



**TSWELOPELE**  
**MUNICIPALITY/MUNISIPALITEIT**  
**Bultfontein/Phahameng/Hoopstad/Tikwana**

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**Supply Chain Management**  
**and Preferential Procurement**  
**Policy**

*Approved by Council  
Implementation date  
29 February 2024*

**Tswelopele Municipality**  
**SUPPLY CHAIN MANAGEMENT POLICY,**  
adopted in terms of section 111 of the  
**LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, NO. 56**  
**OF 2003 and the**  
**MUNICIPAL SUPPLY CHAIN MANAGEMENT REGULATIONS, NOTICE 868**  
**OF 30 MAY 2005**

**TSWELOPELE MUNICIPAL SUPPLY CHAIN MANAGEMENT AND**  
**PREFERENTIAL PROCUREMENT POLICY**

**Date of adoption: [29 February 2024]**

The Council of Tswelopele Municipality resolved..... in terms of section 111 of the Local Government Municipal Finance Management Act (No. 56 of 2003), to adopt the following as the Supply Chain Management Policy of the Municipality.

## TABLE OF CONTENTS

1. Definitions

### CHAPTER 1

#### IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

2. Supply chain management policy
3. Amendment of supply chain management policy
4. Delegation of supply chain management powers and duties
5. Sub-delegations
6. Oversight role of council
7. Supply chain management units
8. Training of supply chain management officials

### CHAPTER 2

#### SUPPLY CHAIN MANAGEMENT SYSTEM

9. Format of supply chain management system
  - Part 1: Demand management*
10. System of demand management
  - Part 2: Acquisition management*
11. System of acquisition management
12. Range of procurement processes
13. General preconditions for consideration of written quotations or bids
14. Lists of accredited prospective providers
15. Petty cash purchases
16. Written or verbal quotations
17. Formal written price quotations
18. Procedures for procuring goods or services through written or verbal quotations and formal written price quotations
19. Competitive bidding process
20. Process for competitive bidding

21. Bid documentation for competitive bids
22. Public invitation for competitive bids
23. Procedure for handling, opening and recording of bids
24. Negotiations with preferred bidders
25. Two-stage bidding process
26. Committee system for competitive bids
27. Bid specification committees
28. Bid evaluation committees
29. Bid adjudication committees
30. Procurement of banking services
31. Procurement of IT related goods or services
32. Procurement of goods and services under contracts secured by other organs of state
33. Procurement of goods necessitating special safety arrangements
34. Proudly SA Campaign
35. Appointment of consultants
36. Deviation from, and ratification of minor breaches of, procurement processes
37. Unsolicited bids
38. Combating of abuse of supply chain management system

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

39. Logistics management
40. Disposal management
41. Risk management
42. Performance management

***Part 4: Other matters***

43. Prohibition on awards to persons whose tax matters are not in order
44. Prohibition on awards to persons in the service of the state
45. Awards to close family members of persons in the service of the state
46. Ethical standards

47. Inducements, rewards, gifts and favours
48. Sponsorships
49. Cancellation of tenders
50. Criteria for breaking deadlock in scoring
51. Awarding of contracts to tenderers not scoring the highest points
52. Remedies
53. Objections and complaints
54. Resolution of disputes, objections, complaints and queries
55. Contracts providing for compensation based on turnover
56. Public private partnerships
57. Contract Management
58. Transversal Contracts
59. Subcontracting
60. Framework Agreements or panel of suppliers appointments
61. Short title and Commencement

## 1. Definitions

**“Act”** means the Municipal Financial Management Act, No. 56 of 2003 and the Preferential Procurement Policy Framework Act, No. 5 of 2000

**“Black people / persons”** has the meaning assigned to it in section 1 of the Broad-Based Black Economic Empowerment Act 53 of 2003.

**“Broad-Based Black Economic Empowerment Act”**: means the Broad-Based Black Economic Empowerment Act, 53 of 2003 and Codes of Good Practice pertaining thereto.

**“Central Supplier Database (CSD)”** means a web-based database for the registration of prospective suppliers.

**“Closing time”** means the time and day specified in the bid documents for the receipt of bids;

**“Competitive bid”** means a bid in terms of a competitive bidding process.

**“Competitive bidding process”** means a competitive bidding process referred to in this Policy.

**“Construction Industry Development Board (CIDB) Act”**: means the Construction Industry Development Board Act, 38 of 2000 and includes the Regulations pertaining thereto.

**“Construction Works” means any work in connection with:**

- the erection, maintenance, alteration, renovation, repair, demolition or dismantling of or addition to a building or any similar structure;
- the installation, erection, dismantling or maintenance of a fixed plant;

- the construction, maintenance, demolition or dismantling of any bridge, dam, canal, road, railway,
- sewer or water reticulation system or any similar civil engineering structure; or the moving of earth, clearing of land, the making of an excavation, piling or any similar type of work.

**“Consultant”** means a person or entity providing expert of specialised services.

**“Contractor”** means any person or entity whose Tender has been accepted by the municipality;

**“Contract participation goal”**: the value of the participation of a specific target group that a contractor must achieve in the performance of a contract, expressed as a percentage of the bid sum less provisional sums, contingencies, and VAT.

**“Contract manager”** means an official of the Municipality who is responsible for the planning for the planning and execution of a transaction involving the procurement of goods, services or works.

**“Contract Owner”** means the senior manager or manager, as the case may be, that is ultimately accountable for all activities during the life cycle of the contract. The Contract Owner can also be seen as the Budget holder.

**“Disability or disabled”** means in respect of a person, a permanent impairment of a physical, intellectual, or sensory function, which results in restricted, or lack of, ability to perform an activity in the manner, or within the range, considered normal for a human being.

**“Emergency”** an emergency (*as referred to in section 36 of this policy*) is an unforeseeable and sudden event with harmful or potentially harmful consequences for the municipality which requires urgent action to address.

**“Emergency dispensation”** means emergency as referred to in paragraph 36(1)(a)(i) of this policy under which one or more of the following is in existence that warrants an emergency dispensation:

- a. The possibility of human injury or death;
- b. The prevalence of human suffering or deprivation of rights;

- c. The possibility of damage to property, or suffering and death of livestock and animals;
- d. The interruption of essential services, including transportation and communication facilities or support services critical to the effective functioning of the municipality as a whole;
- e. The possibility of serious damage occurring to the natural environment;
- f. The possibility that failure to take necessary action may result in the municipality not being able to render an essential community service;
- g. The possibility that the security of the state could be compromised; or
- h. The prevailing situation, or imminent danger, should be of such a scale and nature that it could not readily be alleviated by interim measures, in order to allow time for the formal procurement process.
- i. Emergency dispensation shall not be granted in respect of circumstances other than those contemplated above.

**“e-tender”** a mechanism where all municipalities are required to advertise all their bids and publish notices of all awarded bids, cancellations and deviations, variations and extensions of existing contracts.

**“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;

**“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;

**“Locality”** means the local suppliers and/or service providers that reside within the Municipal area, within the district boundaries or provincial boundaries.

**“Long term contract”** means a contract with a duration period exceeding one year;

**“Contract of a long term nature”** means a contract as defined by section 33(1) of the Municipal Finance Management Act imposing financial obligations on the Municipality beyond the first three years covered in the approved annual budget (*reference to section 22 of this policy*);

**“list of accredited prospective providers”** means the list of accredited prospective providers which the Mphashe Local 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 Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);
- (b) the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003); and
- (c) the Construction Industry Development Board Act, 2000 (Act No.38 of 2000);

**“Ownership or owned”** means the measurement of ownership as per Code 100 of the B-BBEE Codes.

**“Preference points”**: mean the points for preference referred to in this Policy.

**“price”** means an amount of money tendered for goods or services and includes all applicable taxes less all unconditional discounts.

