SUPPLY CHAIN MANAGEMENT POLICY FOR THE JOHN TAOLO GAETSEWE DISTRICT MUNICIPALITY

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SIGNATURE OF THE MUNICIPAL MANAGER

SIGNATURE OF THE SPEAKER

Ms P Q Mogatle

Speaker

JOHN TAOLO GAETSEWE DISTRICT MUNICIPALITY

2019/20

SUPPLY CHAIN MANAGEMENT

POLICY

Policy for adoption by Council in terms of section 111 of the Municipal Finance Management Act, No 56 of 2003.

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

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Definitions

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

"competitive bidding process" means a competitive bidding process referred to in paragraph 12 (1) (d) of this policy;

"competitive bid" means a bid in terms of a competitive bidding process;

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

"formal written price quotation" means quotations referred to in paragraph 12 (1) (c) of this policy;

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"in the service of the state" means to be –

(a) a member of –
  (i) any municipal council;
  (ii) any provincial legislature; or
  (iii) the National Assembly or the National Council of Provinces;
(b) a member of the board of directors of any municipal entity;
(c) an official of any municipality or municipal entity;
(d) an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No.1 of 1999);
(e) a member of the accounting authority of any national or provincial public entity; or
(f) an employee of Parliament or a provincial legislature;

"long term contract" means a contract with a duration period exceeding one year;

"list of accredited prospective providers" means the list of accredited prospective providers which a municipality or municipal entity must keep in terms of paragraph 14 of this policy;

"other applicable legislation" means any other legislation applicable to municipal supply chain management, including –

(a) the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);
(b) the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003); and
(c) the Construction Industry Development Board Act, 2000 (Act No.38 of 2000);

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"Regulation" means the Local Government: Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations;

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

"the Act" means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);

"written quotations" means quotations referred to in paragraph 12(1)(b) of this policy.

"Accounting officer" means the Accounting Officer referred to in section 60 of the Municipal Finance Management Act, No. 56 of 2003, in relation to a municipal entity, means the official referred to in section 93, and includes a person acting as the accounting officer.

"Accredited Agent' means a provider who is authorized to deliver certain goods / services and can be trading in a specific area, however, an accredited agent is not a sole provider.

"emergency procurement" emergency cases are cases where immediate action is necessary in order to avoid dangerous or risky situation (life threatening) or misery such as floods or fires.

"exceptional / urgent cases" exceptional cases are cases where early delivery is of critical importance and the invitation of competitive bids is either impossible or impractical. However a lack of proper planning should not be constituted as an urgent case subject to the approval of the Accounting Officer. The nature of the urgency and the details of the justifiable procurement must be recorded and the AO to approve.

"Exempted Micro Enterprise" [EME's] Enterprises with an annual total revenue of R5 million or less [all taxes included] for goods and services. Sector charters have been developed for the Tourism and Construction industry where

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thresholds of Rand 2.5 million and Rand 1.5 million respectively have been established.

"Fruitless and wasteful expenditure"- is defined **in section 1 of the MFMA as follows:** expenditure made in vain and would have been avoided had

" **Irregular expenditure**"- means-

[a] expenditure incurred by a municipality or municipal entity in contravention of, that is not in accordance with, a requirement of the MFMA, or that is not in accordance with, a requirement of the MFMA, and which has not been condoned in terms of section 170;

[b] expenditure incurred by a municipality or municipality entity in contravention of, or that is not in accordance with, a requirement of the Municipal Systems Act, and which has not been condoned in terms of that Act;

[c] expenditure incurred by a municipality in contravention of, or that is not in accordance with, a requirement of the Public Office-Bearers Act, 1998[ACT No. 20 of 1998]; or

[d] expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with a requirement of the supply chain management policy of the municipality or entity or any of the municipality's by-laws giving effect to such policy; and which has not been condoned in terms of such policy or by-law, but excludes expenditure by a municipality which falls within the definition of "unauthorised expenditure."

In this context" expenditure" refers to any use of municipal funds that is in contravention of the following legislation:

-Municipal Finance Management Act, Act56 of 2003, and its regulations

-Municipal Systems Act, Act 32 of 2000, and its regulations

-Public Office-Bearers Act, Act20 of 1998, and its regulations; and

-The municipality's supply chain management policy, and any by-laws giving effect to that policy.

"CSD" - The Central Supplier Database (CSD) is a single database to serve as the source of all supplier information for all spheres of government. The purpose

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of centralising government's supplier database is to reduce duplication of effort and cost for both supplier and government while enabling electronic procurement processes.

"E – TENDER PORTAL" - The eTender Publication Portal facilitates all government institutions to publish their tenders, corrigendum and award notices on a single platform. This portal gives FREE access to public sector tender opportunities in South Africa.

"**Sole Provider**"-means a provider of specialized or exclusive goods/services who has a sole distribution / patent /manufacturing rights and copy rights.

"Transversal contract" means a contract arranged for more than one department/municipality or for more than one level of government eg. National and Provincial Government.

Unauthorized expenditure means any expenditure incurred by a municipality otherwise than in accordance with section 15 or 11 [3] and includes-

[a] overspending of the total amount appropriated in the municipality's approved budget;

[b] overspending of the total amount appropriated for a vote in the approved budget;

[c] expenditure from a vote unrelated to the department or functional area covered by the vote;

[d] expenditure of money appropriated for a specific purpose ,otherwise than for that specific purpose;

[e] spending of an allocation referred to in paragraph [b],[c] or [d] of the definition of "allocation" otherwise than in accordance with any conditions of the allocation; or

[f] a grant by the municipality otherwise than in accordance with the MFMA.

Unforeseen and unavoidable expenditure is discussed in section 29 of the MFMA and reeds as follows:

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[1] The mayor of a municipality may in emergency or other exceptional circumstances authorise unforeseen and unavoidable expenditure for which no provision was made in an approved budget.

[2] Any such expenditure-

[a] must be in accordance with any framework that may be prescribed;

[b] may not exceed a prescribed percentage of the approved annual budget;

[c] must be reported by the mayor to the municipal council at its next meeting; and

[d] must be appropriated in an adjustments budget.

