

# INKOSI LANGALIBALELE LOCAL MUNICIPALITY

## SUPPLY CHAIN MANAGEMENT POLICY



# INKOSI LANAGALIBALELE MUNICIPALITY

## **PREAMBLE**

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. 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 in section 52 of this policy. The Inkosi Langalibalele Local Municipality is further committed to combating fraud, corruption, favoritism and irregular practices in Supply Chain Management by blacklisting persons who have been found to have engaged in such practices. This is the Supply Chain Management Policy of Inkosi Langalibalele Local Municipality.

## **PURPOSE**

The purpose of this Policy is:

- (a) to implement a Supply Chain Management system in accordance with Section 217 of the Constitution which is fair, equitable, transparent, competitive and cost effective;
- (b) to provide for procedures and processes for the procuring of goods, services or works;
- (c) to provide for procedures and processes for the disposal of goods no longer needed;
- (d) to provide for procedures and processes for the selection of contractors to provide assistance in the provision of municipal services other than where Chapter 8 of the Municipal Systems Act applies;
- (e) to provide for provision of municipal services through a service delivery agreement with a natural or juristic person which is not an organ of state;

- (f) to ensure consistency with other applicable legislation and regulations thereto;
- (g) to give effect to the Preferential Procurement Policy objectives of the Municipality;
- (h) to ensure optimal service delivery by facilitating effective and efficient procurement;
- (i) to combat fraud, corruption favoritism and irregular practices in Supply Chain Management by blacklisting persons who have been found to have engaged in such practices;
- (j) to create a Blacklisting Committee to implement the provisions of this policy;
- (k) to specify guidelines to prevent the municipality from doing business with persons who abuse the Supply Chain Management system by engaging in unlawful and/or irregular practice(s);
- (l) to specify guidelines that will prevent the municipality from doing business with persons who default on performance willfully or negligently;
- (m) to develop uniform criteria and a fair process for blacklisting such persons;
- (n) to discourage persons who are blacklisted from re-entering the procurement arena by setting up new business entities and by using the existing business entities to tender for the public sphere of work, during the period which they are blacklisted;
- (o) to give the municipality power to deregister blacklisted persons from its supplier's database;
- (p) to create a database of persons who are blacklisted and to publish the list on the municipality's website so as to expose and publicize the identity of the blacklisted person; and
- (q) to deal with the conduct of officials who are found to have engaged in unlawful and/or irregular practices together with such persons, to be dealt with in terms of internal disciplinary procedure.

## 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 Municipality
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 favors
48. Sponsorships
49. Objections and complaints
50. Resolution of disputes, objections, complaints and queries
51. Contracts providing for compensation based on turnover

### **CHAPTER 3**

#### **GENERAL**

52. Emergencies
53. Fronting of suppliers
54. Participation in HIV/Aids programs by service providers
55. Savings on projects
56. Variance on estimated bids
57. Meeting of Committees
58. Meeting procedures of Committees
59. Access to meetings of the Committees
60. Quorum and decisions of the Committees
61. Commencement

<b>POLICY REVIEW MANAGEMENT INFORMATION</b>	
<b>Contact Person(s)</b>	Sthembiso Memela
<b>Approval Authority</b>	Inkosi Langalibalele Municipality Council or Executive Committee
<b>Last Date Of Approval</b>	
<b>Review Date</b>	
<b>Review Approval Date</b>	

## 1. Definitions

In this policy, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the Act has the same meaning as in the Act, and: “Accounting Officer” must mean the Municipal Manager as per section 60 of the MFMA.

“**Amendment**” must mean a change made to the value of the contract beyond the contract authority and/or the duration of the contract beyond the contract authority and/or scope changes in the contract and/or contracting arrangements beyond the contracting allowances. An amendment may be a minor amendment or a major amendment;

“**Appeal Authority**” must mean an independent and impartial person appointed by the Accounting Officer in terms of Regulation 50 of the Local Government Municipal Supply Chain Regulations;

“**Applicant**” must mean a Department of Inkosi Langalibalele Municipality;

“**Award**” must mean the acceptance of a bid or proposal;

“**B-BBEE**” must mean broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;

“**B-BBEE Status Level of Contributor**” must mean the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad Based Black Economic Empowerment Act;

“**Blacklisting Authority**” must mean the Blacklisting Committee;

“**Blacklisting Period**” must mean the period for which the blacklisted person is barred from participation in the procuring processes of the Municipality;

“**Blacklisting**” must mean the act of disqualifying a person or an entity from participating in or continuing to participate in the procurement process of the Inkosi Langalibalele Municipality;



**“Capital Assets”** are all assets with a life cycle of greater than one year and above the capitalization threshold (where applicable). For example, this would include property, plant and equipment (infrastructure network, furniture, motor vehicles, computer equipment, etc.), intangible assets, and investment property.

**“Chief Financial Officer”** must mean the Head of Budget and Treasury Department of the Inkosi Langalibalele Municipality;

**“Competitive bid”** must mean a bid in terms of a competitive bidding process;

**“Competitive bidding process”** must mean a competitive bidding process referred to in paragraph 12 (1) (d) of this policy;

**“Contingency”** must mean an amount included in the contract authority to cover the cost of unforeseen circumstances and must be used in line with respective industry norms and standards. This percentage must be appropriately motivated and approved by the Accounting Officer.

**“Contract”** must mean a legally binding agreement between the Municipality and the Contractor for the latter to provide goods, services, engineering and construction works, or professional services in return payment by the former;

**“Contract Authority”** must mean the total contract award value as approved, or supported, by the Bid Adjudication Committee. This is inclusive of escalations and the normal contingency allowance for variations under the general conditions of contract, and shall be taken from the amount approved at the Bid Specification Committee, or Bid Adjudication Committee;

**“Contract Manager”** must mean the delegated official to manage and oversee a contract;

**“Contract Participation Goal (CPG)”** must mean the value of work to be subcontracted to enterprises or businesses factored according to their level of HDI/PPG.