**“Proof of B-BBEE status level of contributor”** means the B-BBEE status level certificate issued by an authorised body or person

- 1) a sworn affidavit as prescribed by the B-BBEE Codes of Good Practice; or
- 2) any other requirement prescribed in terms of the Broad-Based Black Economic Empowerment Act.

**“Proof of disability”** means an affidavit issued by a registered medical practitioner confirming that the person is disabled.

**“Rand value”** means the total estimated value of a contract in Rand, calculated at the time of the tender invitation;

**“Responsible Agent”**: means either an internal project manager (being an employee of the Municipality) or an external consultant (appointed by the Municipality), as the case may be, who is responsible for the implementation of a project or part thereof.

**“Single source”** refers to when the competition exist in the market, but from a selected few suppliers due to technical capabilities and abilities comply with the requirements of the municipality;

**“Sole Supplier”** It refers in instances where there is no competition and only one service provider exist in the market, with sole distribution rights and/or patent rights or manufacturer;

**“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;

**“Strip and quote”** When the repairs and maintenance on our machines, vehicles are done by one supplier and/or strip-and-quote, for example a municipal vehicle that needs repairs enters the workshop, however to do the repairs, the vehicle has to be send to a supplier that determines what repairs should be done;

**“Targeted Enterprises”**: means those enterprises (suppliers, manufacturers, service providers or construction works contractors) that own, operate or maintain premises within the target area defined in the contract, for the purposes of carrying out their normal business operations.

**"Targeted Labour"**: means those individuals employed by a contractor, or sub-contractor, in the performance of a contract, who are defined in the contract as the target group, and who permanently reside in the defined target area.

**"Tender"** means a written offer in the form determined by a Municipality in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;

**"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 and also excluding all sales of municipal services or facilities open to all members of public.

**"the Act"** means the following –

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

The Preferential Procurement Policy Act, 2000 (Act No. 5 of 2000).

**"The Regulations"** means the following –

The Municipal Supply Chain Management Regulations published by Government Notice 868 of 2005;

The Preferential Procurement Regulations, 2022, gazetted 10 March 2022.

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

**"validity period"** means the period for which a bid is to remain valid and binding as stipulated in the relevant tender document.

## **1.2 Policy Statement**

### **(1) Introduction**

- (a) Section 111 of the Municipal Finance Management Act requires each municipality and municipal entity to adopt and implement a supply chain management policy, which gives effect to the requirements of the Act.
- (b) In addition, the Preferential Procurement Policy Framework Act requires an Organ of State to determine its Preferential Procurement Policy and to implement it within the framework prescribed. This requirement is given effect to in the Preferential Procurement section of this Policy.

### **1.3 Goal**

The goal of this Policy is to provide a mechanism to ensure sound, sustainable and accountable supply chain management within Tswelopele Local Municipality, whilst promoting black economic empowerment, which includes general principles for achieving the following socio-economic objectives:

- (i) to stimulate and promote local economic development in a targeted and focused manner.
  - a. to facilitate creation of employment and business opportunities for the people of Tswelopele Local Municipality with reference to HDI's.
  - b. to promote the competitiveness of local businesses.
  - c. to increase the small business sector access, in general, to procurement business opportunities created by Council.
  - d. to increase participation by small, medium, and micro enterprises (SMME's) by ensuring that prospective contractors/suppliers receive education on general tender and quotation procedures in terms of SCM Policy; and
  - e. to promote joint venture partnerships.

### **1.4 Objectives**

- a. The policy aims to improve accountability by placing responsibility for decisions in the hands of each accounting officer who should develop an implementation plan to assist with managing the implementation of this policy and ensure that value for money is obtained.
- b. This Policy will also strive to promote and enforce transparency and put in place cost-effective control measures, procedures and an ethical culture to prevent fraud and corruption within the supply chain management systems.
- c. To give effect to Section 217 of the Constitution of the Republic of South Africa;
- d. To implement a policy that is fair, equitable, transparent, competitive and cost effective;

- e. To comply with all applicable provisions of the Municipal Finance Management Act;
- f. To ensure consistency with all other applicable legislation including:
  - 1. The Preferential Procurement Policy Framework Act 2000 (Act No.5 of 2000);
  - 2. The Broad-Based Black Economic Empowerment Act 2003 (Act No.53 of 2003);
  - 3. The Construction Industry Development Board Act 2000 (Act No.38 of 2000);
  - 4. The Local Government: Municipal Systems Act 2000 (Act No. 32 of 2000)
  - 5. The Promotion of Administrative Justice Act 2000, and
  - 6. Any regulations promulgated in terms of the legislation referred to above.

## **2 Compliance with Ethical Standards**

- a. In order to create an environment where business can be conducted with integrity and in a fair and reasonable manner, this policy will strive to ensure that the municipal manager and all representatives of the Tswelopele Local Municipality involved in supply chain management activities shall act with integrity and in accordance with the highest ethical standards.
- b. All supply chain management representatives shall adhere to the code of conduct of municipal staff contained in schedule 2 of the Systems Act, and this Policy's Code of Ethical Standards.

## **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 Tswelopele 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; and
    - (iii) Section 2 d (i) and (ii) of the PPPFA.
  - (b) is fair, equitable, transparent, competitive and cost effective; complies with
    - (i) the Regulations;

- (ii) Preferential Procurement Regulations 2022 (PPR 2022) and
    - (ii) any minimum norms and standards that may be prescribed in terms of section 168 of the Act;
  - (c) is consistent with other applicable legislation;
  - (d) does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and
  - (e) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.
- (2) The municipal entity must, in addition to complying with subparagraph (1), apply this Policy, to the extent determined by the parent municipality, in a way that and that is consistent with the supply chain management policy of the parent municipality.
- (3) This Policy applies when the Tswelopele 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
  - (d) selects external mechanisms referred to in section 80 (1) (b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in section 83 of that Act.
  - (e) Determines and apply specific goals as contemplated in section 2 of the PPPFA.
  - (f) Determines, apply and calculate the applicable preference points system as contemplated in the PPR 2022.
- (4) 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 Tswelopele Municipal Council.
- (2) If the accounting officer submits proposed amendments to the Municipal 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 to the Free State provincial treasury.
- (3) When amending this supply chain management policy the need for uniformity in supply chain practices, procedures and forms between organs of state in all spheres, particularly to promote accessibility of supply chain management systems for small businesses must be taken into account.
- (4) The Municipal Manager (Accounting Officer) must in terms of section 62 (1)(f)(iv) of the act, take all reasonable steps to ensure that the municipality implements the supply chain management policy.

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

4. (1) The Tswelopele 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 –
    - (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, favoritism and unfair and irregular practices in the implementation of this Policy; and

- (d) to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.
- (2) Sections 79 and 106 of the Act apply to the sub-delegation of powers and duties delegated to an accounting officer in terms of 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 Tswelopele Municipality or to a committee which is not exclusively composed of officials of the Tswelopele 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.