[3] If such adjustments budget is not passed within 60 days after the expenditure was incurred, the expenditure is unauthorised and section 32 applies.

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CHAPTER 1

ESTABLISHMENT AND IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

Supply chain management policy

2.

All officials and other role players in the supply chain management system of the Municipality must implement this policy in a way that gives effect to

(1) The principals of this policy are that it -

(a) gives effect to –

(i) section 217 of the Constitution; and

(ii) Part 1 of Chapter 11 and other applicable provisions of the Act;

(b) is fair, equitable, transparent, competitive and cost effective;

(c) complies with –

(i) the regulatory framework prescribed in Chapter 2 of the Regulations; and

(ii) any minimum norms and standards that may be prescribed in terms of section 168 of the Act;

(d) is consistent with other applicable legislation;

(e) does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and

(f) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.

(2) The municipality may not act otherwise than in accordance with this supply chain management policy when –

(a) procuring goods or services;

(b) disposing of goods no longer needed;

(c) selecting contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies; or

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(d) in the case of a municipality, selecting external mechanisms referred to in section 80 (1) (b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in section 83 of that Act.

(3) Subparagraphs (1) and (2) of this policy do not apply in the circumstances described in section 110 (2) of the Act except where specifically provided otherwise in this policy.

Adoption and amendment of the supply chain management policy

3. (1) The accounting officer must –

(a) at least annually review the implementation of this policy; and

(b) when the accounting officer considers it necessary, submit proposals for the amendment of this policy to the council.

(2) If the accounting officer submits a draft policy to the council that differs from the model policy, the accounting officer must ensure that such draft policy complies with the Regulations. The accounting officer must report any deviation from the model policy to the National Treasury and the relevant provincial treasury.

(3) When amending this supply chain management policy the need for uniformity in supply chain practices, procedures and forms between organs of state in all spheres, particularly to promote accessibility of supply chain management systems for small businesses must be taken into account.

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

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Delegation of supply chain management powers and duties

4. (1) The council 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.

(2) Sections 79 and 106 of the Act apply to the subdelegation of powers and duties delegated to an accounting officer in terms of subparagraph (1) of this policy.

(3) The council or accounting officer may not delegate or subdelegate any supply chain management powers or duties to a person who is not an official of the municipality to a committee which is not exclusively composed of officials of the municipality;

(4) This paragraph may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this policy.

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Subdelegations

5. (1) The accounting officer may in terms of section 79 or 106 of the Act subdelegate any supply chain management powers and duties, including those delegated to the accounting officer in terms of this policy, but any such subdelegation must be consistent with subparagraph (2) and paragraph 4 of this policy.

(2) The power to make a final award –

(a) above R10 million (VAT included) may not be subdelegated by the accounting officer;

(b) above R2 million (VAT included), but not exceeding R10 million (VAT included), may be subdelegated but only to –

(i) the chief financial officer;

(ii) a senior manager; or

(iii) a bid adjudication committee of which the chief financial officer or a senior manager is a member; or

(c) not exceeding R2 million (VAT included) may be subdelegated but only to –

(i) the chief financial officer;

(ii) a senior manager;

(iii) a manager directly accountable to the chief financial officer or a senior manager; or

(iv) a bid adjudication committee.

(3) An official or bid adjudication committee to which the power to make final awards has been subdelegated in accordance with subparagraph (2) of this policy must within five days of the end of each month submit to the official referred to in subparagraph (4) of this policy a written report containing particulars of each final award made by such official or committee during that month, including–

(a) the amount of the award;

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(b) the name of the person to whom the award was made; and

(c) the reason why the award was made to that person.

(4) A written report referred to in subparagraph (3) of this policy must be submitted –

(a) to the accounting officer, in the case of an award by –

(i) the chief financial officer;

(ii) a senior manager; or

(iii) a bid adjudication committee of which the chief financial officer or a senior manager is a member; or

(b) to the chief financial officer or the senior manager responsible for the relevant bid, in the case of an award by –

(i) a manager referred to in subparagraph (2)(c)(iii) of this policy; or

(ii) a bid adjudication committee of which the chief financial officer or a senior manager is not a member.

(5) Subparagraphs (3) and (4) of this policy do not apply to procurements out of petty cash.

(6) This paragraph may not be interpreted as permitting an official to whom the power to make final awards has been subdelegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this policy.

(7) No supply chain management decision-making powers may be delegated to an advisor or consultant.

Oversight role of council

6. (1) The council must maintain oversight over the implementation of this supply chain management policy.

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(2) For the purposes of such oversight the accounting officer must –

(a) (i) within 30 days of the end of each financial year, submit a report on the implementation of the supply chain management policy of the municipality to the council ,

(ii) whenever there are serious and material problems in the implementation of the supply chain management policy, immediately submit a report to the council ,

(3) The accounting officer must, within 10 days of the end of each quarter, submit a report on the implementation of the supply chain management policy to the mayor .

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

Supply chain management unit

7. (1) A supply chain management unit is hereby established to implement this supply chain management policy.

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

Training of supply chain management officials

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

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CHAPTER 2
FRAMEWORK FOR SUPPLY CHAIN MANAGEMENT

Format of supply chain management

9. This supply chain management policy provides systems for –

(i) demand management;

(ii) acquisition management;

(iii) logistics management;

(iv) disposal management;

(v) risk management; and

(vi) performance management.

Part 1: Demand management

System of demand management

10 (1) The accounting officer must establish and implement an appropriate demand management system in order to ensure that the resources required by the municipality support its operational commitments and its strategic goals outlined in the Integrated Development Plan.

(2) The demand management system must -

(a) include timely planning and management processes to ensure that all goods and services required by the municipality are quantified, budgeted for and timely and effectively delivered at the right locations and at the critical delivery dates, and are of the appropriate quality and quantity at a fair cost;

(b) take into account any benefits of economies of scale that may be derived in the case of acquisitions of a repetitive nature; and

(c) provide for the compilation of the required specifications to ensure that its needs are met.