**“Contract Period”** must mean the duration of the contract as set out in the contract;

**“Contractor”** must mean any person, body, or legal entity that is under contract to the Municipality for the performance of the contract. A Tenderer whose tender has been accepted becomes a Contractor;

**“Control”** must mean the possession and exercise of legal authority and power to manage the assets, goodwill and daily operations of a business and the active and continuous exercise of appropriate managerial authority and power in determining the policies and directing the operations of the business;

**“Day(s)”** must mean, unless otherwise specified, calendar days. Days must be calculated by excluding the first day and including the last day;

**“Delisting”** must mean the removal of a person from the Inkosi Langalibalele Municipality database of blacklisted persons after the period of blacklisting has expired;

**“Disabled”** must mean in respect of a natural 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;

**“Eligibility Documents”** must mean:

(a) A valid Tax Clearance Certificate or Tax Compliance Status with a PIN number issued by the South African Revenue Service and Municipal Fee Declarations and certificates certifying that the bidder has no undisputed commitments for municipal fees due to any municipality or overdue for a prescribed period; (b) declarations by tenderers certifying the correctness of information and certifying validity of authority to act (Regulation 14 of the Preferential Procurement Policy Framework Act 5 of 2000); (c) certificates declaring details of Private or business interests in terms of Regulation 46(e) of the Supply Chain Management Regulations; (d) proof of registration with the CIDB (Construction Industry and Development Board), where applicable; (e) proof of Registration of a Company, Close Corporation, Co-operative or any other document requiring formal registration; (f) any partnership agreement, or

agreement of Joint Venture, Memorandum of Articles of A Company, Association Agreement or any other agreement establishing a business entity;

(g) a statement setting out details of work undertaken in the Government/public sector/ organs of state in the past five years, including particulars of persons who assessed the work and who can be contacted to verify completion/ non completion of the contract; (h) audited financial statements where applicable, or books of account; and/ or (i) any other document prescribed by law or specifically requested by the eThekweni Municipality.

**“Exempted Micro Enterprise”** must mean a bidder with an annual total revenue of R10 million or less (in terms of the Broad-Based Black Economic Empowerment Act);

**“Final award”** must mean 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”** must mean quotations referred to in paragraph 12 (1) (c) of this policy and shall include any offer to purchase immovable property;

**“Fronting”** must mean claiming preference points, status or goals of any of the target groups listed in the Inkosi Langalibalele Municipality’s Targeted Procurement Policy and/or tendering documents where such claim is false;

“Goods” must mean both movable and immovable property and real rights therein

**“Improper Practice”** must include, but not be limited to:

(a) fronting; (b) misrepresentation on eligibility documents or Application forms or any other returnable document which contains information which will have a material bearing on the award; (c) attempting to bribe or bribing an official by monetary or non-monetary inducement or attempt to influence an official directly or indirectly involved with the procurement process, in order obtain a tender or retain a tender or withdraw from a tender; (d) deliberately omitting information, or misrepresenting information which could have a bearing on the award of a

tender; (e) committing of fraud or extortion in relation to the bidding process; (f) obtaining information on the contents of other bids in the same tender which one would not ordinarily be entitled to in terms of the Promotion of Access to Information Act (PAIA) No. 2 of 2000, which information is in the possession and under the control of the Municipality; (g) collusive tendering; (h) Restrictive horizontal and vertical Practices as defined by the Competition Act, 1998 (No. 89 of 1998); (i) committing an exclusionary act as defined by the Competition Act, 1998 (No. 89 of 1998); and (j) any other activity which is not specifically set out in this definition, but constitutes an unlawful or unfair/ improper business practice;

**“In the service of the state”** must mean:

(a) a member of any municipal council, any provincial legislature or the National Assembly of 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; (e) a member of the accounting authority of any national or provincial public entity; and (f) an employee of Parliament or a provincial legislature. The Minister of Finance has specifically exempted non-executive board members of a Municipal entity from the prohibition for being in the service of the state but only in relation to supply chain awards by a municipal entity that they do not serve on. An official or employee means a full time employee, and excludes any person employed on a part time basis or a person earning a stipend, provided that such person be verified and cleared in terms of conflicts of interest by the office of the Accounting Officer;

**“Infrastructure”** must mean:

(a) immovable assets which are acquired, constructed or which results from construction operations or (b) movable assets which cannot function independently from purpose built immovable assets.

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

**“List of accredited prospective providers”** must mean the list of accredited prospective providers which a municipality or municipal entity must keep in terms of paragraph 14 of this policy;

**“Local Content/Resources”** must mean where preference points shall be allocated in terms of the location of the enterprise where applicable in the following order of preference: Inkosi Langalibalele Municipality Area (ILMA); KwaZulu-Natal (KZN); South Africa (SA);

**“Major Amendment”** must mean an amendment to a contract which is not a minor amendment;

**“Manufacturer”** must mean a firm that operates or maintains a factory or establishment that produces on its premises materials or supplies required by the Prime Contractor for the performance of the Contract;

**“Military Veteran”**: must mean any South African Citizen who-

- (a) rendered military service to any military organizations, statutory and non-statutory which were involved on sides of South Africa’s Liberation war from 1960 to 1994;
- (b) served in the Union Defence Force before 1960;
- (c) became a member of the new South African National Defense Force after 1994.

**“Minor Amendment”** must mean a change made to the value of the contract beyond the contract authority and where the change is up to 20% of the original contract authority for construction related goods, services and/or infrastructure projects. A change of only up to 15% of the original contract authority relating to goods and/or services is allowed to be considered a minor amendment”;

**“Municipality”** must mean the Inkosi Langalibalele Municipality or any municipal entity, whichever is applicable;

**“Non Performance”** must mean default on a contract in the public sector by willfully or negligently:

(a) Failing to perform at all; (b) Failing to complete work timeously without good reason; (c) Delivering defective performance, i.e. poor workmanship or substandard materials; (d) Being in breach of a material term of the contract; (e) Failing to achieve a specified contract participation goal or performance target as set out in the tender document/s, and (f) despite being given written notice to remedy non-performance.

**“Other applicable legislation”** must mean any other legislation applicable to municipal supply chain management, including, but not limited to:

(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);

**“Owned”** must mean having all the customary incidents of ownership, including the right of disposition, and sharing all the risks and profits commensurate with the degree of ownership interests, as demonstrated by an examination of the substance, rather than the form of ownership arrangements;

**“Preferred bidder”** must mean the most responsive and recommended bidder but whose tender and award has not been confirmed”

**“Person”** must mean a person including a juristic person and tenderer, supplier, service provider, contractor and business entity must have a corresponding meaning;

**“Prime Contractor”** must mean a contractor who contracts with the Municipality as the principal or main contractor or as a joint venture partner to such contractors, to provide goods, services and works;

**“Priority population group”** must mean black individuals who fall into population groups that were not offered a franchise in the national elections

before or after the introduction of the 1984 tri-cameral parliamentary system and only received a franchise during 1994”.

**“Project Authority”** must mean the authority to incur expenditure on the project as budgeted for and approved by Council;

**“Qualifying Small Enterprise”** must mean any enterprise with annual total revenue of between R10 million and R50 million.

**“Regulation”** must mean the Local Government: Municipal Supply Chain Management Regulations promulgated under General Notice 868 of 2005 dated 31 May 2005, as amended from time to time;

**“Reporting Officer”** must mean a delegated official who monitors the performance of a contractor;

**“Restrictive Horizontal Practice”** must have the same meaning as set out in the Competitions Act 89 of 1998;

**“Restrictive vertical Practice”** must have the same meaning as set out in the Competitions Act 89 of 1998;

**“Service Provider”** must mean a contractor;

**“Sole Supplier”** must mean that there exist one service provider or supplier manufacturer in the market, with sole distribution rights and/or patent rights.