#### **Sub-delegations**

- 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 sub-delegation must be consistent with subparagraph (2) of this paragraph and paragraph 4 of this Policy.
- (2) The power to make a final award –
  - (a) above R10 million (VAT included) may not be subdelegated by the accounting officer;
  - (b) above R300,000 (VAT included), but not exceeding R10 million (VAT included), may be subdelegated but only to –
    - (i) a bid adjudication committee of which the chief financial officer is a member of; and
  - (c) below R 200,000 (VAT included) may be subdelegated as per the council's delegatory powers and functions, and issued by the accounting officer, to the relevant delegated authority.
- (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) Contract numbers and description of goods/services/infrastructure project;
- (b) Name of the company/entity/person whom the award was made to;
- (c) the BBBEE contribution level;
- (d) the amount of the award;
- (e) the reason why the award was made to that person.

- (4) A written report referred to in subparagraph (3) must be submitted to the accounting officer, in the case of an award by the bid adjudication committee of which the chief financial officer and senior managers are member to.
  - (a) the awards schedule must be published on the municipal website, as required by section 75(g) of the act.
- (5) Subparagraphs (3) and (4) of this policy do not apply to procurements out of petty cash which are below R 2000.
- (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 Tswelopele Council reserves its right to maintain oversight over the implementation of this Policy.
- (2) For the purposes of such oversight the accounting officer must -
  - (i) within 30 days of the end of each financial year, submit a report on the implementation of this policy and supply chain management policy of any municipal entity under the sole or shared control of the municipality, to the council of Tswelopele municipality.

- (ii) whenever there are serious and material problems in the implementation of this policy, immediately submit a report to Tswelopele municipal council.
- (3) The reports must be made public in accordance with section 21A of the Municipal Systems Act.

**Supply chain management unit**

- 7. (1) Tswelopele has established a functional supply chain management unit to implement this Policy.
- (2) The supply chain management unit operates under the direct supervision of the chief financial officer or an official to whom this duty has been delegated in terms of section 82 of the Act.

**Training of supply chain management officials**

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

## **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, the Budget and the Service Delivery and Budget Implementation Plan.
- (2) The Demand Management Plan must be developed in conjunction with the IDP, Service Delivery and Budget Implementation Plan (SDBIP) and annual budget.
- (3) All user departments are required to submit their demand plans to the Supply Chain Management Unit by at least 31 January in terms of the IDP and Budget processes or at the date as determined from time to time by the Municipal Manager.
- (4) The Procurement Plan must be submitted to and approved by the Accounting Officer or his or her delegate before 30 June of each year.
- (5) The Procurement Plan must be reviewed regularly and submitted to the Accounting Officer or his delegate on a quarterly basis.

- (6) Demand management must be co-ordinated by SCM officials of the Municipality in consultation with budget holders to produce the municipal procurement plans.
- (7) The outcome of this activity should be a detailed planning document that outlines what goods, works or services should be procured, the manner in which they should be procured as well as the timelines to execute the procurement functions.
- (8) The planning process should also include the LED unit, to give effect to section 152 of the Constitution, in terms of local economic development objectives and special projects.
- (9) take into account opportunities and benefits of economies of scale that may be derived from bulk purchases for all repetitive and commonly used commodities in the municipality.
- (10) Green procurement and energy efficiency must be incorporated and considered as far as reasonably possible for all specifications of goods, services and infrastructure works.
- (11) To undertake appropriate industry analysis and research to ensure that innovations and technological benefits are maximized.

## ***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 Tswelopele 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 considered.

- (2) 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.
- (3) The Municipal Manager may on motivation from a senior manager extend the bid closing date, if circumstances allow and warrant the action, provided that the closing date may not be extended unless a notice is published by the manager/head supply chain management in the same medium (newspaper/website/etc.) as the original advertisement, prior to the original bid closing date.
- (4) Unless stated otherwise in the bid document, the municipality shall not be liable for any costs incurred by prospective bidders in the preparation and/or submission of bids or quotations.
- (5) All materials (documents, drawings, data and another information) developed, assembled or collected by the successful bidder during the course execution of service or works shall remain the property of the municipality, and shall not be used by the bidder for any other work or service whatsoever outside the municipality.

### **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 quotations for procurements of a transaction value over R2 000 up to R10 000 (VAT included);
  - (c) formal written price quotations for procurements of a transaction value over R2 000 up to R300 000 (VAT included); and
  - (d) a competitive bidding process for–
    - (i) procurements above a transaction value of R300 000 (VAT included); and

(ii) the procurement of long-term contracts.

(2) The accounting officer may, in writing-

(a) lower, but not increase, the different threshold values specified in 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 R300 000; or

(iii) a competitive bidding process be followed for any specific procurement of a transaction value higher than 300 000.

(3) Goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of the policy. When determining transaction values, a requirement for goods or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction.

4. Written quotations and bids will be subject to the following points system as prescribed in the PPR 2022 for final awards;

**4.1 80/20 preference point system for acquisition of goods or services with Rand value equal to or below R50 million**

4.1.1 The following formula must be used to calculate the points out of 80 for price in respect of a tender with a Rand value between R 2 000 and up to R50 million, inclusive of all applicable taxes:

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

Where-

$P_s$  = Points scored for price of tender under consideration;

$P_t$  = Price of tender under consideration; and

$P_{\min}$  = Price of lowest acceptable tender.

- 4.1.2 A maximum of 20 points may be awarded to a tenderer for the specified goals for the tender.
- 4.1.3 The points scored for the specific goal must be added to the points scored for the price and the total must be rounded off to the nearest two decimal places.
- 4.1.4 Subject to section 2(1)(f) of the Act, the contract must be awarded to the tendering scoring the highest points.

**4.2 90/10 preference point system for acquisition of goods or services with Rand value above R50 million**

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

$$P_s = 90 \left( 1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

Where-

$P_s$  = Points scored for price of tender under consideration;

$P_t$  = Price of tender under consideration; and

$P_{\min}$  = Price of lowest acceptable tender.

- 4.2.2 A maximum of 10 points may be awarded to a tenderer for the specified goals for the tender.
- 4.2.3 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..
- 4.2.4 Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.

**4.3 80/20 preference points system for tenders to for income-generating contracts with Rand value equal to or below R50 million**

4.3.1 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, inclusive of all applicable taxes:

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

Where-

- Ps = Points scored for price of tender under consideration.
- Pt = Price of tender under consideration; and
- Pmax = Price of highest acceptable tender.

4.3.2 A maximum of 20 points may be awarded to a tenderer for the specific goal specified for the tender.

4.3.3 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.

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

**4.4 90/10 preference point system for tenders for income-generating contracts with Rand value above R50 million**

4.4.1 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:

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

Where-

- Ps = Points scored for price of tender under consideration.
- Pt = Price of tender under consideration; and
- Pmax = Price of highest acceptable tender.

4.4.2 A maximum of 10 points may be awarded to a tenderer for the specific goal specified for the tender.

4.4.3 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.

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



### **General preconditions for consideration of written quotations or bids**

- 13.** A written quotation or bid may not be considered unless the provider who submitted the quotation or bid –
- (a) has furnished that provider's –
    - (i) full name;
    - (ii) identification number or company or other registration number; and
    - (iii) tax reference number and VAT registration number, if any;
  - (b) has authorised the Tswelopele municipality to obtain a tax clearance from the South African Revenue Services that the provider's tax matters are in order; and
  - (c) has indicated –
    - (i) whether he or she is in the service of the state, or has been in the service of the state in the previous twelve months;
    - (ii) if the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the state, or has been in the service of the state in the previous twelve months; or
    - (iii) whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in subparagraph (ii) is in the service of the state, or has been in the service of the state in the previous twelve months.
  - (d) all suppliers with which have accounts (monthly, quarterly or annual accounts) with the municipality must provide declarations of interest as envisaged in MBD 4 and 8 municipal bidding documentations and sections 38 and 47 of this policy.