(d) To undertake appropriate industry analysis and research to ensure that

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Innovations and technological benefits are maximized.

(d) The municipality must compile a Procurement Plan containing all planned Procurement for the financial year in respect of the procurement of goods, services and infrastructure projects which exceed R 200 000 [all applicable taxes included] per case as described in the Supply Chain Management Guide for Accounting Officers. The procurement plan must be finalized on the 30th June every year. The relevant information should preferably be furnished in the format contained in the Procurement Plan Template enclosed as Annexure A.

(e) Also refer to National Treasury MFMA Circular 62.

Part 2: Acquisition management

System of acquisition management

11. (1) Through operational procedures, an effective system of acquisition management is established in Part 2 of this policy in order to ensure –

(a) that goods and services are procured by the municipality in accordance with 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

(f) that any Treasury guidelines on acquisition management are properly taken into account.

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(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.

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

(a) the kind of goods or services; and

(b) the name of the supplier.

Range of procurement processes

12. (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 R500 (VAT included); and atleast one written quotation for a procurement of a transaction value of up to R2000 (VAT included)

(b) Atleast three written quotations for procurements of a transaction value over R2000 up to R30 000 (VAT included);

(c) Seven days notice request for formal written price quotations for procurements of a transaction value over R30 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.

(2) The accounting officer may, in writing:-

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lower, but not increase, the different threshold values specified in subparagraph (1); or

(e) direct that –

(i) Atleast one **written quotation** be obtained for any specific procurement of a transaction value lower than R2000;

(ii) Atleast three formal written price quotations be obtained for any specific procurement of a transaction value lower than R30 000; or

(iii) Seven day notice request for a competitive bidding process be followed for any specific procurement of a transaction value more than R30 000 and lower than R200 000 (VAT included).

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.

General preconditions for consideration of written quotations or bids

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

(a) has furnished that provider's –

(i) full name;

(ii) identification number or company or other registration number; and

(iii) tax reference number and VAT registration number, if any;

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

(c) has indicated –

(i) whether he or she is in the service of the state, or has been in the service of the state in the previous twelve months;

(ii) if the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of

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the state, or has been in the service of the state in the previous twelve months; or

(iii) whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in subparagraph (ii) is in the service of the state, or has been in the service of the state in the previous twelve months.

(ii) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears for more than three [3] months;

Lists of accredited prospective providers

14. (1) The accounting officer must –

(a) keep a list of accredited prospective providers of goods and services that must be used for the procurement requirements through written quotations and formal written price quotations; and **(the CSD is now able to verify the tax clearance certificate)**

(b) at least once a year through newspapers commonly circulating locally, the website and any other appropriate ways, invite prospective providers of goods or services to apply for evaluation and listing as accredited prospective providers;

(c) specify the listing criteria for accredited prospective providers; and

(d) disallow the listing of any prospective provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector.

(2) The list must be updated at least quarterly to include any additional prospective providers and any new commodities or types of services. Prospective providers must be allowed to submit applications for listing at any time.

(3) The list must be compiled per commodity and per type of service.

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(4) All the above-mentioned points are no longer in effect since the Implementation of the national central supplier database.

(5) Utilization of web based national central supplier database, the CSD has been fully effective from 1st July 2016.

(h) **SANAS Accredited BBBEE Certificate**

Petty cash purchases

15. The conditions for the procurement of goods by means of petty cash purchases referred to in paragraph 12 (1) (a) of this policy, are as follows –

(a) determining the terms on which a manager may delegate responsibility for petty cash to an official reporting to the manager;

(b) limiting the maximum number of petty cash purchases or the maximum amounts per month for each manager;

(c) excluding any types of expenditure from petty cash purchases that are excluded, where this is considered necessary; and

(d) A monthly reconciliation report from each manager must be provided to the chief financial officer, including –

(i) the total amount of petty cash purchases for that month; and

(ii) receipts and appropriate documents for each purchase.

Written Quotations

16. The conditions for the procurement of goods or services **through written quotations, are as follows –**

(a) Quotations must be obtained from at least three different providers preferably from, but not limited to, providers whose names appear on the list of accredited prospective providers of the municipality , provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria set out in paragraph 14(1)(b) and (c) of this Policy; (the quotations will be sourced from the national central supplier database which has been fully effective since 1 July 2016)

(b) where no suitable accredited service providers are available from the list,

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quotations may be obtained from other possible providers not on the list, provided that such service providers meet the listing criteria set out in paragraph 14(1)(b) and (c) of this policy (all quotations will be sourced from the central supplier database).

[c] quotations must be approved on a rotation basis.

[d] to the extent feasible, providers must be requested to submit such quotations in writing

(e) 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;

(f) the accounting officer must record the names of the potential providers requested to provide such quotations with their quoted prices; and

(g) if a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider:

(h) The municipality will investigate and utilize various other options to advertise bids/quotations viz. community boards, the library, public buildings, police station, etc. This is to ensure that the municipality tried to obtain at least three quotations.

(i) In cases where there are only a few suppliers for certain goods and, vehicle repairs, the municipality will then use these suppliers on a rotation basis, in order to give everybody a chance. This practice will only be utilized in exceptional cases. As soon as more suppliers become available, such goods / services will be provided via the database.

Formal written price quotations

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

(a) quotations must be obtained in writing from at least three different providers whose names appear on the list of accredited prospective providers of the municipality ; ***(quotations must be sourced from the accredited central supplier database)***

quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria in the supply chain

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management policy required by paragraph 14(1)(b) and (c); ***(quotations must be sourced from the accredited central supplier database)***

(b) if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the chief financial officer or an official designated by the chief financial officer, and

(c) the accounting officer must record the names of the potential providers and their written quotations.

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

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

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

(a) all requirements in excess of R30 000 (VAT included) that are to be procured by means of formal written price quotations must, in addition to the requirements of paragraph 17, be advertised for at least seven days on the website; **locally circulating newspapers** and an official notice board of the municipality ;

The revised PPPFA prescripts are applicable, e.g. Point system and Status level verification certificates [score cards] must be applied in the adjudication process. Please refer to paragraph 19 [3] for more detail.

