

EPHRAIM MOGALE

LOCAL MUNICIPALITY

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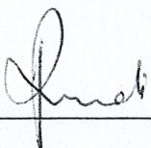
PUBLIC NOTICE

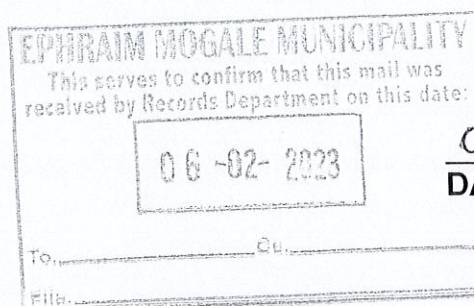
CALL FOR COMMENTS ON THE AMENDED SCM POLICY IN LINE WITH THE NEW PREFERENTIAL PROCUREMENT REGULATIONS, 2022.

Notice is hereby given as per Council Resolution OC5/33/2023 in accordance with the Provisions of Local Government: Municipal Systems Act, 32 of 2000 and Local Government: Municipal Finance Management Act, 56 of 2003 that Ephraim Mogale Local Municipality calls on all stakeholders to comment on the draft Supply Chain Management Policy that was amended to be in line with the new Preferential Procurement Regulations 2022.

Ephraim Mogale Local Municipality is in the process of reviewing its SCM Policy to be in line with the newly gazetted Preferential Procurement Regulations 2022 as per gazette No. 47452 issued on the 04th of November 2022 which were to come into effect on the 16th of January 2023.

Enquiries/Comments must be lodged within 14 days from date of publication of this notice to the Manager SCM Mr MSJ Madisha at jmadisha@emogalelm.gov.za / ephmlmsupplychain@emogalelm.gov.za. Contact details during office hours 07H30 to 16H30 013 261 8450/8462/8448/8496/8541. The draft SCM Policy can be access from the municipal website at www.ephraimmogalelm.gov.za or also access from the municipal satellites offices, library.


RAMPEDI M.R.
ACTING MUNICIPAL MANAGER



03/02/2023
DATE



Ephraim Mogale Local Municipality

**2022/2023 Medium Term Revenue and Expenditure
Framework (MTREF) Policy**

DRAFT MUNICIPAL SUPPLY CHAIN MANAGEMENT POLICY

**MUNICIPAL SUPPLY CHAIN MANAGEMENT POLICY
MUNICIPAL FINANCE MANAGEMENT ACT, 2003
PREFERENTIAL PROCUREMENT REGULATIONS, 2022**

EPHRAIM MOGALE LOCAL MUNICIPALITY

SUPPLY CHAIN MANAGEMENT POLICY

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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 the municipality 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 Amended PPPFA of 2022 and PPR of 2022);
- (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);

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

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

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

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

“Highest acceptable tender” means a tender that complies with all specifications and conditions of tender and that has the highest price compared to other tenders;

“HDI” – “Historically Disadvantaged Individual (HDI)” – means a South African Citizen (1) who, due to the apartheid policy that had been in place, had no franchise in national elections prior to the introduction of the Constitution of the Republic of South Africa, 1983 (Act No. 110 of 1983) or the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993) (“the Interim Constitution”); and/or (2) Who is a female; and /or (3) Who has a disability; Provided that a person who obtained South African citizenship on or after the coming to effect of the Interim Constitution, is deemed not to be an HDI;

“Lowest acceptable tender” means a tender that complies with all specifications and conditions of tender and that has lowest price compared to other tenders;

“Price” means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;

“Specific goals” means specific goals as contemplated in section 2(1)(d) of the Act which may include contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender and disability including the implementation of programmes of the Reconstruction and Development Programme as published in Government Gazette No. 16085 dated 23 November 1994.

“tender” means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;

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“tender for income-generating contracts” means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions;

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CHAPTER 1

IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

Supply chain management policy

2. (1) All officials and other role players in the supply chain management system of the municipality

must implement this Policy in a way that –

- (a) gives effect to –
 - (i) section 217 of the Constitution; and
 - (ii) Part 1 of Chapter 11 and other applicable provisions of the Act;
- (b) is fair, equitable, transparent, competitive and cost effective;
- (c) complies with –
 - (i) the Regulations; and
 - (ii) any minimum norms and standards that may be prescribed in terms of section 168 of the Act;
- (d) is consistent with other applicable legislation;
- (e) does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and
- (f) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.

- (2) This Policy applies when the municipality –

- (a) procures goods or services;
- (b) disposes goods no longer needed;
- (c) selects contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies; or

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(3) This Policy, except where provided otherwise, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Act, including –

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

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 proposed Amendments to the Council that differs from the model policy issued by the National Treasury, the accounting officer must –

- (A) ensure that such proposed amendments comply with the Regulations; and
- (b) Report any deviation from the model Policy to the National Treasury and the relevant provincial treasury.

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

Delegation of supply chain management powers and duties

4. (1) the council hereby delegates all powers and duties to the accounting officer which are necessary to enable the accounting officer –
- (a) To discharge the supply chain management responsibilities conferred on accounting officers in terms of –

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- (i) Chapter 8 or 10 of the Act; and
- (ii) This Policy;
- (b) to maximise administrative and operational efficiency in the implementation of this Policy;
- (c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of this Policy; and
- (d) To comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.

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

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

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

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) of this paragraph and paragraph 4 of this Policy.

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(2) The power to make a final award –

(a) above R10 million (VAT included) may only be exercised by the Accounting Officer after considering a report submitted by a council approved external advisor;

(b) between R200 000 to R10 million (VAT included) may be exercised by the Accounting Officer after considering the reports and recommendations submitted the bid evaluation committee, and the bid adjudication committee;

(c) between R30 000 to R200 000 (VAT included) may be exercised by the Accounting Officer committee after considering the reports and recommendations submitted by the bid evaluation committee and bid adjudication;

(d) less than R30 000 (VAT included) may be exercised by the Head of the Department after considering the reports and recommendations of the bid adjudication committee on condition that where he/she differs from the adjudication committee the accounting officer must make a final allocation.