**“SMMEs”** must mean Small, Medium and Micro Enterprises as defined in the National Small Business Act 102 of 1996;

**“Supplier”** must mean a firm that:

(a) owns, operates or maintains a store, warehouse or other establishment in which materials or supplies are bought, kept in stock and regularly sold to the public in the usual course of business and

(b) engages as its principal business, and in its own name, in the purchase and sale of the products;

**“The Act”** must mean the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);

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

**“Unsolicited Bid”** must mean any proposal/concept received by an institution outside its normal procurement process that has not been a solicited bid (a submission that must be innovative, unique and provided by a sole supplier).

**“Variation”** must mean a change to a provision/s in a contract, excluding the changes referred to in amendments in the definition of this policy;

**“Works”** must mean engineering and construction works;

**“Written or verbal quotations”** must mean quotations referred to in paragraph 12(1)(b) of this policy; and

**“Youth”** must mean South African citizens between the ages of 18 and 35;

**“KZN237 area”** is the municipality boundary of KZN237 as defined in the Local Government: Municipality Structures Act, Act 117 of 1998 as amended.

## CHAPTER 1

### IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

#### Supply chain management policy

2. (1) All officials and other role players in the supply chain management system of the municipality must implement this Policy in a way that–
  - (a) gives effect to –
    - (i) section 217 of the Constitution; and
    - (ii) Part 1 of Chapter 11 and other applicable provisions of the Act;
  - (b) is fair, equitable, transparent, competitive and cost effective;
  - (c) complies with –
    - (i) the Regulations; and



- (ii) any minimum norms and standards that may be prescribed in terms of section 168 of the Act;
  - (d) is consistent with other applicable legislation;
  - (e) does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and
  - (f) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.
- (2) A municipal entity (should there be one), 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 municipality. (a) procures goods or services;
- (b) disposes goods no longer needed; or
- (c) selects contractors to provide assistance in the provision of municipality services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies.
- (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 municipality entity; and
  - (b) electricity from Eskom or another public entity, another municipality or a municipality entity.

### **Amendment of the supply chain management policy**

3. (1) The accounting officer must –

- (a) at least annually review the implementation of this Policy; and
  - (b) when the accounting officer considers it necessary, submit proposals for the amendment of this Policy to the Council.
- (2) If the accounting officer submits proposed amendments to the Council that differs from the model policy issued by the National Treasury, the accounting officer must –
- (a) ensure that such proposed amendments comply with the Regulations; and
  - (b) report any deviation from the model policy to the National Treasury and the relevant Provincial Treasury.
- (3) When amending this supply chain management policy, the need for uniformity in supply chain practices, procedures and forms between organs of state in all spheres, particularly to promote accessibility of supply chain management systems for small businesses, must be taken into account.

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

4. (1) The Council hereby delegates all powers and duties to the accounting officer which are necessary to enable the accounting officer –
- (a) to discharge the supply chain management responsibilities conferred on accounting officers in terms of –
    - (i) Chapter 8 or 10 of the Act; and
    - (ii) this Policy;
  - (b) to maximize 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 subdelegation of powers and duties delegated to an accounting officer in terms of subparagraph (1).
- (3) The accounting officer may not sub delegate any supply chain management powers or duties to a person who is not an official of the council or to a committee which is not exclusively composed of officials of the council.
- (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 sub-delegate any supply chain management powers and duties, including those delegated to the accounting officer in terms of this Policy, but any such sub-delegation must be consistent with 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 sub-delegated by the accounting officer;
  - (b) above R2 million (VAT included), but not exceeding R10 million (VAT included), may be sub-delegated but only to –
    - (i) the chief financial officer;
    - (ii) a senior manager; or

- (iii) a bid adjudication committee of which the chief financial officer or a senior manager is a member; or
- (c) not exceeding R2 million (VAT included) may be sub-delegated but only to –
  - (i) the chief financial officer;
  - (ii) a senior manager;
  - (iii) a manager directly accountable to the chief financial officer or a senior manager; or
  - (iv) a bid adjudication committee.
- (3) An official or bid adjudication committee to which the power to make final awards has been sub-delegated in accordance with subparagraph (2) must within five days of the end of each month submit to the official referred to in subparagraph (4) a written report containing particulars of each final award made by such official or committee during that month, including–
  - (a) the amount of the award;
  - (b) the name of the person to whom the award was made; and
  - (c) the reason why the award was made to that person.
- (4) A written report referred to in subparagraph (3) must be submitted –
  - (a) to the accounting officer, in the case of an award by –
    - (i) the chief financial officer;
    - (ii) a senior manager; or
    - (iii) a bid adjudication committee of which the chief financial officer or a senior manager is a member; or
  - (b) to the chief financial officer or the senior manager responsible for the relevant bid, in the case of an award by –
    - (i) a manager referred to in subparagraph (2)(c)(iii); or

- (ii) a bid adjudication committee of which the chief financial officer or a senior manager is not a member.
- (5) Subparagraphs (3) and (4) of this policy do not apply to procurements out of petty cash.
- (6) This paragraph may not be interpreted as permitting an official to whom the power to make final awards has been subdelegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this Policy.
- (7) No supply chain management decision-making powers may be delegated to an advisor or consultant.

#### **Oversight role of Municipality**

- 6. (1) The Council reserves its right to maintain oversight over the implementation of this Policy.
- (2) For the purposes of such oversight the accounting officer must –

#### ***In the case of the Municipality***

- (a) (i) within 30 days of the end of each financial year, submit a report on the implementation of this Policy and the supply chain management policy of any municipal entity under the sole or shared control of the Council, to the Council; and
- (ii) whenever there are serious and material problems in the implementation of this Policy, immediately submit a report to the Municipality.

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

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

### **Supply chain management unit**

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

### **8. Training of supply chain management officials**

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

- (b) take into account any benefits of economies of scale that may be derived in the case of acquisitions of a repetitive nature; and
- (c) provide for the compilation of the required specifications to ensure that its needs are met.
- (d) 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 the municipality in accordance with authorized processes only;
  - (b) that expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the Act;
  - (c) that the threshold values for the different procurement processes are complied with;
  - (d) that bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation; and
  - (e) that any Treasury guidelines on acquisition management are properly taken into account.
- (2) When procuring goods or services contemplated in section 110(2) of the Act, the accounting officer must make public the fact that such goods or services are procured otherwise than through the municipality's supply chain management system, including -



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

### **Range of procurement processes**

- 12.** (1) Goods and services may only be procured by way of –
- (a) petty cash purchases up to a transaction value of R2000 (VAT inclusive)
  - (b) written or verbal quotations for procurements of a transaction valued over R2 000.00 up to R10 000.00 (VAT included);
  - (c) formal written price quotations for procurements of a transaction value over R2 000 up to R200 000 (VAT included); and
  - (d) a competitive bidding process for–
    - (i) procurements above a transaction value of R200 000 (VAT included); and
    - (ii) the procurement of long term contracts.
- (2) The accounting officer may, in writing-
- (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) a competitive bidding process be followed for any specific procurement of a transaction value lower than R200 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.