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

- 14.** (1) The accounting officer must –
- (a) keep a list of accredited prospective providers of goods and services that will be sourced from the National Treasury Central Supplier Database (CSD) as its primary source, to be used for the procurement requirements through written or verbal quotations and formal written price quotations;

- (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 update their data on CSD.
  - (c) disallow the listing of any prospective provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector.
- (2) The list must be updated at least quarterly to include any additional prospective providers and any new commodities or types of services, with the data obtained from CSD.
- (3) The list must be compiled per commodity and per type of service.

**Petty cash purchases: below R2,000 (Incl. VAT)**

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) written quotations for transactions must be obtained from at least one prospective supplier or service provider preferably from, but not limited to, suppliers or service providers whose names appear on the list of accredited prospective providers of the Municipality provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria set out in section 14 of this Policy;
  - (b) if a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider.
  - (c) The maximum number of petty cash purchases must be set.
  - (c) Types of expenditure from petty cash purchases that are excluded must be determined.
  - (d) monthly reconciliation report from each manager must be provided to the chief financial officer, including –
    - (i) the total amount of petty cash purchases for that month; and
    - (ii) receipts and appropriate documents for each purchase.

**Written or verbal quotations: R 2000**

**16.** *The conditions for the procurement of goods or services through written quotations for amounts above R 2000 (VAT Included) 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 Tswelopele Municipality, as sourced from the CSD, provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria set out in paragraph 13 and 14 of this Policy;
- (b) Prospective service 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 approved by the chief financial officer or another official delegated by the chief financial officer, 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: R 2 000 - 30 000**

**17.** (1) *The conditions for the procurement of goods or services through formal written price quotations for amounts R 2 000 (VAT included) up to R 30 000 (VAT included), 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 Tswelopele Municipality, as obtained from the CSD.
- (b) quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria set out in paragraph 13 and 14 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.
- (2) A designated official referred to in subparagraph 16 (1) (c) and 17 (1) (c) must within three days of the end of each month report to the chief financial officer on any approvals given during that month by that official in terms of that subparagraph.

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

- 18.** The procedure for the procurement of goods or services through written formal 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 Tswelopele Municipality;
  - (c) offers received must be evaluated on a comparative basis taking into account unconditional discounts;
  - (d) the accounting officer or chief financial officer must 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 subdelegation;
  - (e) offers below R30 000 (VAT included) must be awarded based on compliance to specifications and conditions of contract, ability and capability to deliver the goods and services and lowest price;
  - (e) acceptable offers, which are subject to the preference points system (PPPFA and associated regulations), must be awarded to the bidder who scored the highest points;
  - (f) Chief financial officer must set the requirements for proper record keeping of all formal written price quotations.

## Competitive bids

19. (1) Goods or services above a transaction value of R300 000 (VAT included) and long-term contracts may only be procured through a competitive bidding process, subject to paragraph 11(2) of this Policy.
- (2) No requirement for goods or services above an estimated transaction value of R300 000 (VAT included), may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.
- (3) The municipality will apply the 80/20 Preferential Point System to all tenders up to prescribed limits/threshold. The municipality will apply the 90/10 Preferential Point System to all the tenders up to prescribed limits/threshold. The following Specific goals are applicable to either 80/20 or 90/10 preference points. The points calculation for specific goals will be as follows, however the municipality may decide based on the bid commodity how to allocate the points:

### Points for the specific goals for contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race:

Black-owned and B-BBEE Status Level of Contributor	Number of points on 80/20 points system	Number of points on 90/10 points system	Required Proof
100% Black-owned enterprise with a valid B-BBEE level 1	6	3	Sworn affidavit/BBBEE verification certificate (SANA) approved or from a registered accountant
51% Black-owned enterprise with a valid B-BBEE level 2	4	2	BBBEE Certificate from a SANAS approved agency
51% Black-owned enterprise with a valid B-BBEE level 3	2	1	BBBEE Certificate from a SANAS approved agency
Less than 51% Black-owned enterprise irrespective of B-BBEE level	0	0	BBBEE Certificate from a SANAS approved agency

**Points for the specific goals for contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of gender:**

Women-owned and B-BBEE Status Level of Contributor	Number of points on 80/20 points system	Number of points on 90/10 points system	Required Proof
100% Women-owned enterprise with no B-BBEE certificate	4	2	Sworn affidavit/BBBEE verification certificate (SANA) approved or from a registered accountant
51% Women-owned enterprise with a valid B-BBEE level 1	3	1	BBBEE Certificate from a SANAS approved agency
51% Women-owned enterprise with a valid B-BBEE level 2	2	1	BBBEE Certificate from a SANAS approved agency
51% Women-owned enterprise with a valid B-BBEE level 3	1	1	BBBEE Certificate from a SANAS approved agency
Less than 51% Women-owned enterprise irrespective of B-BBEE level	0	0	BBBEE Certificate from a SANAS approved agency

**Points for the specific goals for contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of disability:**

Black-owned and B-BBEE Status Level of Contributor	Number of points on 80/20 points system	Number of points on 90/10 points system	Required Proof
100% Disabled-owned enterprise with no B-BBEE certificate but with proof of disability.	4	2	Sworn affidavit and medical certificate
51% Disabled-owned enterprise with a valid B-BBEE level 1	3	1	BBBEE Certificate from a SANAS approved agency
51% Disabled-owned enterprise with a valid B-BBEE level 2	2	1	BBBEE Certificate from a SANAS approved agency
51% Disabled-owned enterprise with a valid B-BBEE level 3	1	1	BBBEE Certificate from a SANAS approved agency
Less than 51% Disabled-owned enterprise irrespective of B-BBEE level	0	0	BBBEE Certificate from a SANAS approved agency

**Points for the specific goals for contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of youth:**

Black-owned and B-BBEE Status Level of Contributor	Number of points on 80/20 points system	Number of points on 90/10 points system	Required Proof
100% Youth-owned enterprise with no B-BBEE certificate but with proof of disability.	4	2	Sworn affidavit and medical certificate
51% Youth-owned enterprise with a valid B-BBEE level 1	3	1	BBBEE Certificate from a SANAS approved agency
51% Youth-owned enterprise with a valid B-BBEE level 2	2	1	BBBEE Certificate from a SANAS approved agency
51% Youth-owned enterprise with a valid B-BBEE level 3	1	1	BBBEE Certificate from a SANAS approved agency
Less than 51% Youth-owned enterprise irrespective of B-BBEE level	0	0	BBBEE Certificate from a SANAS approved agency

**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;
- (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.
- (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 as contemplated in the Preferential Procurement Regulations 2022 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 –
    - (a) for the past three years; or
    - (b) since their establishment if established during the past three years;
  - (ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;
  - (iii) particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
  - (iv) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality or municipal entity is expected to be transferred out of the Republic;



- (e) stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law.
- (2). state that a fee shall be raised for bid forms, specification, samples, drawings, and any other bid documentation, depending on the nature, magnitude and value of technical information or samples provided by the municipality for tenders in excess of R 300 000.