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

- (a) The amount of the award;
- (b) The name of the person to whom the award was made; and
- (c) The reason why the award was made to that person.

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

- (a) To the accounting officer, in the case of an award by –
 - (i) The Chief Financial Officer;

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- (ii) A Director of a Department; or
- (iii) A bid adjudication committee of which the Chief Financial Officer or a Director of a Department is a member; or
- (b) to the Chief Financial Officer or the Director of a Department responsible for the relevant bid, in the case of an award by –
 - (i) a manager referred to in subparagraph (2)(c)(iii); or
 - (ii) a bid adjudication committee of which the Chief Financial Officer or a Director of a Department 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** reserves its right to maintain oversight over the implementation of this Policy.

- (2) For the purposes of such oversight the accounting officer must –
 - (a) (i) within 30 days of the end of each financial year, submit a report on the implementation of this Policy and the supply chain management policy of any municipal entity under the sole or shared control of the municipality, to the council of the municipality; and

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- (ii) Whenever there are serious and material problems in the implementation of this Policy, immediately submit a report **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 should be established to implement this Policy.

(2) The supply chain management unit operates under the direct supervision of the Chief Financial Officer.

Training of supply chain management officials

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

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CHAPTER 2

SUPPLY CHAIN MANAGEMENT SYSTEM

Format of supply chain management system

9. This Policy provides systems for –

- (i) Demand management;
- (ii) Acquisition management;
- (iii) Logistics management;
- (iv) Disposal management;
- (v) Risk management; and
- (vi) Performance management.

Part 1: Demand management

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 and the SDBIP

(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.

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- (d) To undertake appropriate industry analysis and research to ensure that innovations and technological benefits are maximized.
- (e) Develop Procurement Plans aligned to the IDP, SDBIP and BUDGET, which includes major activities associated with identifying demand as such:-

Part 2: Acquisition management

System of acquisition management

- 11.** (1) the accounting officer must implement the system of acquisition management set out in this Part in order to ensure –
- (a) That goods and services are procured by **the municipality** in accordance with authorised processes only;
 - (b) That expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the Act;
 - (c) That the threshold values for the different procurement processes are complied with;
 - (d) That bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation;
And
 - (e) That any Treasury guidelines on acquisition management are properly taken into account.
- (2) 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.

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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.

Range of procurement processes

- 12.** (1) Goods and services may only be procured 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 001 up to R30 000 (VAT included);
 - (c) Formal written price quotations for procurements of a transaction value over R30 001 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 where the contract period is more than 12 months.
- (2) The accounting officer may, in writing-
- (a) lower, but not increase, the different threshold values specified in subparagraph (1); or
 - (b) Direct that –
 - (i) Written or verbal quotations be obtained for any specific procurement of a transaction value lower than R2 000;
 - (ii) Formal written price quotations be obtained for any specific procurement of a transaction value lower than R30 000; or
 - (iii) A competitive bidding process be followed for any specific procurement of a transaction value lower than R200 000 (VAT included).

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- (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.
- (4) The range of procurement processes set out in paragraph 12(1) above can graphically be set out as follows:

PROCESS	VALUE	ADVERTISEMENT
Petty Cash Purchases	Up to R2000.00 [VAT included]	No
Formal Written Quotations	Over R2000 [VAT included] up to R 30 000 [VAT included]	No
Formal Written Price Quotations	Over R 30 001 [VAT included] up to R 200 000 [VAT included]	Municipal notice boards and website, e-tender
Competitive Bidding	Over R 200 001 [VAT included] or Long Term Contracts exceeding one [1] year	Newspaper and municipal website, e-tender

- (5) Authorisation Thresholds are outlined as follows;

Divisional Managers	Up to R10 000
Unit Managers	R10 001 up to R30 000

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;
 - (iv) CSD MAAA number
- (b) Has authorized the **municipality** to obtain/verify any tax clearance from the South African Revenue Services that the provider's tax matters are in order; and
- (c) The tenderer or any of its directors is not listed in the National Treasury's database as a person prohibited from doing business with the public sector;

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(d) has provided proof that (for the purposes of quotations/bids above R30 000) not any municipal rates and taxes or municipal service charges are owed by the tenderer or any of its directors to the municipality or to any other municipality or municipal entity, and are in arrears for more than three months;

(e) Has indicated –

- (i) Whether he or she is in the service of the state, or has been in the service of the state in the previous twelve months;
- (ii) if the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the state, or has been in the service of the state in the previous twelve months; or
- (iii) Whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in subparagraph (ii) is in the service of the state, or has been in the service of the state in the previous twelve months.

(f) The tenderer or any of its directors has not failed to perform satisfactorily on a previous contract with the municipality or any other organ of state after written notice was given to the tenderer or any of its directors that the performance was unsatisfactory.

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 or verbal quotations and formal written price quotations which CSD compliant; and Ephraim Mogale Local Municipality will utilize a list of accredited providers from the CSD

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- (b) at least once a year through newspapers commonly circulating locally, the website and any other appropriate ways, invite prospective providers of goods or services to apply for evaluation and listing as accredited prospective providers;
 - (c) Specify the listing criteria for accredited prospective providers which must include at least the requirement to submit proof of compliance with:-
 - (i) **CSD MAAA Supplier Number;**
 - (ii) Municipal rates and tax payments; and
 - (d) Disallow the listing of
 - (i) Any prospective provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector.
 - (j) Any prospective provider whose not registered with the central supplier database with national treasury
- (2) The list must be updated **at least as and when the supplier is validated and added to CSD** 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.

Petty cash purchases (Up to R2000)

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) That minor items are purchased for up to R2000, 00 (VAT included) where it is impractical, impossible or not cost-effective to follow the official procurement process and is strictly of a reimburse nature and not for advances.
- (b) That 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

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(ii) Receipts and appropriate documents for each purchase.