### **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 furnished the municipality with a tax clearance certificate, if applicable; 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.

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

- 14.** (1) The accounting officer must –
- (a) keep a list of accredited prospective providers of goods and services that must be used for the procurement requirements through written or verbal quotations and formal written price quotations; and
  - (b) at least once a year through newspapers commonly circulating locally, the website and any other appropriate ways, invite prospective providers of goods or services to apply for evaluation and listing as accredited prospective providers;
  - (c) specify the listing criteria for accredited prospective providers; and
  - (d) disallow the listing of any prospective provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector.
- (2) The list must be updated at least quarterly to include any additional prospective providers and any new commodities or types of services. Prospective providers must be allowed to submit applications for listing at any time.
- (3) The list must be compiled per commodity and per type of service.
- i) Hierarchy of Supplier selection
- When searching for or selecting suppliers for any
- contract or order, Inkosi Langalibalele Municipality will consider
- the following when rotating suppliers within business

classifications:

- Distribution of work amongst previously procured businesses who have not received business before;
- Equity suppliers

These preferred businesses must be given preferences first then other business can follow afterwards. Only three suppliers will be asked each time to quote.

4. No quotations may be solicited from any supplier/service provider/contractor who is not registered and verified by the National Treasury Central Supplier Database (CSD). Implementation of the CSD requirement will be phased in gradual over multiple financial years.

(5) The function of implementation and management of the list of accredited prospective providers is delegated to the Head: Supply Chain Management or delegate.

**Database forms should be obtainable from the SCM office at no cost to public or bidders**

**Petty cash purchases**

15. Petty Cash purchases are used for items for which the value does not exceed R2000.00 including VAT. Petty cash will be controlled by a designated, responsible person. The SCM Regulations pertaining to petty cash payments contain the following conditions that must be included in petty cash systems:

- Custody of cash and vouchers - delegated authority for petty cash purchase must determine the terms on which a manager may

delegate responsibility for petty cash to an official reporting to that manager.

- Must limit the number of petty cash purchases or the maximum amounts per month for each manager.
- Require monthly reconciliation reports from each manager to be forwarded to the Chief Financial Officer.
- Total petty cash may not exceed R50 000.00 for each calendar month for the whole municipality.
- Managers with delegated responsibility for petty cash purchases must on a monthly basis report to the Chief Financial Officer:
  - (a) The total amount of petty cash purchases for that month and
  - (b) Receipt and supporting document for each purchase i.e. record keeping

#### **Written or verbal quotations**

- 16.** The conditions for the procurement of goods or services through written or verbal quotations, are as follows:
- (a) Quotations from R2 000.00 to R10 000.00 must be obtained from at least three different providers preferably from, but not limited to, providers whose names appear on the list of accredited prospective providers of the municipality, provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria set out in paragraph 14(1)(b) and (c) of this Policy;

#### Verbal quotes

- (b) to the extent feasible, providers must be requested to submit such quotations in writing;

- (c) if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the Chief Financial Officer or a designated official.
- (d) a designated official referred to in paragraph (c) above 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 paragraph
- (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.
- (f) and /or to apply Risk Management Policy, Delegation of Power Authority, SCM Policy, Delegation of Powers MFMA, Petty Cash as well as Budgeting Policy.

### **Formal written price quotations**

- 17.** (1) The conditions for the procurement of goods or services through formal written price quotations, are as follows:
- (a) quotations must be obtained in writing from at least three different providers whose names appear on the list of accredited prospective providers of the municipality.
  - (b) quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria set out in paragraph 14(1)(b) and (c) of this Policy;
  - (c) if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the chief financial officer or an official designated by the chief financial officer, and

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

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

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

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

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

(b) all requirements to the value of R30 000.00 and above (VAT inclusive) that are to be procured by means of formal written price quotations must, in addition to the requirements of paragraph 17, be scored on price and targeted goals points designed in terms of the Preferential Procurement Points Framework Act (PPPFA) and its regulations and Broad Based Black Economic Empowerment Act (Act 53 of 2003) and be advertised for at least seven days on the website and on an official notice board of Inkosi Langalibalele municipality ;

(c) all offers must be awarded based on compliance to specifications and conditions of contract

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

(e) requirements for proper record keeping.

## 1. Procurement process

- (i) The official authorized to complete RFQ's (Request For Quotations) for the department, must fill in the RFQ (Request For Quotations), obtain the valid signature(s) and thereafter forward the original copy to the Supply Chain Management Unit.
- (ii) The Supply Chain Management Unit will select three suppliers from the approved supplier database on a rotational basis and request for the necessary written quotations. Once written quotations have been received from the supplier, the Supply Chain Management Unit will complete a Quotation Summary and together with the RFQ and written quotes, forward it to the Budget office for funds availability approval. Once approved, the quotation summary together with the attachments will be forwarded to the respective Head of Department or his/her delegate for authorization, thus confirming that purchase order number may be issued.
- (iii) After receipt of duly signed quotation summary together with attachments, the Supply Chain Management Unit will then place an order and simultaneously advise the preparer of the RFQ of the PO number together with expected delivery date and place of delivery. The Procurement section will also send a duplicate copy of the Purchase order to the Head of Department or delegate, for assisting with the tracking of the delivered goods.
- (iv) The Supply Chain Management Unit will thereafter forward duly completed quotation summary together with attachments to the Creditors section.



- (v) Upon receipt of goods and/or services, the recipient must submit a duly signed delivery note and/or invoice attached to the copy purchase order to the Creditors section for processing and payment.
  
  - (vi) The Creditors section will collate documents alluded to in (v) above to the quotation summary and its attachments and thereafter only process information for payment once it is satisfied that all quantities, description and price of invoice agree to that of our internal documentation
- (2) Payment method
- i) Upon delivery  

Requisitioning department must ensure that the supplier deliver with the original invoice.
  - ii) Invoice must be verified by the department concerned in terms of description, quantity and price.
  - iii) Authorized official must certify and stamp the invoice then submit to Creditors Section for processing.
  - iv) Goods supplied in excess of the original purchase order issued, will not be paid for
  - v) When a service provider provides a service that does not meet Inkosi Langalibalele Municipality standards, the Municipality does not bind itself to pay for that particular supply.

### **Competitive bids**

19. (1) Goods or services above a transaction value of R200 000 (VAT included) and long term contracts may only be procured through a competitive bidding process, subject to paragraph 11(2) of this Policy.
- (2) For contracts in excess of three years, the requirements of section 33 of the Act must be complied with in full.
- (3) No requirement for goods or services above an estimated transaction value of R200 000 (VAT included), may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.