**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 a public advertisement;
    - (i) in newspapers commonly circulating locally,
    - (ii) on the notice boards at selected offices of the Municipality,
    - (iii) on the website of the Municipality,
    - (iv) on the e-Tender Publication Portal of the National Treasury
    - (v) on the i-Tender website of the CIDB for construction procurement related transactions or
  - (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 (Incl. VAT), or which are of a long term nature (in excess of three years), or 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to sub-clause (2) of this policy;
    - (ii) a statement that bids may only be submitted on the bid documentation provided by the Municipality;
    - (iii) a statement that bids will only be considered if it was deposited into the bid box indicated in the bid invitation;
    - (iv) date, time and venue of any proposed site meetings or briefing sessions, provided that site meetings / information sessions

may not be scheduled within 7 days of the date on which a bid advertisement is placed; and

(v) the required CIDB contractor category and grading designation for construction procurement.

- 2) The Accounting Officer may determine a closure date for the submission of bids which is less than the required 22 or 10 business days, 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) The notice shall further state that all bids for the contract must be submitted in a sealed envelope on which it is clearly stated that such envelope contains a bid and the contract title and contract or bid reference number for which the bid is being submitted.
- 4) The period for which bids are to remain valid, irrevocable and open for acceptance must be indicated in the bid documents and must not exceed 120 days.
- 5) The validity period of a bid may be extended by the accounting officer, or his/her delegate, prior to the expiry of the validity period indicated in the bid document.
- 6) Communication with bidders before the closing date:
  - a) The budget holder must approach the Bid Specification Committee or Municipal Manager, if necessary, to consider authorisation in writing, of communication with bidders prior to bids closing.
  - b) 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 where possible, that all bidders to whom bid documents have been issued, are advised in writing per e-mail or by fax of such amendments or of the extension clearly reflecting the new closing date and time. For this reason, officials and authorised service providers 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.

- c) All amendments must be approved by the Accounting Officer or the relevant delegated director prior to the closing date of the bid invitation.

7) The criteria to which bid documentation for a competitive bidding process must comply where bids will be evaluated based on the functionality as a criteria, must be –

(a) Evaluated in two stages in the following manner:

- (i) The municipality must first assess the bidder's functionality and ability to perform the task as stipulated in the tender document.
- (ii) Municipality must consider the preference points and specific goals applicable.

(b) A tender will be considered further if it achieves the prescribed minimum qualifying score for functionality.

(c) The percentage scored for functionality may be calculated as follows:

(i) The scores for each criterion (and, where relevant, each sub-criterion) should be added to obtain the total score; and

(ii) The following formula should be used to convert the total score converted to a percentage for functionality:

$$Ps = So/Ms \times 100$$

*Ps = percentage scored for functionality by bid under consideration*

*So = total score of bid under consideration*

*Ms = maximum possible score*

## **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 in public
- (ii) must be opened on the same date and as soon as possible after the period for the submission of bids has expired; and

- 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 sub-clause (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. Stamping of bids and reading out of names:**

- a) As each bid is opened the name of the bidder and the amount if practical shall be read out.
- b) An official shall date-stamp the bid or quotation and all enclosures related to prices, delivery periods and special conditions.
- c) Bids and quotations shall be numbered in the sequence in which they have been opened and the words "and last" shall be endorsed on the last bid or quotation.
- d) In instances where only one bid has been received the words "and only" shall be endorsed on such bid.
- e) Where prices have not been inserted in all relevant spaces on the form 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.
- f) A bid will not be invalidated if the amount in words and the amount in figures do not correspond, where there is a discrepancy, the amount in words shall be read out at the bid opening and shall be deemed to be the bid amount.

### **3. Late tenders**

- a) Bids or quotations arriving after the specified closing time shall not be considered and where practicable and cost effective shall be returned to the bidder unopened with a letter explaining the circumstances.
- b) 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 envelope must be stamped and initialled in like manner and must be retained for record purposes.

#### **4) Dealing with tenders if the closing date thereof has been extended.**

- a) Where the closing date of a bid or quotation is extended, 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 cancels it by submitting a later dated bid or quotation before the extended closing date.

### **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;
  - d) does not lead to a lower price in respect of sale of land / goods.
- (2) Minutes of such negotiations must be kept for record purposes and as far as practical be made part of the final contract.
- (3) No unauthorised 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, official, or authorised

service provider 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, 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 clause (c) below. Every such case of unauthorised communication shall forthwith be reported to the Municipal Manager as well as the chairperson of the Bid Adjudication Committee. A bid or quotation in respect of which unauthorised communication has occurred may be disqualified.
- (c) The budget holder must approach the Bid Evaluation Committee, as determined in clause 28(2), to consider authorising an employee or authorised consulting service provider, in writing, to communicate with a bidder during the period mentioned in subsection (b) above for the purpose of:-
  - (i) Obtaining an explanation and verification of declarations made in the bid response;
  - (ii) confirming technical particulars and the compliance thereof with specifications;
  - (iii) clarifying delivery times/quantities;
  - (iv) extending the validity period of a bid;
  - (v) clarifying any other commercial aspect;
  - (vi) for the submission of substantiating documents;
  - (vii) any other clarifications
- (d) In all cases where authority has been granted to communicate with bidders in terms of clause (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.

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

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

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

- 26.** (1) 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.
- (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.
- (6) the accounting officer may appoint secondary members to represent the main members of the bid committees, the system of delegation must be adjusted to reflect the secondary members in terms of powers and functions.
- (7) for each bid committee to proceed with its business a quorum of 60 percent of the members must be present. Apologies of other members must be recorded and reported.

### **Bid specification committees**

27. (1) A bid specification committee must review and compile the specifications prepared by the line department requesting the goods, for each procurement of goods or services by Tswelopele 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”;
  - (f) must indicate each specific goal for which points may be awarded in terms of the points system set out in the Preferential Procurement Regulations 2017; and



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

### **Bid evaluation committees**

- 28.** (1) 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.
- (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 Tswelopele Municipality.
- (3) The relevant user department's official shall carry out a preliminary evaluation of all valid bids received and shall submit a bid evaluation report to the Bid Evaluation Committee for consideration.
- (4) Any evaluation of a bid shall consider the bids received and shall note for inclusion in the evaluation report, a bidder –
- (a) Whose bid does not comply with the provisions of paragraph 38 of this Policy;

- (b) Whose bid does not comply with the provisions of paragraph 13 of this Policy;
  - (c) Whose bid is not in compliance with the specification;
  - (d) Whose bid is not in compliance with the terms and conditions of the bid documentation;
  - (e) Who is not registered and verified on the municipality's supplier database by the closing time for bids. In this regard bid documentation shall state that the responsibility for registration and verification rests solely with the bidder;
  - (f) Who, in the case of construction works acquisitions, does not comply with the requirements of the Construction Industry Development Board Act regarding registration of contractors. Verification of compliance with this requirement shall be by means CIDB system and national treasury CSD;
  - (g) Who has failed to submit a valid tax clearance from the South African Revenue Services (SARS) certifying that the taxes of the bidder are in order or that suitable arrangements have been made with SARS; and
  - (h) Who fails to comply with any applicable Bargaining Council agreement.
- (5) Bids shall be evaluated according to the following as applicable –
- (i) Bid price (corrected if applicable and brought to a comparative level where necessary);
  - (ii) The unit rates and prices;
  - (iii) The bidder's ability to fulfil its obligations in terms of the bid documents;
  - (iv) Any qualifications to the bid;
  - (v) The bid ranking obtained in respect of Preferential Procurement as required;
  - (vi) The financial standing of the bidder, including its ability to furnish the required institutional guarantee, where applicable; and
  - (vii) Any other criteria specified in the bid documents.