(c) The Chief Financial Officer will authorize officials from his department to keep petty cash registers and to grant refunds for cash purposes

Written or verbal quotations

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

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

Formal written price quotations (>R2 000 up to R30 000)

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/CSD;

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- (b) Quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria set out in paragraph 14(1) (b) and (c) of this Policy;
- (c) if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the Chief Financial Officer or an official designated by the Chief Financial Officer, and
- (d) The accounting officer must record the names of the potential providers and their written quotations.
- (e) Offers below R30 000 (VAT included) must be awarded based on compliance to specifications and conditions of contract, ability and capability to deliver the goods and services and lowest price;

(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.

Formal written price quotations (>R30 000 and up to R200 000)

18. The procedure for the procurement of goods or services through written or verbal quotations or formal written price quotations, is as follows:

- (a) When using the list of accredited prospective providers the accounting officer must promote ongoing competition amongst providers by inviting providers to submit quotations on a rotation basis;
- (b) all requirements in excess of R30 000 (VAT included) that are to be procured by means of formal written price quotations must, in addition to the requirements of paragraph 17, be advertised for at least seven days on the website and an official notice board of the **municipality and e-tender**;
- (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 or verbal quotations and formal written price quotations accepted by an official acting in terms of a sub delegation;
- (e) the Chief Financial Officer must set requirements for proper record keeping of written quotations and final written price quotations.
- (f) Acceptable offers, which are subject to the preference points system (Amended PPPFA of 2017 and PPR of 2017 and associated regulations), must be awarded to the bidder who scored the highest points;
- (g) The received bids, the bid amounts, and the awards made must be published on the municipal website and on notice board, for public viewing.

Competitive bids (Greater than R200 000)

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.

(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.

Process for competitive bidding

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

- (a) Compilation of bidding documentation as detailed in paragraph 21;
- (b) Public invitation of bids as detailed in paragraph 22;
- (c) Site meetings or briefing sessions as detailed in paragraph 22;
- (d) Handling of bids submitted in response to public invitation as detailed in paragraph 23;

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- (e) Evaluation of bids as detailed in paragraph 28;
- (f) Award of contracts as detailed in paragraph 29;
- (g) Administration of contracts
 - (i) After approval of a bid, the accounting officer and the bidder must enter into a written agreement. (GCC &/SLA)
- (h) Proper record keeping
 - (i) Original / legal copies of written contracts agreements should be kept in a secure place for reference purposes.

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 and any special conditions of contract, if specified;
 - (ii) Any Treasury guidelines on bid documentation; and
 - (iii) The requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;
- (b) include the preference points system to be used, goals as contemplated in the Preferential Procurement Regulations 2017 and evaluation and adjudication criteria, including any criteria required by other applicable legislation;
- (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

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- (bb) since their establishment if established during the past three years;
- (ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;
- (iii) Particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
- (iv) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality or municipal entity is expected to be transferred out of the Republic; and
- (e) Stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law.
- (f) where surety is required it shall be in the form of cash, a certified cheque, or a bank guarantee from a banking institution registered in terms of the Banks Act, 1965 (Act No. 23 of 1965) or from an insurer registered in terms of the Insurance Act, 1943 (Act No. 27 of 1943). Where bids in Category A cannot raise the required surety of 2, 5%, and it is feasible to deduct the amount from the Preliminary and General (P+G) payment certificate, such concessions may be granted;

Guarantees will be required as follows:

CATEGORY	PROJECT VALUE	GUARANTEE
A	< R500 000	2,5%
B	R500 001 – R1 000 000	5%
C	R1 000 001 – R2 000 000	7,5%

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	000	
D	>R2 000 000	10%

- (g) indicate the value or extent to which the execution of the contract should or should not be subcontracted; and
- (h) submit a certificate from the Department of Labour indicating compliance with the Occupational Health and Safety Act, 1993 (Act No 85 of 1993).
- (i) A non-refundable charge in terms of the Council's approved tariff structure shall be raised for bid forms, plans, specifications, samples and any other bid documentation, depending on the nature, magnitude and value of technical information or samples provided by the municipality.
- (j) Bid documents may allow for bidders to bid for one or more items or for a part of one or more items but the municipality reserves the right to accept part of a bid or a complete bid or quotation even if it is not the lowest, provided the interests of the municipality are best served thereby. Bid documents must be specific as certain contracts, e.g. the construction of a bridge, may require that the whole contract is to be completed by the same contractor.
- (k) Where bidders insert prices on price lists supplied by the municipality they shall delete items for which they do not bid or if the price has been included elsewhere in the price list. After bid/quotations have been opened bidders may not supplement their original offer if the original offer was incomplete.

Summary of CSD

Municipal rates and taxes not older three months for COMPANY & DIRECTORS

Public invitation for competitive bids

22. (1) the procedure for the invitation of competitive bids, is as follows:

(a) Any invitation to prospective providers to submit bids must be by means of an e-TENDER PUBLICATION PORTAL, the website of the municipality and the municipal notice board and must at least contain the following information:

- bid description ☐ bid number

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- name of municipality ☐ the physical local where the goods, services or works specified in the bid are required
- the closing date and time of the bid ☐ municipal conduct details
- physical location where hard copies can be collected ☐ physical location where bids should be delivered
- the bid documents (MBD's, terms of reference, GCC and any other relevant documents)

- (b) The information contained in a public advertisement, must include –
- (i) the closure date for the submission of bids, which may not be less than 30 days in the case of transactions over R10 million (VAT included), or which are of a long term nature, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to subparagraph (2) of this policy;
 - (ii) A statement that bids may only be submitted on the bid documentation provided by the municipality; and
 - (ii) Date, time and venue of any proposed site meetings or briefing sessions;
 - (iii) A statement stipulating that bids submitted late and bidders coming late for site meetings will be disqualified
 - (iv) Indicating whether or not the bid will be evaluated on functionality and stipulate the weighting criteria
 - (v) Pre-qualification criteria in terms of PPFA 2017 number 4
 - (vi) Sub-contracting criteria (30%) in terms of PPPFA 2017 number 9

(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.