### **Process for competitive bidding**

20. The procedures for the following stages of a competitive bidding process are as follows:
  - (a) Compilation of bidding documentation as detailed in paragraph 21;
  - (b) Public invitation of bids as detailed in paragraph 22;
  - (c) Site meetings or briefing sessions as detailed in paragraph 22;
  - (d) Handling of bids submitted in response to public invitation as detailed in paragraph 23;
  - (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.

## **21. Bid documentation for competitive bids**

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;
  - (iv) the minimum requirements for infrastructure procurement in accordance with the Standard for Infrastructure Procurement and Delivery Management, in the case of procurement relating to the provision of new infrastructure or rehabilitation, refurbishment or alteration of existing structures.
  
- (b) include the preference points system to be used, goals as contemplated in the Preferential Procurement Regulations and evaluation and adjudication criteria, including any criteria required by other applicable legislation;
- (c) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;
- (d) if the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish–
  - (i) if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements –
    - (aa) for the past three years; or
    - (bb) since their establishment if established during the past three years;

- (ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipality 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 municipality entity is expected to be transferred out of the Republic; and
- (e) stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law.
- (f) Sureties or performance guarantees for the procurement of goods and services (including consultant services) will not generally be called for, but in exceptional circumstances, where required, will be in accordance with the limits set for construction works below. The performance guarantees required for construction works are as follows:

<b>Amount incl. VAT</b>	<b>Percentage</b>
Up to R 1 000 000.00	Nil
R 1 000 001- R 10 000 000.00	5%
Above 10 000 000.00	10%

- (g) In the event that a contractor is unable to raise the required surety, the **Head: Supply Chain Management** may allow such surety to be deducted in full or part from monies that are to become due to the contractor. This may take the form of deductions from the first three [3] payment certificates due to the contractor.

The Inkosi Langalibalele Municipality requires a percentage of the project costs for all construction projects to be set aside as retention. A 10% retention fee up to a maximum of 10% of the contract sum will be applied on all contracts. Full of the retention amount will be released on issue of the completion certificate for the contract. All contracts must include a penalty clause.

- (h) For consultant services in respect of construction contracts, 10% retention is to be applied until the provision and acceptance of the final 'as-built' drawings.

### **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 in newspapers commonly circulating locally, the website of the municipality, e-tender portal or any other appropriate ways (which may include an advertisement in the Provincial Government Gazette); and
- (b) the information contained in a public advertisement, must include –
- (i) the closure date for the submission of bids, which may not be less than 30 days in the case of transactions over R10 million (VAT included), or which are of a long term nature, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to subparagraph (2) of this policy;
  - (ii) a statement that bids may only be submitted on the bid documentation provided by the municipality; and

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

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

- 23.** The procedures for the handling, opening and recording of bids, are as follows:
- (a) Bids–
    - (i) must be opened only in public;
    - (ii) must be opened at the same time and as soon as possible after the period for the submission of bids has expired; and
    - (iii) received after the closing time should not be considered and returned unopened immediately.
  - (b) Any bidder or member of the public has the right to request that the names of the bidders who submitted bids in time must be read out and, if practical, also each bidder's total bidding price;
  - (c) No information, except the provisions in subparagraph (b), relating to the bid should be disclosed to bidders or other persons until the successful bidder is notified of the award; and
  - (d) The accounting officer must –

- (i) record in a register all bids received in time;
  - (ii) make the register available for public inspection; and
  - (iv) publish the entries in the register and the bid results on the municipality's official notice board and on the website if practical.
- (e) In cases where the consultant, engineer or project manager is involved in the compilation of bids documents, it must be **clearly outlined** that they remain the property of the municipality and the issue of safekeeping must be the responsibility of the municipality.
- (f) The consultant, engineer or the project manager together with the municipal official present at the site inspection meeting must sign and stamp the Site Inspection Certificate with the municipal dated stamp.

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

24. (1) The accounting officer may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provided that such negotiation –
- (a) does not allow any preferred bidder a second or unfair opportunity;
  - (b) is not to the detriment of any other bidder; and
  - (c) does not lead to a higher price than the bid as submitted.
- (2) Minutes of such negotiations must be kept for record purposes.
- (3) The multi-disciplinary team undertaking the negotiations must include a representative from SCM Policy and Support Services. The SCM practitioner must preside over the negotiations.
- (4) Authority to negotiate price and any conditions of tender with preferred bidder(s) must be approved by the Bid Adjudication Committee and the outcome of the negotiations must be reported back to the Bid Adjudication Committee for final approval or support.

- (5) Authority to negotiate price and any conditions of written or verbal quotations and formal written price quotations must be approved by an official who is sub-delegated in terms of supply chain management code of delegations approved by the accounting officer. The outcome of the negotiations must be reported back to the duly delegated official for final approval.
- (6) The negotiations may include price and or final terms and conditions of tender, project plan and service level agreement.
- (7) Discount offers or alternate offers must be considered for negotiation after the Bid Adjudication Committee has granted authority to consider any alternate or discount offers. Outcome of the negotiation together with the minutes of the negotiation meeting must be reported back to the Bid Adjudication Committee for final approval or support.
- (8) Bid validity must be monitored and where applicable be extended by the line Department at all times during the process of negotiations.
- (9) The framework or terms of reference for negotiations shall be determined by the Bid Adjudication Committee.

### **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.



- (4) 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.

### **Bid specification committees**

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

- (2) Specifications –
- (a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
  - (b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organization, 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 2001;
  - (g) the number of points that will be awarded to each goal, and proof of the claim for such goal.
  - (i) If it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—
    - (1) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and

that the highest acceptable tender will be used to determine the applicable preference point system; or

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

- (h) 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:
  - (a) two/three senior officials of the municipality who must serve as standing members; one from the Supply Chain Management Unit who will chair and the others from Technical, Planning, Development and Administration
  - (b) must be appointed in writing for a period of 12 months which is in line with the financial year end of the municipality, subject to the annual review of this policy;
  - (c) one official to be co-opted from the end user department preferably a manager and a knowledgeable official responsible for the function involved; the accounting officer may appoint any person or employee of an organization to be co-opted on to the committee. This person may participate in the bid committee on ad-hoc basis, due to his or her expertise. This member has the same powers/duties as other members of the committee but **no voting rights**

- the co-opted members are subjected to the same rules of conduct as permanent Committee members. If a consultant is co-opted on to the Bid Committee his or her organization may not bid for the same project
- (d) co-opted external specialized expert or engineer deemed where necessary, however the final decision is to be made but the Council through the bid committees. Under no circumstances should the engineer's recommendation be final, where an external expert or engineer is preparing bid documents, he/she should involve the municipal officials in a bid of adding value and capacity to the municipality.
  - (e) the quorum must be equal to 50% of the number of permanent (as opposed to co-opted) committee members, plus one member referred to in (b) above.
  - (f) 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 municipality rates and taxes and municipality 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.