- (6) The Bid Evaluation Committee shall check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears.
- (7) The evaluation of bids on an equitable basis may be considered during the evaluation process.
- (8) Additional information or clarification of bids may be called for if required.
- (9) Alternative bids may be considered, provided that a bid free of qualifications and strictly in accordance with the bid documents is also submitted. Tswelopele Municipality shall not be bound to consider alternative bids. The alternative offer is to be submitted with the main offer together with a schedule that compares the specifications of the bid documents with the alternative offer.
- (10) If a bidder requests in writing, after the closing of bids, that his/her bid be withdrawn, then such a request may be considered and reported in the bid evaluation report.
- (11) If, after bids have been brought to a comparative level, two or more scores equal total adjudication points, regulation 10 of the Preferential Procurement Regulations of 2017 will apply.
- (12) If two or more bids are equal in all respects after applying regulation 10(2) Preferential Procurement Regulations of 2017, the Bid Evaluation Committee shall draw lots to decide on the recommendation for award.
- (13) All disclosures of conflict of interest shall be considered by the Bid Evaluation Committee and if the conflict of interest is of a material nature, this shall be reported to the Bid Adjudication Committee.
- (14) The relevant senior manager or the Head: Supply Chain Management may, before the bid is considered by the Bid Evaluation Committee, provide a reasonable opportunity to a bidder who made an innocent error and/or omission in their bid document, to correct the innocent

error and/or omission, provided that such opportunity will not unduly prejudice any of the other bidders.

- (15) In an event as described in sub-paragraph 14, bidders shall be afforded a minimum of two (2) working days up to a maximum of five (7) working days (on discretion of the relevant senior manager or the head: Supply Chain Management) from time of notification to correct such innocent errors and/or omissions. If no response is received from such bidders at the deadline the bid may be deemed to be non-responsive.

### **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) The bid adjudication committee must be composed of at least four directors of the municipality which must include –
- (a) the Chief Financial Officer or, if the Chief Financial Officer is not available, another manager reporting directly to the Chief Financial Officer and designated by the Chief Financial Officer; and
  - (b) a senior supply chain management practitioner.
- (3) The Accounting Officer must appoint the chairperson of the committee. If the Chairperson is unable to chair the meeting, the members of the committee who are present must elect one of them to preside at the meeting.

- (4) A quorum for the Adjudication Committee shall be 60 percent of the members of the bid adjudication committee.
  - (a) In the event of an equality of votes the chairperson shall have a casting vote over and above a deliberate vote.
  - (b) The manager of the department that called for the tender must be present at the meeting where the particular tender is considered.
- (5) The members of the Bid Evaluation Committee, or their delegates, may be present at the Bid Adjudication Committee meetings [introduce the reports to the Committee and assist in] to clarify issues that were dealt with in the Bid Evaluation Committee meetings and will have no voting rights whatsoever. This must be documented in the minutes of the bid adjudication committee.
- (6) A technical expert in the relevant field, who is an official of Tswelopele Municipality, if such an expert exists, may attend the meeting as an advisor for clarification purposes. This official will not have voting rights at the Bid Adjudication Committee meeting. Neither a member of a bid evaluation committee, nor an advisor or person assisting the bid evaluation committee, may be a member of a bid adjudication committee.
- (7) If the bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee –
  - (a) 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 for more than three months, 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 clause (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.
- (8) 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.
- (9) The Accounting Officer must comply with Section 114 of the Act within 10 days–
  - (a) If a tender other than the one recommended in the normal course of implementing the supply chain management policy is approved, the Accounting Officer must, in writing, notify the Auditor-General, the Provincial Treasury and the National Treasury of the reasons for deviating from such recommendation.
  - (b) Subsection (1) does not apply if a different tender was approved in order to rectify an irregularity.

### **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**

- 31.** (1) The accounting officer may request the State Information Technology Agency (SITA) to assist with the acquisition of IT related goods or services through a competitive bidding process.
- (2) Both parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to, SITA.
- (3) The accounting officer must notify SITA together with a motivation of the IT needs if –
- (a) the transaction value of IT related goods or services required in any financial year will exceed R50 million (VAT included); or
  - (b) the transaction value of a contract to be procured whether for one or more years exceeds R50 million (VAT included).
- (4) If SITA comments on the submission and the Tswelopele 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.
- (5) The Municipality is required to follow the following process before inviting proposals for a new financial management system:
- (a) National and Provincial Treasury should immediately be informed of any intention to replace the accounting or billing system currently operating at the municipality;
  - (b) The submission should include a comprehensive motivation with specific reasons for why it is deemed necessary to replace the existing financial system;
  - (c) A copy of the service level agreement with minutes of the meetings between the municipality and the current service provider (financial system vendor) during the previous twelve months must be made available;

- (d) The organisational structure, specifically for the IT department/function, clearly indicating management capacity and responsibility for operating the financial system, must be submitted;
- (e) An assessment should be done to determine which modules of the existing financial system are being utilised by the municipality and reasons must be provided for modules not in operation. In cases where an existing system is not an ERP system the municipality must provide details of any other systems utilised by the municipality;
- (f) The date on which the existing financial system was implemented, the procurement and implementation costs and the current operational costs thereof must be disclosed;
- (g) A technical assessment must be undertaken on the server and network requirements of the new financial system and a copy of such report should be submitted; and
- (h) Copies of all IT strategies, policies and procedural documents including the IT disaster recovery plan must be made available.

**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.



- (3) If Tswelopele Municipality should enter into a contract secured by other organs of state, it shall enter into a contract with the successful bidder(s) on the same terms and conditions as accepted by the relevant organ of state, in terms of timeframe of the contract, costing model and scope of work.
- (4) Contracts entered into by Tswelopele Municipality under subparagraph (3) shall not be deemed to be a deviation from the official procurement processes.
- (5) The Accounting Officer shall report to Council on a monthly basis all contracts entered into in terms of subparagraph (3) above.
- (6) Salient Requirements applicable to section 32 -
  - (a) The contract which the municipality procures from other organ of state must be valid and not expired, and its validity must not have been modified.
  - (b) The duration of the contract must correspond with the principal municipality's contract duration and may not exceed or vary from the principal municipality's original contract.
  - (c) The goods or services must be the same as that of the principal contract, and quantities may not be increased.
  - (d) The contract terms and conditions must not be modified, must remain the same as that of the principal contract.
  - (e) The principal or original contract owner must be prepared to forfeit portion of the contract to the participating municipality procuring the goods or services.
  - (f) Municipality shall not participate nor allow participation in panel of service providers.

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

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

advantages and environmental impact and must be approved by the official duly authorised in terms of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993).

### **Proudly SA Campaign**

- 34** (1) The Municipality supports the Proudly SA Campaign to the extent that, as far as possible, preference is given to procuring local goods and services as per Council's Preferential Procurement Policy and Preferential Procurement Regulation 2017

### **Appointment of consultants**

- 35** (1) The Accounting Officer may procure consulting services provided that any National Treasury guidelines and CIDB requirements in respect of consulting services are taken into account when such services are procured.
- (2) Consultancy services must be procured through competitive bids if:
- (a) the value of the contract exceeds R300 000 (Incl. VAT); or
  - (b) the duration period of the contract exceeds one year.
- (3) In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish particulars of –
- (a) all consultancy services provided to an organ of state in the last five years; and
  - (b) any similar consultancy services provided to an organ of state in the last five years.
- (4) The Accounting Officer must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, thing, system or process designed or devised, by a consultant in the course of the consultancy service is vested in the Municipality, and shall remain the property of the municipality.
- (5) A municipality or municipal entity may only appoint consultants if an assessment of the needs and requirements confirms that the municipality

does not have the requisite skills or resources in its fulltime employ to perform the function.