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- (5) Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies.
- (6) The validity period must be set out for all competitive bids and for formal written price quotations.

Procedure for handling, opening and recording of bids

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

- (a) Bids–
 - (i) Must be opened only in public;
 - (ii) Must be opened at the same time and as soon as possible after the period for the submission of bids has expired; and
 - (iii) Received after the closing time should not be considered and returned unopened immediately.
- (b) Any bidder or member of the public has the right to request that the names of the bidders who submitted bids in time must be read out and, if practical, also each bidder's total bidding price;
- (c) No information, except the provisions in subparagraph (b), relating to the bid should be disclosed to bidders or other persons until the successful bidder is notified of the award; and
- (d) The accounting officer must –
 - (i) record in a register all bids received in time;
 - (ii) Make the register available for public inspection; and
 - (iii) Publish the entries in the register and the bid results on the website.

(2) Opening of bids and quotations

- (a) All bids in excess of R200 000 (VAT included) shall be opened in public at the Supply Chain Management Unit as soon as possible after the expiry of the advertised closing date and time. At such

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public bid openings the names of the bidders and the prices are read out. All quotations i.e. responses received in terms of procurement mechanisms below the value of R200 000 (VAT included) are excluded from public bid openings. When such quotations are opened, the names of bidders who responded are therefore not read out. This is to prevent collusion between a limited number of bidders or, in the event of one supplier only, the creation of a monopolistic situation.

- (b) All bids and quotations i.e. responses received in terms of procurement mechanisms, of a value of R200 000 (VAT included) and above shall be opened in public at the relevant stores offices as soon as possible after the expiry of the advertised closing date and time. At such public bid openings the names of the bidders and the prices are read out.
- (c) All bids and quotations, addressed to the municipality, shall be opened by a Senior employee in the presence of the delegated official of the Divisional Manager Supply Chain Management Unit, or a nominee.
- (d) Bids and quotations, which fall within the jurisdiction of Unit Managers, shall be opened in the presence of at least two employees, one of which should be a senior employee and neither of them shall have a personal interest in the bid or quotation or be involved in the adjudication thereof.
- (e) Both officials shall sign the bids and declare that they were present at the opening of the bids.

(3) Stamping of bids and reading out of names

- (a) As each bid is opened, the name of the bidder and the amount shall be read out. An employee shall date-stamp the bid or quotation and all enclosures related to prices, delivery periods and special conditions. Bids and quotations shall be numbered in the sequence

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in which they have been opened and the words "and last" shall be endorsed on the last bid or quotation. In instances where only one bid has been received the words "and only" shall be endorsed on such bid. **If bids are not submitted in sealed envelopes clearly labeled with the bid number and (or) description will not be considered.**

- (b) Where prices have not been inserted in all relevant spaces on the form of offer and such items have not been deleted by bidders, such spaces shall be stamped "no price" by the employee who opens the bids or quotations.

Note: It is the policy of the municipality to disclose bid prices. With regard to quotations of a value below R200 000, names of bidders and prices should not be read out.

- (c) Details on how bidders responded to the relevant evaluation criteria e.g. SMME contribution, community benefits, job creation, environmental impact, etc. should not be disclosed.
- (d) Bids opened in public should be registered in the Bidding Register.

(4) Late Bids

- (a) Bids or quotations arriving after the specified closing time shall not be considered and where practicable shall be returned to the bidder unopened with a letter explaining the circumstances.
- (b) Bid documents must clearly state the venue where the bidding box is situated for each bid. Any bid delivered to the wrong bid box will not be considered, even if it was delivered on time.
- (c) Where it is necessary to open a late bid or quotation to obtain the name and address of the sender, each page of the document shall be stamped "late bid" before the bid is returned to the bidder. The

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envelope must be stamped and initialled in like manner and must be retained for record purposes.

(5) Amendments before the closing date

- (a) The municipality is entitled to amend any bid condition, validity period, specification or plan, or extend the closing date of such a bid or quotation before the closing date, provided that such amendments or extensions are advertised and/or that all bidders to whom bid documents have been issued, are advised in writing per registered post or by fax of such amendments or of the extension clearly reflecting the new closing date and time. For this reason, employees issuing bids shall keep a record of the names, addresses and contact numbers of the persons or enterprises to whom bid documents have been issued.

(6) Dealing with bids and quotations if the closing date thereof has been extended

- (a) Where the closing date of a bid or quotation is extended, the notice which makes known such extensions shall also mention the bids or quotations already received, will be retained unopened in the bidding box and be duly considered after the expiry of the extended period, unless the bidder requests that such bid or quotation to be returned to the bidder or unless the bidder cancels it by submitting a later dated bid or quotation before the extended closing date.

(7) No amendments after the closing date allowed

- (a) The municipality is not entitled to amend any bid condition, validity period, specification or plan after the closing date of the bid and before the acceptance of a bid or quotation has been notified.

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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 and as far as practical be made part of the final contract.
- (3) Communication with bidders and prospective providers
- (a) Where bids and quotations have been submitted to the municipality, a bidder may not communicate with any councillor or official on any matter regarding his bid, quotation or offer other than a notice of withdrawal.
 - (b) No municipal personnel may communicate with a bidder or any other party who has an interest in a bid, on the one hand, and any employee of the municipality, on the other hand, during the period between the closing date for the receipt of the bid or quotation (or date of receipt of an offer), and the date of notification of the successful bidder of acceptance of his bid, quotation or offer, except as provided for in paragraph (c) below. Every such case of unauthorized communication shall forthwith be reported to the Supply Chain Management Unit as well as the relevant Chairperson of the Bid Adjudication Committee. A bid or quotation in respect of which unauthorized communication has occurred may be disqualified.
 - (c) After informing the Accounting Officer the Chairperson of the Bid Adjudication Committee may authorize an employee in

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writing to communicate with a bidder during the period mentioned in paragraph 24(3)(b) above for the purpose of:-