(b) when using the list of accredited prospective providers the accounting officer must promote ongoing competition amongst providers, including by inviting providers to submit quotations on a rotation basis;

(c) offers received must be evaluated on a comparative basis taking into account unconditional discounts;

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(d) the accounting officer or chief financial officer must on a monthly basis be notified in writing of all **written** quotations and formal written price quotations accepted by an official acting in terms of a subdelegation;

(d) stipulate requirements for proper record keeping ;

(e) offers below R30 000 (VAT included) must be awarded based on compliance to specifications and conditions of contract, ability and capability to deliver goods and services and lowest price;

(f) acceptable offers, which are subject to the preference points system (PPPFA and associated regulations), must be awarded to the bidder who's offer is according to specifications, has the ability to deliver and is compliant with all the other requirements and scored the highest points.

(g) Minimum requirements for proper record keeping must be complied with.

Competitive bids

19. (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 paragraph 11(2) of this policy; and

(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.

Introduction of pre-qualification criteria based on B-BBEE levels of contribution (Regulation 4)

(1) Prequalification criteria may be used in selected tenders to advance designated groups on the basis of B-BBEE Status Level of contributor, EME or QSE or on the basis of subcontracting with EMEs or QSEs which are 51% owned by either of the following: Blacks; Black Youth; Black Women; Black people with disabilities; Black people living in rural or underdeveloped areas

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or townships; cooperatives owned by Black people; Black people who are military veterans

(2) Therefore the introduction of prequalification criteria will allow the advancement of these selected categories of people by limiting competition only amongst themselves. Well established companies will also be able to compete if they meet further requirements of subcontracting to these groups should they (established company) be successful.

(3) The changes to this regulation include expansion of sub-regulation 4 to include the following provision:

The minimum qualifying score for functionality for a tender to be considered further-

(a) must be determined separately for each tender; and

(b) may not be so-

(i) low that it may jeopardise the quality of the required goods or services; or

(ii) high that it is unreasonably restrictive.

The inclusion of a provision that points scored for functionality must be rounded off to the nearest two decimal places.

Subcontracting of the Local SMMEs

The successful tenderer must subcontract a minimum of 30% of the value of the Contract to the SMMEs meeting to the following Criteria:

This regulation is used to advance designated groups through:

(a) Prequalifying tenderers in terms of B-BBEE Status level

(b) Prequalification in terms of being an EME or QSE

(c) Sub-contracting with the following designated groups:

i. An EME or QSE which is at least 51% Black Owned

ii. An EME or QSE which is at least 51% owned by black youth

iii. An EME or QSE which is at least 51% Black Women Owned

iv. An EME or QSE which is at least 51% owned by black people with disabilities

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v. An EME or QSE which is 51% owned by black people living in rural or underdeveloped areas and / or townships
vi. A Cooperative which is at least 51% owned by black people.
vii. An EME or QSE which is at least 51% owned by black people who are military veterans

EMEs or QSEs will be allocated 30% of the works of the Contract value on all the appointment above R1000 000.00 (Vat Incl).

The appointment of the subcontract will be subjected to the following conditions:

(1) The subcontractors should be based in the John Taolo Gaetsewe District Municipality.
(2) The subcontractors should be registered in the same field of appointed service provider.

Cession Payment

For the empowerment of the SMMEs and the for the purpose of the immediate supply of the goods and services, the cession payment will be done to the wholesaler / supplier of the appointed service provider subject to the following conditions:

(1) applicable to the procurement of the goods or service above R200 000 (VAT included).
(2) There must be an agreement between the appointed service provider and wholesale or supplier.

Main changes introduced by the revised Preferential Procurement Regulations effective from the 1st April 2017 are as follows:

1. Thresholds for application of preference points increased:
   - 80/20 preference points – R30 000 up to R50m (Regulation 6)
     - B-BBEE points for level 3 have been reduced from 16 to 14 to align with the amended codes
   - 90/10 preference points – Above R50m (Regulation 7)

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- B-BBEE points for level 3 have been reduced from 8 to 6 to align with the amended codes

Table of Points allocation for Revised PPPFA of 2017

B-BBEE Status Level of Contributor	Number of points (90/10 system) Threshold = R50m and above	Number of points (80/20 system) Threshold = from R30 000 to R50m
1	10	20
2	9	18
3	6	14
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

The points scored for price must be added to the points scored for B-BBEE status level of contribution to obtain the bidder's total points scored out of 100.

A bid must not be disqualified from the bidding process if the bidder does not submit a certificate substantiating the B-BBEE status level of contribution or is a non-compliant contributor. Such a bidder will score 0 out of a maximum of 10 or 20 points for B-BBEE status.

PLEASE NOTE: [a] The 80/20 point system is applicable from R30 000 [all taxes included] up to R50 million [all taxes included]

[b] The 90/10 point system is applicable to bids invited exceeding R50 million [all taxes included]

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This should not be interpreted that quotations can be invited for up to R50 million. The threshold for the invitation of quotations did not change and it is still at R200 000.

Note: Quotations can only be invited not exceeding R 200 000.

4. The specification committee will make proposals if functionality points need to be used and the evaluation committee will approve a variation in the point system for a specific bid.

5. For construction procurements the CIDB Act and Regulations are to be used for quotations/bids.

Process for competitive bidding

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

(a) the compilation of bidding documentation as detailed in paragraph 21;

(b) the public invitation of bids as detailed in paragraph 21;

(c) site meetings or briefing sessions, if applicable as detailed in paragraph 21;

(d) the handling of bids submitted in response to public invitation;

(e) the evaluation of bids;

(f) the award of contracts;

(g) the administration of contracts:

(i) After the approval of a bid, the accounting officer and the bidder must enter into a written contract.

(h) proper record keeping :

(i) Original / legal copies of written contracts and agreements should be kept in a secure place for reference purposes.