- (6) An accounting officer must adopt a fair and reasonable remuneration framework for consultants taking into account the rates -
  - (a) determined in the "Guideline on fees for audits undertaken on behalf of the Auditor - General of South Africa ", issued by the South African Institute of Chartered Accountants;
  - (b) set out in the "Guide on Hourly Fee Rates for Consultants ", issued by the Department of Public Service and Administration; or
  - (c) as prescribed by the body regulating the profession of the consultant.
- (7) The tender documentation for the appointment of consultants must include a clause that the remuneration rates will be subject to negotiation, not exceeding the applicable rates mentioned in sub - regulation (2).
- (8) When negotiating cost -effective consultancy rates for international consultants, the accounting officer may take into account the relevant international and market determined rates.
- (9) When consultants are appointed, an accounting officer must -
  - (a) appoint consultants on a time and cost basis with specific start and end dates;
  - (b) where practical, appoint consultants on an output-specified basis, subject to specific measurable objectives and associated remuneration;
  - (c) ensure that contracts with consultants include overall cost ceilings by specifying whether the contract price is inclusive or exclusive of travel and subsistence disbursements;
  - (d) ensure the transfer of skills by consultants to the relevant officials of Tswelopele Municipality.
  - (e) undertake all engagements of consultants in accordance with the Municipal Supply Chain Man-agement Regulations, 2005 and the

municipality or municipal entity's supply chain management policy;  
and

- (f) develop consultancy reduction plans to reduce the reliance on consultants.
- (10) All contracts with consultants must include a fee retention or penalty clause for poor performance.
- (11) Tswelopele Municipality must ensure that the specifications and performance are used as a monitoring tool for the work to be undertaken and are appropriately recorded and monitored.
- (12) The travel and subsistence costs of consultants must be in accordance with the national travel policy issued by the National Department of Transport, as updated from time to time.
- (13) The contract price must specify all travel and subsistence costs and if the travel and subsistence costs for appointed consultants are excluded from the contract price, such costs must be reimbursed in accordance with the national travel policy of the National Department of Transport.

**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:
      - (a) Circumstances that warrant emergency dispensation, includes but are not limited to -
        - (i) the possibility of human injury or death;
        - (ii) the possibility of damage to property;
        - (iii) failure to take necessary action may result in the municipality not being able to render an essential community service;

- (iv) the interruption of services related to communication facilities or support services critical to the effective functioning of the municipality as a whole; or
  - (v) the eminent possibility of serious damage occurring to the natural environment.
- (b) The prevailing situation, or imminent danger, should be of such a scale and nature that it could not readily be alleviated by interim measures, in order to allow time for the formal tender process.
- (c) Procurement in the case of emergencies must be tacitly approved by the relevant senior manager or his delegate prior to incurring the expenditure (before issuing an instruction to the supplier) and must be reported in writing to the Accounting Officer or delegated official within three business days.
- (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 including, but not limited to:-
  - (a) ad-hoc repairs (Strip and quote) to vehicles, plant and equipment where it is not possible to ascertain the nature or extent of the work required in order to call for bids, where suppliers will be used on a rotation basis;
  - (b) the unskilled labour component of the Municipality's Local Labour Promotion Programme;

- (c) any contract relating to the publication of notices and advertisements by the municipality where applicable legislation or applicable council policy dictates.
  - (d) Membership and subscription to professional bodies and any training provided by such bodies for purposes of obtaining continuous professional development points;
  - (e) the attendance of conferences and workshops;
  - (f) the use of couriers for official documents/parcels;
- (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; and
- (2) The Accounting Officer must record the reasons for any deviations in terms of sub-clauses (1)(a) and (b) of this policy and report them to the next Council Meeting and include as a note to the annual financial statements.
- (3) Sub-clause (2) does not apply to the procurement of goods and services contemplated in clause 11(2) of this policy.

### **Unsolicited bids**

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

- (3) If the accounting officer decides to consider an unsolicited bid that complies with subparagraph (2) of this policy, the decision must be made public in accordance with section 21A of the Municipal Systems Act, together with –
  - (a) reasons as to why the bid should not be open to other competitors;
  - (b) an explanation of the potential benefits if the unsolicited bid were accepted; and
  - (c) an invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.
- (4) 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, 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 Tswelopele 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–
- (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 Tswelopele 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 Tswelopele Municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;
  - (e) reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;
  - (f) cancel a contract awarded to a person if –
    - (i) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
    - (ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and
  - (g) reject the bid of any bidder if that bidder or any of its directors –



- (i) has abused the supply chain management system of Tswelopele 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 -
- (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 prior to the receipt of goods and/or services. Orders must be issued by 31 July for all contracts active during July;
  - (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. Orders may be amended/issued where estimates are used to issue orders for rates/tariff based contracts when it is impractical to determine the final amount upfront;

- (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.
- (h) Contracts will be implemented in terms of the requirements section 116 of the Act.

### **Disposal management**

- 40.** (1) A supply chain management policy must provide for an effective system of disposal management for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the Act
- (2) A supply chain management policy must specify the ways in which assets may be disposed of, including –
- (a) Transferring the asset to another organ of state in terms of provision of the Act enabling the transfer of assets;
  - (b) Transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
  - (c) Selling the asset; and
  - (d) Destroying the asset.
- (3) The Accounting Officer must ensure that –
- (a) Immovable property is sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
  - (b) Movable assets are sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous, except when the public interest or the plight of the poor demands otherwise;

- (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.
- (4) All matters relating to the alienation of movable and immovable assets shall be dealt with in terms of Council's Asset Transfer Policy and the Asset Transfer Regulations, 2008.
- (5) Notwithstanding sub-paragraph (3)(b) & (g) above, the Accounting Officer must determine the most advantageous way for the disposal or letting of movable capital assets, i.e. written price quotations, competitive bidding, or auction, except when public interest or the plight of the poor demands otherwise.

### **Risk management**

41. (1) The Accounting Officer must implement an effective system of risk management for the identification, consideration and avoidance of potential risks in the supply chain management system as per Council's Risk Management Policy, assisted by the risk management and internal audit units.
- (2) Supply chain management risks must be added to the enterprise risk management process.
- (3) 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.** (1) 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 objectives of this Policy were achieved.
- (2) The accounting officer must establish a performance metrics (score card) system to measure performance external service providers contracted by the municipality for the delivery of goods and services. The performance system must be linked to contract management system and section 116 of the Act.

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

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

- 43.** (1) No award above R30 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.
- (3) If SARS does not respond within 7 days such person's tax matters may for purposes of subparagraph (1) be presumed to be in order.
- (4) Tswelopele Municipality will process transactions per supplier on the proviso that the accumulative amounts per supplier does not exceed R30,000 (including VAT) per financial year, without the required tax clearance as per paragraph 43(1) above.

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

- 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 Tswelopele Municipality.

### **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 for supply chain management officials other role players in the supply chain management system of Tswelopele 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.
- (2) An official or other role player involved in the implementation of this Policy –
- (a) must treat all providers and potential providers equitably;
  - (b) may not use his or her position for private gain or to improperly benefit another person;
  - (c) may not accept any reward, gift, 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, Tswelopele 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 Tswelopele Municipality;
  - (h) must assist the accounting officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system; and
    - (i) must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including –
      - (i) any alleged fraud, corruption, favouritism or unfair conduct;
      - (ii) any alleged contravention of paragraph 47(1) of this Policy; or
      - (iii) any alleged breach of this code of ethical standards.
- (3) Declarations in terms of subparagraphs (2)(d) and (e) -
- (a) must be recorded in a register which the accounting officer must keep for this purpose;
  - (b) by the accounting officer must be made to Mayor of Tswelopele 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 Tswelopele 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.