- (e) Ensure in respect of the recommended bidder, that their tax clearance certificate or Tax Compliance Status with a PIN number CIDB certificate and BBBEE certificates are in order.
- (f) In bids where Consortia / Joint Ventures are involved, each party must submit a separate Tax Clearance Certificate or Tax Compliance Status with a PIN number.
- (g) In instances where a Tax Clearance certificate or Tax Compliance Status with a PIN number is valid at the time of tender, but expires during the evaluation period, the preferred bidder must furnish the municipality within a period of twenty-one (21) days as stipulated by the Bid Committees with a valid tax clearance certificate or Tax Compliance Status with a PIN number.
- (h) A designated Line department shall communicate in writing with the preferred bidder about the applicability of the suspensive condition by latest the following day of the Bid Evaluation Committee meeting.
- (i) The CIDB status must be valid and active at the time of consideration by Bid Evaluation Committee and before final award.
- (j) When the BBBEE certificate is valid at the time of tender and then it expires during evaluation or the level contribution changes, then it is the level at the time of tender that shall be considered.

The MBD 6.1. document requires the bidder to fill in a claim for empowerment points. The BB-BEE certificate shall be taken as the substantiation of the claim and accordingly submission of a BB-BEE certificate is mandatory. If the bidder does not complete MBD 6.1 document in full but provides a valid BB-BEE certificate, the municipality must award preference points in line with the PPPFA. (j) If a municipality is

in possession of a bidder's original tax clearance certificate or tax compliance status with a PIN number and B-BBEE certificate through the municipality's database, it is not necessary to obtain a new tax clearance certificate or tax compliance status with a PIN number or B-BBEE certificate each time a price quotation or bid is submitted from that specific bidder. This provision may be applied only if at the closing date of the price quotation or bid falls within the expiry date of the tax clearance certificate or tax compliance status and B- BBEE certificate that is in municipality's possession. Whenever this ruling is applied, cross-reference must be made to the original tax clearance certificate or tax compliance status and B-BBEE certificate for audit purposes. (k) Health and Safety Plans must be submitted at the time of tender where applicable.

- (k) Submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.
- (2) The bid evaluation committee composed of at least one supply chain management practitioner of the municipality or municipal entity.
- (3) No item may be considered at the Bid Evaluation Committee unless the appropriate SCM compliance check process done by and signed off by the Head SCM and has been undertaken the item has been cleared for acceptance onto the agenda unless otherwise approved by the Chairperson.
- (4) A bid evaluation committee must as far as possible be composed of-
  - (a) two/three senior officials of the municipality who must serve as standing members; one from the Supply Chain Management Unit who will chair and the others from Technical, Planning & Development and Administration

- (b) must be appointed in writing for a period of 12 months which is in line with the financial year end of the municipality, subject to the annual reviewal of this policy;
  - (c) one official to be co-opted from the end user department preferably a manager and a knowledgeable official responsible for the function involved;
  - (d) co-opted external specialized expert deemed where necessary
  - (e) the quorum must be equal to 50% of the number of permanent (as opposed to co-opted) committee members, plus one member referred to in (b) above.
5. The bid evaluation committee must use the following Preferential Point System when evaluating bids for the Municipality

(a) **THE 80/20 PREFERENCE POINT SYSTEM**

- (1) The following formula must be used to calculate the points for price in respect of bids/procurement with a Rand value equal to, or above R30 000.00 (VAT Inclusive) and up a Rand value of R50 000 000 (VAT Inclusive).

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

Where

Ps = Points scored for price of tender under consideration

Pt = Rand value of offer tender consideration

Pmin = Rand value of lowest acceptable tender

(2) A maximum of 20 points may be awarded to a tenderer for preference points and / or subcontracting with an HDI and/or after assessment of previous work performance and current work load and/or being local and / or achieving any of the specified goals stipulated in section 1.

(3) The points scored by a tenderer in respect of the goals contemplated in sub-regulation (2) must be added to the points scored for price.

The Minister of Finance has, in terms of section 5 of the Preferential Procurement Policy

Framework Act, 2000 (Act No. 5 of 2000) made regulations. These Regulations are called

The Preferential Procurement Regulations 2022 and take effect on 16 January 2023.

- Subject to this regulation, the Preferential Procurement Regulations, 2017 published in Government Notice No. 40553 of 20 January 2017 (herein called “the 2017 Regulations), are hereby repealed with effect from the date referred to in regulation 17 i.e. on 16 January 2023.



- Any sector designated and minimum threshold determined for local production and content for purposes of regulation 9 of the 2011 Regulations and in force

Immediately before the repeal of the 2011 Regulations are regarded as having been done under regulation 8(1) of these Regulations.

- Any tender advertised before the date referred to in Regulation 17 must be dealt with in terms of 2011 Regulations.

### **Key Changes to Procurement Preferential Policy Framework Act Regulations (PPPFA) 2017.**

1. Thresholds for application of preference points increased: 80/20 preference points increased: R 30 000.00 up to 50 million (Regulation 6).

B-BBEE points for level 3 have been reduced from 16 to 14 align with the amended codes.

90/10 preference points – above 50 million (Regulation 7).

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

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

The tenderer must sub-contract a minimum of 30% of the value of the contract to Exempted Micro Emerging contractors EMEs or Qualifying Small Business enterprise QSEs which are 51% owned by either of the following: Blacks, Black Youth, Black Women, Black people with disabilities, Black people living in Rural areas or underdeveloped areas or township(s), cooperatives owned by Black people, Black people who are military veterans.

3. The revised regulations require organs of state to identify tenders, where it is feasible, to subcontract a minimum of 30% of the value of the contract for contracts above 30 million. (Regulation 9).
4. For contracts less than R30 Million, a minimum of 20% of the total cost of the project may be sub-contracted to Small, Medium and Micro-Enterprises (SMME) which will be obtainable from Local Economic Development Database for the municipality.
5. Regulation 13 is used to guard against the manipulation of tenders by civil servants. Tenders may only be cancelled for the following reasons:
  - a) Changed circumstances, there is no longer for goods/services.
  - b) Funds no longer available,
  - c) No acceptable tender received and
  - d) There is material irregularity in the tender process.

The decision will be published in the same medium used to advertise bid and any tenders which are cancelled more than once will need approval from Provincial Treasury.

6. Bids or proposals with a value equal to R 30 000.00 and above have to be evaluated on the basis of price and functionality (where applicable), as well as the contribution to Preferential Procurement Policy Framework Act (PPPFA). The combined percentages for price and PPPFA should total to 100 points.
7. Bids/Quotations with an estimated value equal to or above R 30 000.00 and up to R 50 000 000.00 will use 80/20 preferential point system as per the Preferential Procurement Policy Framework Act (PPPFA).

8. Bids/Proposals with an estimated value above R 50 000 000.00 will use the 90/10 preferential point system.
9. The 80 and 90 are points for price, while the 20 and 10 are points for PPPFA, and the 20/10 preferential points can be structured in any way depending on the municipal targets.
  - (a) A maximum of 20 points may be awarded to a tenderer for the specific goal specified for the tender.
  - (b) 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.
  - (c) Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.
  - (d) 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.
  - (e) If two or more tenderers score equal total points in all respects, the award must be decided by the drawing of lots.