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Bid documentation for competitive bids

21. The criteria to which bid documentation for a competitive bidding process must comply, must –

(a) take into account –

(i) the general conditions of contract;

(ii) any Treasury guidelines on bid documentation; and

(iii) the requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;

(b) include evaluation and adjudication criteria, including any criteria required by other applicable legislation;

(c) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;

(d) if the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish–

(i) if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements –

(aa) for the past three years; or

(bb) since their establishment if established during the past three years;

(ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;

(iii) particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;

(2) 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

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municipality or municipal entity is expected to be transferred out of the Republic; and

(g) 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.

(h) The Accounting Officer reserves the right to stipulate such a dispute to be settled utilizing a court of law preferably within the municipal boundaries or as close as possible to the municipal boundaries

(i) That the municipality reserve the rights to accept the bids in a whole or in parts.

Public invitation for competitive bids

22. The procedure for the invitation of competitive bids, are as follows:

(1) (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

Advertisement of Bids and the Publication of notices in respect of Awards, Cancelled Bids, Verification and Extension of existing contracts on the e-Tender Publiction Portal.

(b) the information contained in a public advertisement, must include –

(i) the closure date for the submission of bids, which may not be less than 30 days in the case of transactions over R10 million (VAT included), or which are of a long term nature, or **14 days** in any other case, from the date on which the advertisement is placed in a newspaper, subject to subparagraph (2) of this policy;

(ii) a statement that bids may only be submitted on the bid documentation provided by the municipality and

(iii) date, time and venue of any proposed site meetings or briefing sessions.

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(2) The accounting officer may determine a closure date for the submission of bids which is less than the **30 or 14 days** requirement, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process.

(3) Bids submitted must be sealed.

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

5) That in case where bid document was sold for certain bid and the bid is re-advertised as a result of the new development, the bidders who participated on the initial bid be refunded and / or acquire the bid document(s) at no cost(s).

Procedure for handling, opening and recording of bids

23. The procedures for the handling, opening and recording of bids, are as follows:

(a) Bids–

(i) must be opened only in public; and

(ii) must be opened at the same time and as soon as possible after the period for the submission of bids has expired;

(iii) received after the closing time should not be considered and returned unopened immediately.

(b) Any bidder or member of the public has the right to request that the names of the bidders who submitted bids in time must be read out and, if practical, also each bidder's total bidding price; and

(c) The person who opened the bids shall forthwith place his / her initials against the total amount mentioned in the bid documents.

(a) The accounting officer must –

(i) record in a register all bids received in time;

(ii) make the register available for public inspection; and

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(iv) publish the entries in the register and the bid results on the website.

(e) 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 awards.

(b) Any deposit or security received with the bid shall forthwith be handed to the Chief Financial Officer or his proxy for official acknowledgement of receipt.

(c) After being recorded in the register referred to in subparagraph (d)(i) above the bids shall be handed over to the chairperson of the Bid Evaluation Committee or his proxy for the evaluation thereof and he shall acknowledge receipt by signing the register.

Negotiations with preferred bidders

24. (1) The accounting officer may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provided that such negotiation –

(a) does not allow any preferred bidder a second or unfair opportunity;

(b) is not to the detriment of any other bidder; and

(c) does not lead to a higher price than the bid as submitted.

(2) Minutes of such negotiations must be kept for record purposes.

Two-stage bidding process

25. (1) A two-stage bidding process is allowed for –

(a) large complex projects;

(b) projects where it may be undesirable to prepare complete detailed technical specifications; or

(c) long term projects with a duration period exceeding three years.

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(2) In the first stage technical proposals on conceptual design or performance specifications should be invited, subject to technical as well as commercial clarifications and adjustments.

(3) In the second stage final technical proposals and priced bids should be invited.

Committee system for competitive bids

26. (1) The following committees are hereby established -

(a) a bid specification committee;

(b) a bid evaluation committee; and

(c) a bid adjudication committee;

(2) The accounting officer is required to appoint the members of each committee, taking into account section 117 of the Act; and

(3) The accounting officer is required to provide for an attendance or oversight process by a neutral or independent observer, appointed by the accounting officer, when this is appropriate for ensuring fairness and promoting transparency.

(4) The committee system must be consistent with –

(a) paragraph 27, 28 and 29 of this policy; and

(b) any other applicable legislation.

(5) The accounting officer may apply the committee system to formal written price quotations.

Bid specification committees

27. (1) The bid specification committee must compile the specifications for each procurement of goods or services by the municipality.

(2) Specifications –

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(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 recognized by the South African National Accreditation System with which the equipment or material or workmanship should comply;

(c) where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;

(d) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labeling of conformity certification;

(e) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the word "equivalent";

(f) must indicate each specific goal for which points may be awarded in terms of the points system set out in the **Revised Preferential Procurement Regulations 2017;** and

(g) must be approved by the accounting officer prior to publication of the invitation for bids in terms of paragraph 22 of this policy.

(3) The bid specification committee must be composed of Supply Chain Management Official (s), and one or more officials of the municipality , preferably the manager responsible for the function involved, and may, when appropriate, include external specialist advisors.

(4) No person, advisor or corporate entity involved with the bid specification committee, or director of such a corporate entity, may bid for any resulting contracts.

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Bid evaluation committees

28. (1) The bid evaluation committee must –

(a) evaluate bids in accordance with –

(i) the specifications for a specific procurement;

(ii) the points system set out in terms of paragraph 27(2)(f); and

(iii) **the evaluation methods outlined in the Revised preferential procurement regulations of 2017**.

(b) evaluate each bidder's ability to execute the contract;

(c) check in respect of the recommended bidder whether:

(i) the SARS Tax Clearance Certificate is valid;

(ii) municipal rates and taxes and municipal service charges are not in arrears, and;

(iii) Bids are in line with the Specifications.

(d) Submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.

(2) The Accounting Officer will appoint the bid evaluation committee members on a which must as far as possible be composed of –

(a) five **officials from different departments on a fixed term; and**

(b) An Official from Supply Chain Management Unit who will be the Chairperson of the Bid Evaluation Committee.

(3) The Accounting Officer may appoint a Specialist(s) from time to time based on the complexity of the bid for Functionality role.