**Inducements, rewards, gifts and favours to [municipalities / municipal entities], 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 Tswelopele Municipality for or in connection with the award of a contract; or
  - (b) any reward, gift, favour or hospitality to –
    - (i) any official; or
    - (ii) any other role player involved in the implementation of this Policy.
- (2) The accounting officer must promptly report any alleged contravention of subparagraph (1) to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the public sector.
- (3) Subparagraph (1) does not apply to gifts less than R350 in value

**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.

## **Cancellation of tenders**

**49.** The Municipality may, prior to the award of a tender, cancel the tender if:

- (a) No acceptable bids have been received.
- (a) The goods are no longer needed due change in circumstances.
- (b) Due to material irregularity in the tender process.
- (c) Due to funds not available to cover the total expenditure.

## **Criteria for breaking deadlocks in scoring**

50.1 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.

50.2 If functionality is part of the evaluation process and two or more tenderers score equal total points and equal specific goal points the contract must be awarded to the tenderer that scored the highest points for functionality.

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

## **51. Award of contracts to tenderers not scoring the highest points**

51.1 A contract may be awarded to a tenderer that did not score the highest points only in accordance with section 2(1)(f) of the Act.

## **52. Remedies**

52.1 Upon detecting that a tenderer submitted false information regarding specific goals or any other matter required in terms of these PPR 2022 and this policy which will affect or has affected the evaluation of a tender, the municipality must—

- (a) inform the tenderer accordingly; and
- (b) give the tenderer an opportunity to make representations within 14 days as to why—
  - (i) the tender submitted 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; and
  - (ii) the organ of state should not restrict the tenderer from conducting any business for a period not exceeding 10 years with any organ of state.



- 52.2 After considering the representations referred to in sub-section 52.1
- (b), the municipality may—
    - (a) if it concludes that such false information was submitted by the tenderer—
      - (i) disqualify the tenderer or terminate the contract in whole or in part; and
      - (ii) if applicable, claim damages from the tenderer;
    - (b) if it concludes that the tenderer must be restricted, restrict the tenderer from doing business with any organ of state for a period not exceeding 10 years.
- 52.3 the municipality must, within five working days—
- (a) inform the National Treasury, in writing, of any action taken in terms of sub-section 52.2; and
  - (b) if it decides to restrict a tenderer, request the National Treasury to publish the name of the tenderer in its list of restricted suppliers.
- 52.4 The National Treasury will on behalf of the municipality, within three working days after receiving a request in terms of sub-section 52.3 (b), publish the name of the tenderer in its list of restricted suppliers.

### **Objections and complaints**

- 53.** 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**

- 54.** (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 Tswelopele Municipality and other persons regarding -
    - (i) any decisions or actions taken in the implementation of the supply chain management system; or
    - (ii) any matter arising from a contract awarded in the course of the supply chain management system; or
  - (b) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.
- (2) The accounting officer, or another official designated by the accounting officer, is responsible for assisting the appointed person to perform his or her functions effectively.

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

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

- 55.** If a service provider acts on behalf of Tswelopele 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 Tswelopele Municipality must stipulate –
- (a) a cap on the compensation payable to the service provider; and
  - (b) that such compensation must be performance based.

#### **Public-Private Partnerships**

- 55.** Public-Private Partnerships will be procured in terms of Part 2 of Chapter 11 of the Act.

#### **Contract Management**

- 56.** Contracts will be implemented in terms of the requirements of Section 116 of the Act.

## Transversal Contracts

57. Commodities, services and products covered by a transversal contract concluded by the National Treasury must be considered before approaching the market, to benefit from savings where lower prices or rates have been negotiated, the procurement must be undertaken in line with SCM regulation 32 of this policy.

### Sub-contracting

- 58 Tswelopele Municipality will where deemed important and on a case by case basis, include subcontracting as a condition of contract, where bidders will be required to subcontract locally based companies, companies from the district where a local company cannot be sourced, or companies within the province where local or district based companies are not obtainable for whatever reasons.

Furthermore, companies may not subcontract more than 25% of the value of the work.

Subcontracting, shall be to the groups as contemplated in specific goals category (Race, Gender and disability or RDP goals).

### Framework agreement or Panel of suppliers appointments

- 59 For the purpose of this policy, the rooster systems means procurement of goods or services on a competitive process or rotational process from suppliers appointed through a framework agreement or panel of suppliers. The appointment of panels or framework contractors shall be made on competitive bidding for a period of three years.

SERVICE	BASIS FOR A ROOSTER SYSTEM
Advertising.	The quotations will not always be the same as advertising media reaches different target market. For example, an advert on the Volksblad and City Press will not be the same due to different target market (readers the newspaper is able to reach) and as result the cheapest one will not necessarily mean that the municipality will be able to reach its target market. So in this case one quotation will suffice.
Travel agent services.	The travel agents will be used on a rooster system / rotational basis without requesting three quotations. It is not always possible for the Travel Agent to quote the price well in advance as they are not sure of the actual cost.  For example, a booking/quotation might be based on five days and the municipal delegate end up staying for three days only.

	<p>The municipality cannot now pay the total fees that were based on five days even if the delegate stayed only for three days. For his purpose, an invoice from the Travel agent shall suffice.</p>
<p>Legal Services.</p>	<p>Because of the nature of the service, it not always possible to determine how much will be the actual cost for providing this service. As such it becomes impossible to request three quotations.</p> <p>For example, if the municipality is being sued by external parties, it is not possible how long the case will take. It is sometimes not possible ascertain at which Court of law will the case be finalised. The longer it takes and the higher the court of law, the more expensive it becomes.</p> <p>Furthermore, an attorney maybe appointed simply on the basis that he/she has been handling the case previously or he/she has handled a similar case for the municipality.</p> <p>As such legal services / attorneys will be appointed on a roster / rotational basis without necessarily advertising or requesting three quotations.</p>
<p>Courier services.</p>	<p>It is not possible to get quotations from courier services as they / company need to know the destination of the parcel being couriered as well as the weight. In light of the fact that weighing of the parcel has to be done at their premises, it becomes impossible to get a quote in advance.</p> <p>Furthermore, the parcel will have to be sent to the premises of other two courier companies to also get weighting before quotes can be issued. This will attract cost prior to the actual costs of providing the courier services.</p>
<p>Services provided by a system supplier/provider and training thereon.</p>	<p>The services will be procured directly the service provider without necessarily going for competitive bidding process or calling for three quotations.</p> <p>For example, if the municipality experience technical problem with the financial system, Sebata FMS, who is system provider, is in a better position for resolve the problem as such it is not necessary to get three quotations. The same as any training on any module which is part of the system. The system provider will be in a better position to provide training on the system that their competitors.</p>
<p>Fault-finding and quote (strip-and-quote) services.</p>	<p>It is necessary sometimes that services provider have to find a fault prior to them providing us with a quotation (that is the item which needs repairs need to stripped and the quoted based on what needs to be repaired).</p> <p>The Supply Chain Division will accept only one quotation for strip and quote as suppliers charge the Municipality for such strip and quote. At the moment is costing the Municipality to pay different suppliers for strip and quote, and also it is impractical to obtain three quotations for such goods and services.</p>

**Short title and commencement**

60. This part of the policy is called the Tswelopele Municipality **Supply Chain Management Policy**. This policy will come into effect on **29 February 2024** and will be reviewed at least annually by way of a Council resolution.