#### **Bid adjudication committees**

29. (1) A bid adjudication committee must –
  - (a) consider the report and recommendations of the bid evaluation committee;  
and
  - (b) either –
    - (i) depending on its delegations, make a final award or a recommendation to the accounting officer to make the final award;
    - or

- (ii) make another recommendation to the accounting officer how to proceed with the relevant procurement.
- (2) A bid adjudication committee must consist of at least four senior managers of the municipality which must include –
  - (a) the chief financial officer, who must be the chairperson of the bid adjudication committee,
  - (b) a technical expert in the relevant field who is an official, if such an expert exists; and
  - (c) any other two senior executive managers
  - (d) the quorum must be equal to 50% of the number of permanent (as opposed to co-opted) committee members, plus one member.
- (3) The accounting officer must appoint the chairperson of the bid committees in writing. If the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside at the meeting.
- (4) Neither a member of a bid evaluation committee, nor an advisor or person assisting the evaluation committee, may be a member of a bid adjudication committee.
- (5) (a) If the bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee, the bid adjudication committee must prior to awarding the bid –
  - (i) check in respect of the preferred bidder whether that bidder's municipality rates and taxes and municipality service charges are not in arrears, and;
  - (ii) notify the accounting officer.
  - (b) The accounting officer may –

- (i) after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in paragraph (a); and
  - (ii) if the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.
- (6) The accounting officer may at any stage of a bidding process, refer any recommendation made by the evaluation committee or the adjudication committee back to that committee for reconsideration of the recommendation.
- (7) The Accounting officer may subject any bid to an independent review by the internal audit unit before a final decision is made.
- (8) The accounting officer must comply with section 114 of the Act within 10 working days.
- (9) If the municipality is of the view that a tenderer submitted false information regarding a specific goal, it must—
- (a) inform the tenderer accordingly; and
  - (b) give the tenderer an opportunity to make representations within 14 days as to why the tender may not be disqualified or, if the tender has already been awarded to the tenderer, the contract should not be terminated in whole or in part.
- (10) After considering the representations referred to in paragraph(9)(b) the municipality may, if it concludes that such information is false—
- (a) disqualify the tenderer or terminate the contract in whole or in part; and
  - (b) if applicable, claim damages from the tenderer.

### **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 municipality disagrees with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the Municipality, the National Treasury, the relevant provincial treasury and the Auditor General.

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

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

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

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

#### **Proudly SA Campaign**

- 34.** The municipality supports the Proudly SA Campaign to the extent that, all things being equal, preference is given to procuring local goods and services from:
- Firstly – suppliers and businesses within the Municipality or district;
  - Secondly – suppliers and businesses within the relevant province;
  - Thirdly – suppliers and businesses within the Republic.

#### **Appointment of consultants**

- 35.** (1) The accounting officer may procure consulting services provided that any Treasury guidelines in respect of consulting services are taken into account when such procurements are made.
- (2) Consultancy services must be procured through competitive bids if
- (a) the value of the contract exceeds R200 000 (VAT included); or
- (b) the duration period of the contract exceeds one year.
- (3) In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish particulars of –
- (a) all consultancy services provided to an organ of state in the last five years; and



- (b) any similar consultancy services provided to an organ of state in the last five years.
- (4) The accounting officer must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, thing, system or process designed or devised, by a consultant in the course of the consultancy service is vested in the municipality.

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

- 36.** (1) The accounting officer may –
- (a) dispense with the official procurement processes established by this Policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only –
    - (i) in an emergency;
    - (ii) if such goods or services are produced or available from a single provider only;
    - (iii) for the acquisition of special works of art or historical objects where specifications are difficult to compile;
    - (iv) acquisition of animals for zoos and/or nature and game reserves; or
    - (v) in any other exceptional case where it is impractical or impossible to follow the official procurement processes; and
  - (b) ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature.
- (2) The accounting officer must record the reasons for any deviations in terms of subparagraphs (1)(a) and (b) of this policy and report

them to the next meeting of the Municipality and include as a note to the annual financial statements.

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

### **37. Unsolicited bids**

- (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 Municipality 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, the relevant provincial treasury and the National Treasury the reasons for rejecting or not following those recommendations.
- (9) Such submission must be made within seven days after the decision on the award of the unsolicited bid is taken, but no contract committing the municipality to the bid may be entered into or signed within 30 days of the submission.

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

- 38.** (1) The accounting officer must–

- (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, favoritisms, 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 municipality rates and taxes or municipality service charges owed by that bidder or any of its directors to the municipality, or to any other municipality or municipality entity, are in arrears for more than three months; or
  - (ii) who during the last five years has failed to perform satisfactorily on a previous contract with the municipality **or** any other organ of state after written notice was given to that bidder that performance was unsatisfactory;
- (e) reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;
- (f) cancel a contract awarded to a person if –
  - (i) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or

- (ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and
- (g) reject the bid of any bidder if that bidder or any of its directors –
  - (i) has abused the supply chain management system of the municipality or has committed any improper conduct in relation to such system;
  - (ii) has been convicted for fraud or corruption during the past five years;
  - (iii) has willfully neglected, reneged on or failed to comply with any government, municipality 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.

### **39. URGENT AND EMERGENCY PROCUREMENT DELEGATION**

Should it be impractical to invite competitive bids for a specific procurement in the case of emergency and urgent cases or in case of sole supplier, the Accounting Officer may procure such required goods and services in accordance with MFMA, 2003 Municipal Supply Chain Management Regulations 36 by other means such as price quotations or negotiations. The reasons for deviating from inviting competitive bids should be recorded and approved by the Accounting Officer or the

delegated officials. Poor planning is not a justifiable cause of an emergency and urgent procurement situation.

### **39.1 DELEGATED OFFICIALS TO DECLARE AND APPROVE URGENT AND EMERGENCY PROCUREMENT OF GOODS AND SERVICES**

- (a) The **Chief Financial Officer** may approve urgent and emergency procurement of goods and services up to the value of **R200 000.00**.
- (b) **Accounting Officer (Municipal Manager)** has **unlimited authority** to approve urgent and emergency procurement of goods and services.

### **39.2 CONDITIONS ATTACHED TO THE URGENT AND EMERGENCY PROCUREMENT OF GOODS AND SERVICES.**

39.2.1 At least three (3) written quotations must be obtained.

39.2.2 If it is not possible to obtain three written quotations, the reasons should be recorded and approved by the Chief Financial Officer or Accounting Officer, as per 39.1 above, depending on value.

39.2.3 Where only one quotation is received and accepted, all reasonable steps must be taken to ensure that the price is fair and market related.