Bid adjudication committees

29. (1) The bid adjudication committee must –

(a) consider the report and recommendations of the bid evaluation committee; and

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(b) make another recommendation to the accounting officer how to proceed with the relevant procurement.

(2) The bid adjudication committee must consist of five managers of the municipality which must include –

(i) Chief Financial Officer;

(ii) a technical expert in the relevant field who is an official, if such an expert exists. **The expert must leave the meeting after advice has been given. Only standing committee members can be involved in final deliberation and recommendations or final approval.**

(3) The **Chief Financial Officer must be the Chairperson** of the committee.

(4) Neither a member of a bid evaluation committee, nor an advisor or person assisting the evaluation committee, may be a member of a bid adjudication committee.

(5) the bid adjudication committee recommends to the Accounting Officer

(6) (a) If the Accounting Officer awards the bid other than the one recommended by the bid adjudication committee, the Accounting Officer must prior to awarding the bid –

(i) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears, and;

(ii) notify the accounting officer.

(b) The accounting officer may –

(i) after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in paragraph (a); and

(ii) if the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee

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(6) The accounting officer may at any stage of a bidding process, refer any recommendation made by the evaluation committee or the adjudication committee back to that committee for reconsideration of the recommendation.

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

8) For the purposes of continuity and not to delay meetings the Accounting Officer may also appoint any official to temporarily replace members that are absent from meetings due to illness, leave, etc. The Accounting Officer may also decide whether or not such an official will have the same powers as committee members.

Procurement of banking services

30. (1) Banking services –

(a) must be procured through competitive bids;

(b) must be consistent with section 7 or 85 of the Act; and

(c) may not be for a period of more than five years at a time.

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

(3) The closure date for the submission of bids may not be less than 60 days from the date on which the advertisement is placed in a newspaper in terms of paragraph 22(1). Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

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Procurement of IT related goods or services

31. (1) The accounting officer may request the State Information Technology Agency (SITA) to assist with the acquisition of IT related goods or services through a competitive bidding process.

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

(3) The accounting officer must notify SITA together with a motivation of the IT needs if –

(a) the transaction value of IT related goods or services required in any financial year will exceed R50 million (VAT included); or

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

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

Procurement of Catering Services at John Taolo Gaetsewe District Municipality

The appointment of catering service providers are subject to the submission of Certificate of Acceptability issued by JTGDM EHPs in terms of Sec 3, Regulation R962 of 2012 under FCD Act 54 of 1972.

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

32. (1) The accounting officer may procure goods or services under a contract secured by another organ of state, but only if –

(a) the contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;

(b) there is no reason to believe that such contract was not validly procured;

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(c) there are demonstrable discounts or benefits to do so; and

(d) that other organ of state and the provider have consented to such procurement in writing.

(2) Subparagraphs (1)(c) and (d) do not apply if –

(a) a municipal entity procures goods or services through a contract secured by its parent municipality; or

(b) a municipality procures goods or services through a contract secured by a municipal entity of which it is the parent municipality.

Procurement of goods necessitating special safety arrangements

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

(3) Where the storage of goods in bulk is justified, such justification must be based on sound reasons, including the total cost of ownership, cost advantages and environmental impact and must be approved by the accounting officer.

Proudly SA Campaign

34. The municipality supports the Proudly SA Campaign to the extent that, all things being equal, preference is given to procuring local goods and services from:

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

Appointment of consultants

35. (1) The accounting officer may procure consulting services provided that any Treasury guidelines in respect of consulting services are taken into account when such procurements are made.

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(2) Consultancy services must be procured through competitive bids if

(a) the value of the contract exceeds R200 000 (VAT included); or

(b) the duration period of the contract exceeds one year.

(3) In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish particulars of –

(a) all consultancy services provided to an organ of state in the last five years; and

(b) any similar consultancy services provided to an organ of state in the last five years.

(4) The accounting officer must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, thing, system or process designed or devised, by a consultant in the course of the consultancy service is vested in the municipality .

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

36. (1) The accounting officer may –

(a) dispense with the official procurement processes established by this policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only –

(i) **in an emergency**;

(ii) if such goods or services are produced or available from a **single provider only** ;

(iii) for the acquisition of **special works of art or historical objects** where specifications are difficult to compile;

(iv) acquisition of animals for zoos and/or nature and game reserves; or

(v) in any other **exceptional case** where it is impractical or impossible to follow the official procurement processes; and

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(b) ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature.

(2) The accounting officer must record the reasons for any deviations in terms of subparagraphs (1)(a) and (b) of this policy and report them to the next meeting of the council and include as a note to the annual financial statements.

(3) Subparagraph (2) does not apply to the procurement of goods and services contemplated in paragraph 11(2) of this policy.

Unsolicited bids

37. (1) In accordance with section 113 of the Act there is no obligation to consider unsolicited bids received outside a normal bidding process.

(2) The accounting officer may decide in terms of section 113(2) of the Act to consider an unsolicited bid, only if –

(a) the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;

(b) the product or service will be exceptionally beneficial to, or have exceptional cost advantages;

(c) the person who made the bid is the sole provider of the product or service; and

(d) the reasons for not going through the normal bidding processes are found to be sound by the accounting officer.

(3) If the accounting officer decides to consider an unsolicited bid that complies with subparagraph (2) of this policy, the decision must be made public in accordance with section 21A of the Municipal Systems Act, together with –

(a) reasons as to why the bid should not be open to other competitors;

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(b) an explanation of the potential benefits if the unsolicited bid were accepted; and

(c) an invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.

(4) All written comments received pursuant to subparagraph (3), including any responses from the unsolicited bidder, must be submitted to the National Treasury and the relevant provincial treasury for comment.

(5) The adjudication committee must consider the unsolicited bid and may award the bid or make a recommendation to the accounting officer, depending on its delegations.

(6) A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.

(7) When considering the matter, the adjudication committee must take into account –

(a) any comments submitted by the public; and

(b) any written comments and recommendations of the National Treasury or the relevant provincial treasury.