- (i) Explaining and verification of declarations made in the bid response;
 - (ii) Confirming that a quoted price is correct;
 - (iii) Confirming technical particulars and the compliance thereof with specifications;
 - (iv) Determining whether there will be any change in price if only a portion of work is awarded to a bidder;
 - (v) Requesting an explanation for an unreasonable price increase when it is compared with a previous price and the interim movement of a relevant price index;
 - (vi) Clarifying delivery times/quantities;
 - (vii) Extending the validity period of a bid, quotation or offer;
 - (viii) Amending any bid condition, validity period or specification after the closing date; and
 - (ix) Clarifying any other commercial aspect.
- (d) In all cases where authority has been granted to communicate with bidders in terms of paragraph 25(3)(c) above, it should be clearly stated in the submission to the Bid Adjudication Committee the nature of the communication as well as by whom such authority to communicate has been granted.
- (e) All changes and/or clarification of specifications shall be conveyed to all bidders by means or methods as specified in paragraph 23.

Two-stage bidding process

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

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- (a) Large complex projects;
 - (b) Projects where it may be undesirable to prepare complete detailed technical specifications; or
 - (c) Long term projects with a duration period exceeding three years.
- (2) In the first stage technical proposals on conceptual design or performance specifications should be invited, subject to technical as well as commercial clarifications and adjustments.
- (3) In the second stage final technical proposals and priced bids should be invited.

Added

Tenders to be evaluated on functionality

Cancellation-CAPTURE AS IN THE REVISED PPPFA REGULATION 2017

Committee system for competitive bids

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

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- (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) A bid specification committee must compile the specifications for each procurement of goods or services by the **municipality**.
- (2) Specifications –
 - (a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
 - (b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organisation, or an authority accredited or recognised by the South African National Accreditation System with which the equipment or material or workmanship should comply;
 - (c) must, where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;
 - (d) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or 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”;

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- (f) must indicate each specific goal for which points may be awarded in terms of the points system set out in the Preferential Procurement Regulations 2001; and
 - (g) must be approved by the accounting officer prior to publication of the invitation for bids in terms of paragraph 22 of this Policy.
- (3) A bid specification committee must be composed of one or more officials of the **municipality** preferably the manager responsible for the function involved, and may, when appropriate, include external specialist advisors.
- (4) No person, advisor or corporate entity involved with the bid specification committee, or director of such a corporate entity, may bid for any resulting contracts.
- (5) The bid specification committee must include an official representing the Supply Chain Management Section.

Bid evaluation committees

28. (1) A bid evaluation committee must –
- (a) evaluate bids in accordance with –
 - (i) the specifications for a specific procurement; and
 - (ii) the points system set out in terms of paragraph 27(2)(f).
 - (b) evaluate each bidder's ability to execute the contract;
 - (c) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears, and;
 - (d) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.

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- (2) A bid evaluation committee must as far as possible be composed of-
- (a) officials from departments requiring the goods or services; and
 - (b) at least one supply chain management practitioner of the **municipality**.

Bid adjudication committees

29. (1) A bid adjudication committee must –
- (a) consider the report and recommendations of the bid evaluation committee; and
 - (b) either –
 - (i) depending on its delegations, make a final award or a recommendation to the accounting officer to make the final award; or
 - (ii) make another recommendation to the accounting officer how to proceed with the relevant procurement.
- (2) A bid adjudication committee must consist of at least four senior managers of the **municipality** which must include –
- (a) the Chief Financial Officer or, if the Chief Financial Officer is not available, another manager in the budget and treasury office reporting directly to the Chief Financial Officer and designated by the Chief Financial Officer; and
 - (b) at least one senior supply chain management practitioner who is an official of the **municipality**; and
 - (c) a technical expert in the relevant field who is an official, if such an expert exists.
- (3) The accounting officer must appoint the chairperson of the committee. If the chairperson is absent from a meeting, the

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members of the committee who are present must elect one of them to preside at the meeting.

- (4) Neither a member of a bid evaluation committee, nor an advisor or person assisting the evaluation committee, may be a member of a bid adjudication committee.
- (5) (a) If the bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee, the bid adjudication committee must prior to awarding the bid –
 - (i) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears, and;
 - (ii) notify the accounting officer.
- (b) The accounting officer may –
 - (i) after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in paragraph (a); and
 - (ii) if the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.
- (6) The accounting officer may at any stage of a bidding process, refer any recommendation made by the evaluation committee or the adjudication committee back to that committee for reconsideration of the recommendation.
- (7) The accounting officer must comply with section 114 of the Act within 10 working days

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- (8) Before award consider internal audit to review bid of R10 million (circular 68) and circular 34 for BAC guidelines for quorum

Procurement of banking services

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

Procurement of IT related goods or services (Circular 3)

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

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- (b) the transaction value of a contract to be procured whether for one or more years exceeds R50 million (VAT included).
- (4) If SITA comments on the submission and the **municipality** disagrees with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the council, the National Treasury, the relevant provincial treasury and the Auditor General.

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

- 32. (1) The accounting officer may procure goods or services under a contract secured by another organ of state, but only if –
 - (a) the contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;
 - (b) there is no reason to believe that such contract was not validly procured;
 - (c) there are demonstrable discounts or benefits to do so; and
 - (d) that other organ of state and the provider have consented to such procurement in writing.
- (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

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

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

Proudly SA Campaign

34. **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.

Appointment of consultants

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

- (2) Consultancy services must be procured through competitive bids if
- (a) the value of the contract exceeds R200 000 (VAT included);
 - or
 - (b) the duration period of the contract exceeds one year.

(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

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- (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
 - (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.

