligation to consider unsolicited bids received outside a normal bidding process.
- 54.2 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 for, the municipality;
 - (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.
- 54.3 If the accounting officer decides to consider an unsolicited bid that complies with subsection (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.
- 54.4 All written comments received pursuant to subsection (3), including any responses from the unsolicited bidder, must be submitted to the National Treasury and the relevant provincial treasury for comment.
- 54.5 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.
- 54.6 A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.
- 54.7 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.
- 54.8 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.

54.9 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.

55. Combating of Abuse of Supply Chain Management System

55.1 The accounting officer must provide measures for the combating of abuse of the supply chain management system,

55.2 For purposes of subsection (1), the foretasted measures must enable the accounting officer –

- (a) to take all reasonable steps to prevent abuse of the supply chain management system;
- (b) to 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) to 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) to 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) to 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) to 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) to 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 Bid Defaulters in terms section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).

55.3 The accounting officer must inform the National Treasury and relevant provincial treasury in writing of any actions taken in terms of subsections (1)(b)(ii), (e) or (f) above.

56. System of Disposal Management

56.1 The accounting officer must establish an effective system of disposal management for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the Act.

56.2 Assets must be disposed of by, inter alia –

- (a) transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;
- (b) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
- (c) selling the asset; or
- (d) destroying the asset.

56.3 With regard to the disposal of assets in general –

- (a) immovable property may be sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
- (b) 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;
- (c) 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
- (d) in the case of the disposal of firearms, the National Conventional Arms Control Committee has approved any sale or donation of firearms to any person or institution within or outside the Republic;

56.4 In connection with the letting of immovable property –

- (a) immovable property must be let at market related rates except when the public interest or the plight of the poor demands otherwise; and
- (b) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property must be annually reviewed; and

56.5 Where assets are traded in for other assets, the highest possible trade-in price must be negotiated.

57. The Disposal Management Process

57.1 For purposes of the disposal management process, the accounting officer must ensure that the following steps are undertaken in respect of movable assets:

- (a) obsolescence planning must be effected, alternatively depreciation rates per item must be calculated;
- (b) a data base of all redundant assets must be compiled and maintained;

- (c) assets identified for disposal must first be inspected for potential re-use;
- (d) a strategy must be determined for the disposal of assets; and,
- (e) the actual disposal of assets must be effected in compliance with this chapter.

57.2 Similar steps to those set out in terms of subsection (1) must be undertaken in respect of immovable assets.

58. The Performance Management Process

58.1 The accounting officer must establish an effective internal monitoring system in order to determine, on the basis of a retrospective analysis, whether the authorised supply chain management processes are being followed and whether the desired objectives are achieved.

59. System of supply chain performance

59.1 For purposes of internal monitoring, at least the following may be considered –

- (a) achievement of objectives;
- (b) compliance with norms and standards;
- (c) savings generated;
- (d) stores efficiency;
- (e) cost variance per item;
- (f) possible breaches of contract;
- (g) cost of the procurement process itself;
- (h) whether supply chain objectives are consistent with national government's policies;
- (i) increasingly alignment of material construction standards with international best practice;
- (j) observance of principles of co-operative governance; and
- (k) reduction of regional economic disparities are promoted.

60. System of Risk Management

60.1 The accounting officer must establish an effective system of risk management for the identification, consideration and avoidance of potential risks in the supply chain management system.

60.2 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.

61. Prohibition on Awards to Persons Whose Tax Matters are not in Order

- 61.1 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.
- 61.2 Before making an award to a person the accounting person must first check with SARS whether that person's tax matters are in order.
- 61.3 If SARS does not respond within 7 days such person's tax matters may for purposes of subsection (1) be presumed to be in order.

62. Prohibition on Awards to Persons in the Service of the State

The accounting officer must ensure that irrespective of the procurement process followed, no award may be given to a person –

- (a) who is in the service of the state; or
- (b) if that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state; or
- (c) a person who is an advisor or consultant contracted with the municipality.

63. Awards to Close Family Members of Persons in the Service of the State

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

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

64. Ethical Standards

64.1 A code of ethical standards is hereby established, in accordance with subsection (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.

64.2 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 of more than R350;
- (d) notwithstanding subsection (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 breach of this code of ethical standards.

64.3 The municipality shall ensure that –

- (a) all declarations in terms of subsections 2(d) and (e) must be recorded in a register which the accounting officer must keep for this purpose;
- (b) all declarations by the accounting officer must be made to the executive mayor of the municipality who must ensure that such declarations are recorded in the register; and

64.4 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.

64.5 A breach of the code of ethics must be dealt with as follows –

- (a) in the case of an employee, in terms of the disciplinary procedures of the municipality envisaged in section 67(1)(h) of the Municipal Systems Act;
- (b) in the case a role player who is not an employee, through other appropriate means in recognition of the severity of the breach;
- (c) In all cases, financial misconduct must be dealt with in terms of chapter 15 of the Act.

65. Inducements, Rewards, Gifts and Favours to the Municipality, Officials and other Role Players

65.1 No person who is a provider or prospective provider of goods or services to the municipality, or a recipient or prospective recipient of goods disposed or to be disposed of by the municipality, 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.

65.2 The accounting officer must promptly report any alleged contravention of subsection (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.

65.3 Subsection (1) does not apply to gifts less than R350 in value.

66. Sponsorships

The accounting officer must promptly disclose to the National Treasury and the 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 to the municipality; or
- (b) a recipient or prospective recipient of goods disposed or to be disposed of by the municipality.

67. Objections and Complaints

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

68. Resolution of Disputes, Objections, Complaints and Queries

68.1 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.

68.2 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.

68.3 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.

68.4 A dispute, objection, complaint or query may be referred to the 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.

68.5 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.

68.6 This section must not be read as affecting a person's rights to approach a court at any time.

69. 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
- (b) that such compensation must be performance based.

Signature

Date

Municipal Manager

Adopted by Council

Effective Date