(8) If any recommendations of the National Treasury or provincial treasury are rejected or not followed, the accounting officer must submit to the Auditor General, the relevant provincial treasury and the National Treasury the reasons for rejecting or not following those recommendations.

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

Combating of abuse of supply chain management system

38. The following measures are established to combat the abuse of the supply chain management system:

(1) The accounting officer must–

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(a) take all reasonable steps to prevent abuse of the supply chain management system;

(b) investigate any allegations against an official or other role player of fraud, corruption, favouritism, unfair or irregular practices or failure to comply with this supply chain management policy, and when justified –

(i) take appropriate steps against such official or other role player; or

(ii) report any alleged criminal conduct to the South African Police Service;

(c) check the National Treasury's database prior to awarding any contract to ensure that no recommended bidder, or any of its directors, is listed as a person prohibited from doing business with the public sector;

(d) reject any bid from a bidder–

(i) if any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the municipality , or to any other municipality or municipal entity, are in arrears for more than three months; or

(ii) who during the last five years has failed to perform satisfactorily on a previous contract with the municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;

(e) reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;

(f) cancel a contract awarded to a person if –

(i) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or

(ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and

(g) reject the bid of any bidder if that bidder or any of its directors –

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(i) has abused the supply chain management system of the municipality or has committed any improper conduct in relation to such system;

(ii) has been convicted for fraud or corruption during the past five years;

(iii) has willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or

(iv) has been listed in the Register for Tender Defaulters In terms section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).

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

(3) The accounting officer [who may delegate the task to the CFO] must, as part of complying with section 62[1][d] of the MFMA set up and maintain a register of Irregular Expenditures. The aim with the register is also to serve as a tool for recording all unauthorised, irregular, fruitless and wasteful expenditures and for tracking progress in dealing with the consequences flowing from such expenditures until all the issues that gave rise to the expenditures are properly resolved in accordance with the legal framework. Please also consult National Treasury MFMA Circular 68 dated 10 May 2013 in this regard.

Part 3: Logistics, Disposal, Risk and Performance Management

Logistics management

39. An effective system of logistics management must include the following:

(a) monitoring of spending patterns on types or classes of goods and services which should where practical incorporate the coding of items to ensure that each item has a unique number for the purposes of monitoring

(b) setting of inventory levels that includes minimum and maximum levels and lead times wherever goods are placed in stock;

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(c) placing of manual or electronic orders for all acquisitions other than petty cash;

(d) before payment is approved , a certification from the responsible officer that the goods and services are received or rendered on time and is in accordance with the order, the general conditions of contract and specifications where applicable and that the price charged is as quoted / in terms of a contract;

(e) appropriate standards of internal control and warehouse management to ensure goods placed in stores are secure and only used for the purpose they were purchased;

(f) regular checking to ensure that all assets including official vehicles are properly managed, appropriately maintained and only used for official purposes; and

(g) monitoring and review of the supply vendor performance to ensure compliance with specifications and contract conditions for a particular good or service.

(h) the maintenance and administration of term contracts is co- managed with acquisition management for general goods / services.

Disposal management

40. (1) The criteria for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the Act, are as follows: [council to insert criteria]

(2) The disposal of assets must–

(a) be by one of the following methods –

(i) transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;

(ii) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;

(iii) selling the asset; or

(iv) destroying the asset;

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(b) provided that –

(i) immovable property may be sold only at market related prices except when the public interest or the plight of the poor demands otherwise;

(ii) movable assets may be sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous;

(iii) in the case of the free disposal of computer equipment, the provincial department of education must first be approached to indicate within 30 days whether any of the local schools are interested in the equipment; and

(iv) in the case of the disposal of firearms, the National Conventional Arms Control Committee has approved any sale or donation of firearms to any person or institution within or outside the Republic;

(c) furthermore ensure that –

(i) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise; and

(ii) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed; and

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

Risk management

41. (1) The criteria for the identification, consideration and avoidance of potential risks in the supply chain management system, are as follows [council to insert criteria]

(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;

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(c) acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;

(d) the management of risks in a pro-active manner and the provision of adequate cover for residual risks; and

(e) the assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.

Performance management

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

Part 4: Other matters

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

43. (1) The accounting officer must ensure that, irrespective of the procurement process followed, no award above **R15 000** is given to a person whose tax matters have not been declared by the South African Revenue Service to be in order.

(2) Before making an award to a person the accounting officer must first check with SARS whether that person's tax matters are in order.

(3) If SARS does not respond within 7 days such person's tax matters may for purposes of subparagraph (1) be presumed to be in order.

Application of MFMA Circular 90 during SCM Process

(4) The designated official(s) should verify the bidder's tax compliance status prior to the finalisation of the award of the bid or price quotation. Where the recommended bidder is not tax compliant, the bidder should be notified of their non-compliant status and the bidder must be requested to submit to the municipality or municipal entity, within 7 working days, written proof from SARS

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of their tax compliance status or proof from SARS that they have made an arrangement to meet their outstanding tax obligations.

(5) The proof of tax compliance status submitted by the bidder to the municipality or municipal entity must be verified via the CSD or e-Filing. The accounting officer should reject a bid submitted by the bidder if such a bidder fails to provide proof of tax compliance status within the timeframe stated above.

(6) MFMA Circular No 90 Tax Compliance Status January 2018 Page 3 of 3 Where goods or services have been delivered satisfactorily without any dispute, accounting officers should not delay processing payment of invoices due to outstanding tax matters. Municipalities and municipal entities are advised to update their current SCM policies to ensure alignment with the new TCS.

Prohibition on awards to persons in the service of the state

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

(a) who is in the service of the state; or

(b) if that person is not a natural person, of which any director, manager, 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

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

45. The notes to the annual financial statements must disclose particulars of any award of more than **R2000** 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.

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Ethical standards

46. (1) A code of ethical standards is hereby established, in accordance with subparagraph (2), for officials and other role players in the supply chain management system in order to promote –

(a) mutual trust and respect; and

(b) an environment where business can be conducted with integrity and in a fair and reasonable manner.