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- (3) The Accounting Officer must record the reasons for any deviations in terms of paragraphs 37(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.
- (4) Submit the deviation register to provincial treasury on quarterly basis

Unsolicited bids

37. (1) In accordance with section 113 of the Act there is no obligation to consider unsolicited bids received outside a normal bidding process.
- (2) The accounting officer may decide in terms of section 113(2) of the Act to consider an unsolicited bid, only if –
- (a) the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;
 - (b) the product or service will be exceptionally beneficial to, or have exceptional cost advantages;
 - (c) the person who made the bid is the sole provider of the product or service; and
 - (d) the reasons for not going through the normal bidding processes are found to be sound by the accounting officer.
- (3) If the accounting officer decides to consider an unsolicited bid that complies with subparagraph (2) of this policy, the decision must be made public in accordance with section 21A of the Municipal Systems Act, together with –
- (a) reasons as to why the bid should not be open to other competitors;
 - (b) an explanation of the potential benefits if the unsolicited bid were accepted; and
 - (c) an invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.

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(4) The accounting officer must submit all written comments received pursuant to subparagraph (3), including any responses from the unsolicited bidder, to the National Treasury and the relevant provincial treasury for comment.

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

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

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

- (a) any comments submitted by the public; and
- (b) any written comments and recommendations of the National Treasury or the relevant provincial treasury.

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

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

Combating of abuse of supply chain management system

38. (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 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 –

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- (i) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
- (ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and
- (g) reject the bid of any bidder if that bidder or any of its directors –
 - (i) has abused the supply chain management system of the **municipality** or has committed any improper conduct in relation to such system;
 - (ii) has been convicted for fraud or corruption during the past five years;
 - (iii) has willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
 - (iv) has been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).
- (2) The accounting officer must inform the National Treasury and relevant provincial treasury in writing of any actions taken in terms of subparagraphs (1)(b)(ii), (e) or (f) of this policy.

Part 3: Logistics, Disposal, Risk and Performance Management

Logistics management

39. The accounting officer must establish and implement an effective system of logistics management, which must include -

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- (a) the monitoring of spending patterns on types or classes of goods and services incorporating, where practical, the coding of items to ensure that each item has a unique number;
- (b) the setting of inventory levels that includes minimum and maximum levels and lead times wherever goods are placed in stock;
- (c) the placing of manual or electronic orders for all acquisitions other than those from petty cash;
- (d) before payment is approved, certification by the responsible officer that the goods and services are received or rendered on time and is in accordance with the order, the general conditions of contract and specifications where applicable and that the price charged is as quoted in terms of a contract;
- (e) appropriate standards of internal control and warehouse management to ensure that goods placed in stores are secure and only used for the purpose for which they were purchased;
- (f) regular checking to ensure that all assets including official vehicles are properly managed, appropriately maintained and only used for official purposes; and
- (g) Monitoring and review of the supply vendor performance to ensure compliance with specifications and contract conditions for particular goods or services.

Disposal management

40. (1) The Accounting Officer in conjunction with the Head of Department is responsible for the management of Council's assets which includes the disposal and maintenance thereof.
- (2) Over and above the conditions contained in this policy the processes described in the municipality's asset management policy must be adhere to by the Accounting Officer and Head of Departments.

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(3) The additional criteria for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to section 14 of the Act, are as follows –

(a) Movable assets:

- (i) the asset is uneconomical to repair;
- (ii) the asset is irreparable;
- (iii) the relevant department has no further use for the asset;
and
- (iv) no other department requires the asset.

(b) Immovable assets:

- (i) the relevant department has no further use for the asset;
- (ii) no other department requires the asset; and
- (iii) a member of the public wishing to acquire the asset can utilize the asset to the advantage of the community.

(3) Assets may be disposed of by –

- (i) Transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;
- (ii) Transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
- (iii) Selling the asset; or
- (iv) Destroying the asset.

(4) The accounting officer must ensure that –

- (a) immovable property is sold only at market related prices except when the public interest or the plight of the poor demands otherwise;

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- (b) movable assets are sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous;
 - (c) Firearms are not sold or donated to any person or institution within or outside the Republic unless approved by the National Conventional Arms Control Committee;
 - (d) Immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise;
 - (e) All fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed;
 - (f) Where assets are traded in for other assets, the highest possible trade-in price is negotiated; and
 - (g) In the case of the free disposal of computer equipment, the provincial department of education is first approached to indicate within 30 days whether any of the local schools are interested in the equipment.
- (5) The disposal of immovable assets is subject to the following principles
- (a) Payment of the purchase price and costs:-
 - (i) A 20% deposit shall be payable upon the date of signature of the proposed Deed of Sale, which deposit shall not be refundable should the purchaser decide not to proceed with the registration of the transfer for whatsoever reason, unless adverse soil conditions can be proven.
 - (ii) A bank guarantee for the outstanding balance of the purchase price shall be submitted to the Corporate and Legal Services Department within 30 (thirty) days of the date of signing the Deed of Sale, which shall be payable upon registration of transfer of the property.

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- (iii) The proceeds of the sale shall be deposited into the Land Trust Fund.
- (iv) All costs (advertising, rezoning, obtaining of a valuation, etc.) pertaining to the transaction shall be borne by the applicant/successful bidder. The applicant/successful bidder will deposit an amount equal to an estimate of the total cost to secure his obligations in this regard and undertake to pay any unforeseen excess costs. The municipality will be liable to refund the balance of the unexpended costs, should the alienation not be finalised within a reasonable time or within the time limit referred to in the bidder document or deed of sale, or should the actual deposit be less than the expenditure occurred, the applicant/successful bidder shall pay the outstanding costs.

(b) Standard Conditions:-

- (i) The purchaser shall commence with the development of the property within six (6) months after the date of transfer and shall complete the development within eighteen (18) months thereafter.
- (ii) Should the purchaser fail to commence with or complete the development as stipulated in paragraph 41(4)(b)(ii) above, the property shall revert to the municipality and be transferred back to the municipality at the discretion of the Accounting Officer.
- (iii) Should the property revert to the municipality, the municipality shall refund to the purchaser an amount equal to the amount paid by the purchaser in respect of the purchase price, less all costs attached to the retransfer of the property into the name of the municipality, which costs shall be for the account of the purchaser. The municipality will only compensate the purchaser for any improvements

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erected on the property after the property has been resold to another purchaser and the purchase has been paid by said purchaser.

- (iv) In order to comply with the requirements of the Deeds Office as set out in Circular No 152 dated 1997.07.03 by the Registrar of Deeds, the above conditions imposed shall not be embodied in the Title Deed to be issued to the purchaser, but instead the following conditions shall be inserted in such deed "The property shall not be transferred without the written approval of the EPHRAIM MOGALE LOCAL MUNICIPALITY".
- (v) The use of all immovable assets disposed of in terms of this Policy shall be in accordance with the requirements of the Spatial Development Framework as adopted by the Council by ensuring that the conditions of sale include compliance by purchasers within the principles of the said Framework.
- (vi) All immovable assets sales will be done subject to the necessary environmental legislation being complied with by the purchaser in respect of the intended use of the property.
- (vii) Any sale of immovable assets by the municipality which is to be utilised for purposes of housing to be funded and/or subsidised from National and/or Provincial Housing funds shall be done in compliance with the principles, policies and procedures as contained in National and Provincial Housing legislation and any Housing code and/or Land Procurement Procedures prescribed under such legislation.
- (viii) The extent to which the intended disposal of the immovable property will promote the principles of integration, densification, regeneration and compact development, shall be considered in deciding whether to dispose of the property.

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Risk management

41. (1) the criteria for the identification, consideration and avoidance of potential risks in the supply chain management system, are as follows:

- (a) Non-compliance by the supplier to deliver within the agreed timeframes;
- (b) Supply of inferior goods or services by the supplier;
- (c) Inability of the supplier to provide goods or services as ordered;
- (d) Non adherence to the municipality's Policy with regards to utilisation of preferred suppliers; and
- (e) Procurement of goods or services at prices or of a quality not in the best interest of the municipality.

(2) Risk management must include –

- (a) The identification of risks on a case-by-case basis;
- (b) The allocation of risks to the party best suited to manage such risks;
- (c) Acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;
- (d) The management of risks in a pro-active manner and the provision of adequate cover for residual risks; and
- (e) The assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.

Performance management

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

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to and approved with the budget and the service delivery and budget implementation plan, were achieved

Part 4: Other matters

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

43. (1) The Accounting Officer must ensure that irrespective of the procurement process followed, No award above R15 000 may be made in terms of this Policy to a person whose tax matters have not been declared by the South African Revenue Service to be in order.
- (2) Before making an award to a person the accounting officer must first check with SARS whether that person's tax matters are in order or through obtaining a valid Printed copy of a tax clearance certificate from the bidder with a pin to verify tax status on sars e-filing.
- (3) Where a supplier does not submit a tax compliance status PIN but provides a CSD number, the accounting officer will utilize the CSD number via its website www.csd.gov.za to access the supplier records and verify tax compliance status.
- (4) 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 within 7 working days, written proof from SARS of their tax compliance status or proof from SARS that they have made an arrangement to meet their outstanding tax obligations and should the bidder fail to submit such proof of tax compliance within the timeframe stated above such bid will be rejected.
- (5) Where goods or services have been delivered satisfactorily without any dispute, accounting officer should not delay processing of invoices due to outstanding tax matters.

Prohibition on awards to persons in the service of the state

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44. Irrespective of the procurement process followed, no award may be made to a person in terms of this Policy –

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

Should it come to light that false declaration was made by the bidder then contract must be suspended and payments made to be recovered (Circular 62).

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

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

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

Ethical standards

46. (1) A code of ethical standards as set out in the ***“National Treasury’s code of conduct for supply chain management practitioners and other role players involved in supply chain management”*** should be enforced for officials and other role players in the supply chain management system of the **municipality** in order to promote –

- (a) mutual trust and respect; and
- (b) An environment where business can be conducted with integrity and in a fair and reasonable manner.

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- (2) An official or other role player involved in the implementation of the Supply Chain Management Policy –
- (a) Must treat all providers and potential providers equitably;
 - (b) May not use his or her position for private gain or to improperly benefit another person;
 - (c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350;
 - (d) notwithstanding subparagraph (2) (c), must declare to the accounting officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;
 - (e) must declare to the accounting officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by, **the municipality;**
 - (f) Must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;
 - (g) Must be scrupulous in his or her use of property belonging to **municipality;**
 - (h) Must assist the accounting officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system; and

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- (i) Must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including –
 - (i) Any alleged fraud, corruption, favouritism or unfair conduct;
 - (ii) Any alleged contravention of paragraph 47(1) of this Policy; or
 - (iii) Any alleged breach of this code of ethical standards.
- (3) Declarations in terms of subparagraphs (2)(d) and (e) -
 - (a) Must be recorded in a register which the accounting officer must keep for this purpose;
 - (b) By the accounting officer must be made to **[the mayor of the municipality]** who must ensure that such declarations are recorded in the register.
- (4) The National Treasury's code of conduct must also be taken into account by supply chain management practitioners and other role players involved in supply chain management.
- (5) A breach of the code of ethics must be dealt with as follows -
 - (a) in the case of an employee, in terms of the disciplinary procedures of the **municipality** envisaged in section 67(1)(h) of the Municipal Systems Act;
 - (b) in the case a role player who is not an employee, through other appropriate means in recognition of the severity of the breach.
 - (c) In all cases, financial misconduct must be dealt with in terms of chapter 15 of the Act.

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Inducements, rewards, gifts and favors 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, favor or hospitality to –
 - (i) Any official; or
 - (ii) Any other role player involved in the implementation of this Policy.
- (2) The accounting officer must promptly report any alleged contravention of subparagraph (1) to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the public sector.
- (3) Subparagraph (1) does not apply to gifts less than R350 in value.

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.

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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
 - (b) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.
- (2) The accounting officer, or another official designated by the accounting officer, is responsible for assisting the appointed person to perform his or her functions effectively.
- (3) The person appointed must –
- (a) Strive to resolve promptly all disputes, objections, complaints or Queries received; and
 - (b) Submit monthly reports to the accounting officer on all disputes, objections, complaints or queries received, attended to or resolved.