Note:
It is recommended that the municipality or municipal entity adopt the 'National Treasury's code of conduct for supply chain management practitioners and other role players involved in supply chain management'. When adopted, such code of conduct becomes binding on all officials and other role players involved in the implementation of the supply chain management policy of the municipality or municipal entity. A copy of the National Treasury code of conduct is available on the website ***www.treasury.gov.za/mfma*** *located under "legislation". This code of conduct must be adopted by council or board of directors to become binding.*

(2) An official or other role player involved in the implementation of the supply chain management policy –

(a) must treat all providers and potential providers equitably;

(b) may not use his or her position for private gain or to improperly benefit another person;

(c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than **R350;**

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(d) notwithstanding subparagraph (2)(c), must declare to the accounting officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;

(e) must declare to the accounting officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by, the municipality ;

(f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;

(g) must be scrupulous in his or her use of property belonging to municipality

(h) must assist the accounting officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system; and

(i) must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including –

(i) any alleged fraud, corruption, favouritism or unfair conduct;

(ii) any alleged contravention of paragraph 47(1) of this policy; or

(iii) any alleged breach of this code of ethical standards.

(3) Declarations in terms of subparagraphs (2)(d) and (e) -

(a) must be recorded in a register which the accounting officer must keep for this purpose;

(b) by the accounting officer must be made to the mayor of the municipality who must ensure that such declarations are recorded in the register.

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(4) The National Treasury's code of conduct must also be taken into account by supply chain management practitioners and other role players involved in supply chain management.

(5) A breach of the code of conduct adopted by the municipality must be dealt with in accordance with schedule 2 of the Local Government: Municipal Systems Act, 2000.

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

47. (1) No person who is a provider or prospective provider of goods or services, or a recipient or prospective recipient of goods disposed or to be disposed of may either directly or through a representative or intermediary promise, offer or grant –

(a) any inducement or reward to the municipality for or in connection with the award of a contract; or

(b) any reward, gift, favour or hospitality to –

(i) any official; or

(ii) any other role player involved in the implementation of the supply chain management policy.

(2) The accounting officer must promptly report any alleged contravention of subparagraph (1) to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the public sector.

(3) Subparagraph (1) does not apply to gifts less than **R350** in value.

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Sponsorships

48. The accounting officer must promptly disclose to the National Treasury and the relevant provincial treasury any sponsorship promised, offered or granted, whether directly or through a representative or intermediary, by any person who is –

(a) a provider or prospective provider of goods or services; or

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

Objections and complaints

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

Resolution of disputes, objections, complaints and queries

50. (1) The accounting officer must appoint an independent and impartial person, not directly involved in the supply chain management processes –

(a) to assist in the resolution of disputes between the municipality and other persons regarding -

(i) any decisions or actions taken in the implementation of the supply chain management system; or

(ii) any matter arising from a contract awarded in the course of the supply chain management system; or

(c) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.

(2) The accounting officer, or another official designated by the accounting officer, is responsible for assisting the appointed person to perform his or her functions effectively.

(3) The person appointed must –

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(a) strive to resolve promptly all disputes, objections, complaints or queries received; and

(b) submit monthly reports to the accounting officer on all disputes, objections, complaints or queries received, attended to or resolved.

(4) A dispute, objection, complaint or query may be referred to the relevant provincial treasury if –

(a) the dispute, objection, complaint or query is not resolved within 60 days; or

(b) no response is forthcoming within 60 days.

(5) If the provincial treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.

(6) This paragraph must not be read as affecting a person's rights to approach a court at any time.

Contracts providing for compensation based on turnover

51. If a service provider acts on behalf of a municipality to provide any service or act as a collector of fees, service charges or taxes and the compensation payable to the service provider is fixed as an agreed percentage of turnover for the service or the amount collected, the contract between the service provider and the municipality must stipulate –

(a) a cap on the compensation payable to the service provider; and

(d) that such compensation must be performance based.

Local Content

The Preferential Procurement Regulations, 2011 pertaining to the Preferential Procurement Policy Framework Act, Act No 5 OF 2000 which came into effect on 7 December 2011 make provision for the DTI to designate sectors in line with national development and industrial policies for local production. To this end the

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dti has designated and determined the stipulated minimum thresholds for the following sectors:

-Bus Sector	70 - 80 %
-Pylons	100 %
-Rolling Stock	55 – 80 %
-Textiles	100%
- Processed Vegetables	80 %
- Set Top Boxes	30 %
- Furniture Products	from 65 to 100%
- Electrical and telecom cable products	90%

Note: Other designated sectors may be added by DTI in future. When inviting bids/quotations where local content is applicable, municipalities must indicate this in the bid advertisement.

The MBD 6.2, SABS Specification SATS 1286:2011, and DTI Guidance on the calculations of local content [available on DTI's official website: http://www.thedti.gov.za] should also be included in the bid document/quotation.

The supplier has to proof that the product he offers does indeed comply with the stipulated thresholds. In order to do this there are three annexures which the supplier has to fill in and submit together with the bid document/quotation. These forms are also available on the DTI Guidance on the calculations of Local content.

It is advisable that municipalities attach the Guidance document to the bid documents/quotations in order to assist the suppliers to fill in the bid documents. A two stage evaluation process may be followed:

-First stage: calculate if the bidder adheres to the local content percentage requirement.

-Second stage: Only the bidders who comply with the local content percentage requirement will be evaluated further.

Management of expansion or variation of orders against the original contract

Contracts may be expanded or varied by not more than 20% for construction related goods, services and /or infrastructure projects and 15% for all other goods and/or services of the original value of the contract. Furthermore, anything beyond the above mentioned thresholds must be reported to council. Any

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expansion or variation in excess of these thresholds must be dealt with in terms of the provisions of Section 116 (3) of the MFMA which will be regarded as an amendment of the contract.

The contents of this paragraph are not applicable to transversal contracts, facilitated by the relevant treasuries on behalf of municipalities and specific term contracts. The latter refers to orders placed as and when commodities are required and at the time of awarding contracts, the required quantities were unknown.

Commencement

52. This reviewed policy takes effect from 1 July 2019.

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