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- (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.

Payment of sub-contractors or joint venture partners

52. The Chief Financial Officer or an official designated by the Chief Financial Officer may consent to the direct payment of sub-contractors or joint venture partners by way of -
- (a) an approved cession; or
 - (b) an agreement for direct payment.

Extending or varying a contract

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- 53.** (1) Subject to paragraph 54(2), the municipality on its own initiative or upon receipt of an application from the person, body, organisation or corporation supplying goods or services to the municipality in terms of this Policy, may resolve to extend or vary a contract if –
- (a) The circumstances as contemplated in paragraph 37(1)(a) prevail; or
 - (b) With due regard to administrative efficiency and effectiveness, the Accounting Officer deems it appropriate.
- (2) The municipality may not extend or vary a contract –
- (a) More than once;
 - (b) For a period exceeding the duration of the original agreement; or
 - (c) For an amount exceeding the original bid value plus any adjustments in terms of the consumer price index.
- (3) Within one (1) month of the decision referred to in paragraph 54(1), the matters specified in paragraph 54(4) must be –
- (a) Published by the Municipality at least in an appropriate newspaper circulating within the boundaries of the municipality; and
 - (b) Displayed at a prominent place that is designed for that purpose by the Municipality.
- (4) The matters to be published or displayed are –
- (a) The reasons for dispensing with the prescribed procedure;
 - (b) a summary of the requirements of the goods or services; and
 - (c) The details of the person, body, organization or corporation supplying the goods or services.
- (5) The functions of the Accounting Officer in terms of paragraph 54 may not be assigned nor delegated.

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PREFERENTIAL PROCUREMENT REGULATIONS 2022

1. Identification of specific goals for use of quotations and competitive bidding process

1. Identification of goals as contemplated in section 2(1)(d) of the Act which may include contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender and disability including the implementation of programmes of the Reconstruction and Development Programme as published in Government Gazette No. 16085 dated 23 November 1994.

2. Preference points for specific goals

80/20		
Preference Points for specific goals	Means of Verification	Number of Points
People or Business residing with Ephraim Mogale Municipality	Statement of Municipal Rates or Letter from Tribal Authority	5
Women	Identification document	5
People with Disability	Medical Report indicating disability	5
Youth (18 to 34 Years of age)	Identification document	5
90/10		
Preference Points for specific goals	Means of Verification	Number of Points
People or Business residing with Ephraim Mogale Municipality	Statement of Municipal Rates or Letter from Tribal Authority	2.5

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Women	Identification document	2.5
People with Disability	Medical Report indicating disability	2.5
Youth (18 to 34 Years of age)	Identification document	2.5

3 . Identification of preference point system

(1) An organ of state must, in the tender documents, stipulate—

(a) the applicable preference point system as envisaged in regulations 4, 5, 6 or 7;

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

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

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

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

4. 80/20 preference point system for acquisition of goods or services with Rand value equal to or below R50 million

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

$$P_s = 80 \left(1 - \frac{P_t - P_{\min}}{61} \right)$$

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P min

Where-

Ps = Points scored for price of tender under consideration;

Pt = Price of tender under consideration; and

Pmin = Price of lowest acceptable tender.

(2) A maximum of 20 points may be awarded to a tenderer for the specific goal specified for the tender. (The allocation of preference points for tenders above the quotation threshold to be decide and allocated per tender)

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

(4) Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.

5. 90/10 preference point system for acquisition of goods or services with Rand value above R50 million

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

Where-

$$Ps = 90 \left(1 - \frac{Pt - P \min}{P \min} \right)$$

Ps = Points scored for price of tender under consideration;

Pt = Price of tender under consideration; and

Pmin = Price of lowest acceptable tender.

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(2) A maximum of 10 points may be awarded to a tenderer for the specific goal specified for the tender. (The allocation of preference points for tenders above the quotation threshold to be decide and allocated per tender)

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

(4) Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.

6.80/20 preference points system for tenders for income-generating contracts with Rand value equal to or below R50 million

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

$$P_s = 80 \left[1 - \frac{P_t - P_{\max}}{P_{\max}} \right]$$

Where-

P_s = Points scored for price of tender under consideration;

P_t = Price of tender under consideration; and

P_{\max} = Price of highest acceptable tender.

(2) A maximum of 20 points may be awarded to a tenderer for the specific goal specified for the tender. (The allocation of preference points for tenders above the quotation threshold to be decide and allocated per tender)

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

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- (3) Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.

5.90/10 preference point system for tenders for income-generating contracts with Rand value above R50 million

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

$$Ps = 90 \quad 1 - \left(\frac{Pt - Pmax}{Pmax} \right)$$

Where:

Ps = Points scored for price of tender under consideration;

Pt = Price of tender under consideration; and

Pmax= Price of highest acceptable tender.

- (2) A maximum of 10 points may be awarded to a tenderer for the specific goal specified for the tender. (The allocation of preference points for tenders above the quotation threshold to be decide and allocated per tender)

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

- (4) Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.

Criteria for breaking deadlock in scoring

- (1) If two or more tenderers score an equal total number of points, the contract must be awarded to the tenderer that scored the highest points for specific goals.
- (2) If two or more tenderers score equal total points in all respects, the award must be decided by the drawing of lots in the Bid Adjudication Committee.

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Remedies

(1) If the municipality is of the view that a tenderer submitted false information regarding a specific goal, it must—

(a) inform the tenderer accordingly; and

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

(2) After considering the representations referred to in sub regulation (1)(b), the municipality may, if it concludes that such information is false—

(a) disqualify the tenderer or terminate the contract in whole or in part; and

(b) if applicable, claim damages from the tenderer.

Commencement

55. This Policy is called the “Supply Chain Management Policy of the Ephraim Mogale Local Municipality” and takes effect on the xx January 2023

Approved/Amended	By	Date	Council Resolution
Reviewed	CFO, SCM	January 2023	
Approved Amended Policy	Council	January 2023	