39.2.4 A comparative schedule must be compiled reflecting (80/20) preference points allocations for any bids which are more than the value of R30 000 up to R50 000 000 and (90:10) preference

points allocations for any bids which are more than the value of R50 000 000.

39.2.5 Quotations to be evaluated by the **Bid Evaluation Committee** and therefore make recommendation to the **Bid Adjudication Committee** to approve quotations above R200 000.

39.2.6 A contract shall only be awarded to an acceptable supplier who scored the highest points in accordance with the predetermined criteria and registered in the Municipal Suppliers database unless exempted in terms of Supply Chain Management Regulations 11(2).

39.2.7 Approval of acceptance of quotations must be done by the **Chief Financial Officer or Accounting Officer (Municipal Manager)**, as per 39.2.7 above, depending on value.

39.2.8 If the lowest bid is not chosen or preferred, valid reasons must be provided and must therefore be approved by the **Chief Financial Officer or Accounting Officer (Municipal Manager)**, as per 39.2.7 above, depending on value, before such purchases may take place.

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

#### **Logistics management**

- 40.** 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;
- (d) before payment is approved, certification by the responsible officer that the goods and services are received or rendered on time and is in accordance with the order, the general conditions of contract and specifications where applicable and that the price charged is as quoted in terms of a contract;
- (e) appropriate standards of internal control and warehouse management to ensure that goods placed in stores are secure and only used for the purpose for which they were purchased;
- (f) regular checking to ensure that all assets including official vehicles are properly managed, appropriately maintained and only used for official purposes; and
- (g) monitoring and review of the supply vendor performance to ensure compliance with specifications and contract conditions for particular goods or services.

### **Disposal management**

- 41.** (1) The criteria for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the Act, are as follows:
- (i) An obsolescence plan must be determined for each asset to ensure that when the asset can no longer be maintained or used for its original purpose, that there is a plan to replace it.
  - (ii) A renewal plan must be determined for assets that have reached the end of its useful life.
  - (iii) Asset disposal decisions must be made within an integrated, service



and financial planning framework.

- (2) Assets may be disposed of by –
  - (i) transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;
  - (ii) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
  - (iii) selling the asset; or
  - (iv) destroying the asset.
- (3) Inkosi Langalibalele Municipality must establish a disposal strategy to determine the best mechanism of disposal for each asset and the the accounting officer must ensure that –
  - (f) 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;
  - (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.

## **Risk management**

### **42.**

- (1) The criteria for the identification, consideration and avoidance of potential risks in the supply chain management system, are as follows:
  - (a) risk management aspect must be allocated to the Chief Financial Officer, the SCM Manager, the internal audit function and the Audit Committee, each of which shall ultimately be accountable to the Municipal Manager or the Council for the discharge of their responsibilities.
  
- (2) Risk management must include –
  - (a) the identification of risks on a case-by-case basis;
  - (b) the allocation of risks to the party best suited to manage such risks;
  - (c) acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;
  - (d) the management of risks in a pro-active manner and the provision of adequate cover for residual risks; and
  - (e) the assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.

## **Performance management**

- 43.** The accounting officer must establish and implement an internal monitoring system in order to determine, on the basis of a retrospective analysis, whether the authorized supply chain management processes were followed and whether the objectives of this Policy were achieved.

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

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

- 44.** (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.

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

- 45.** Irrespective of the procurement process followed, no award may be made to a person in terms of this Policy –
- (a) who is in the service of the state;
- (b) if that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state;
- or
- (c) a person who is an advisor or consultant contracted with the municipality.

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

- 46.** 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**

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

- (a) mutual trust and respect; and
  - (b) an environment where business can be conducted with integrity and in a fair and reasonable manner.
- (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, favor, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350.00;
  - (d) notwithstanding subparagraph (2) (c), must declare to the accounting officer details of any reward, gift, favor, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;
  - (e) must declare to the accounting officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by, the municipality;

- (f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;
- (g) must be scrupulous in his or her use of property belonging to municipality;
- (h) must assist the accounting officer in combating fraud, corruption, favoritism 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, favoritism or unfair conduct;
  - (ii) any alleged contravention of paragraph 47(1) of this Policy; or
  - (iii) any alleged breach of this code of ethical standards
- (3) Declarations in terms of subparagraphs (2)(d) and (e) -
  - (a) must be recorded in a register which the accounting officer must keep for this purpose;
  - (b) by the accounting officer must be made to the mayor of the municipality who must ensure that such declarations are recorded in the register.
- (4) The National Treasury's code of conduct must also be taken into account by supply chain management practitioners and other role players involved in supply chain management.
- (5) A breach of the code of ethics must be dealt with as follows -
  - (a) in the case of an employee, in terms of the disciplinary procedures of the municipality envisaged in section 67(1)(h) of the Municipality 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 favors to municipalities, officials and other role players**

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

**Sponsorships**

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

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

### **Objections and complaints**

**50.** 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**

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

- (4) A dispute, objection, complaint or query may be referred to the relevant provincial treasury if –
  - a) the dispute, objection, complaint or query is not resolved within 60 days; or
  - (b) no response is forthcoming within 60 days.
  
- (5) If the provincial treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.

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

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

- 52.** If a service provider acts on behalf of a municipality to provide any service or act as a collector of fees, service charges or taxes and the compensation payable to the service provider is fixed as an agreed percentage of turnover for the service or the amount collected, the contract between the service provider and the municipality must stipulate–
- (a) a cap on the compensation payable to the service provider; and
  - (d) that such compensation must be performance based.

### **53. Local emerging contractor**

Noting that there are very few local contractors qualifying for major contracts advertised by council, furthermore a lot of cash which could benefit local economic development is not realized within the Inkosi Langalibalele Municipality since most of projects are



awarded through the policy to contractors not contributing to the local economy of Inkosi Langalibalele Local Municipality.

Council resolves to empower grade 1 to grade 3 local contractors residing in Inkosi Langalibalele to bid on an annual basis for projects ring fenced not exceeding R3 million rand, this projects would provide a platform to only local contractors since it give them an opportunity to compete with major contractors coming outside the municipality.

#### **54. Subcontracting**

- (a) The service provider shall notify the Municipality in writing of all subcontracts entered into in respect of any award granted where the details of any such subcontracts is not already specified in a bid, quotation or proposal. Such notification, in the original bid or later, shall not relieve the service provider from any liability or obligation under the awarded contract.
- (b) Service providers who are granted construction work contracts with a project value of R 3 000 000-00 or more may be required to subcontract at least 30% of the works to service providers with a CIDB grading of at least 1CE or above whose principal business address is registered, and whose operations are conducted primarily within the jurisdiction of the Inkosi Langalibalele Local Municipality.
- (c) The service provider may be required to enter into a “cession of a right to direct payment” agreement with the Municipality and the third party subcontractor in order to facilitate the making of direct payment to the third party sub-contractor where necessary.

## **CHAPTER 3 GENERAL**

### **Emergencies**

#### **55. Emergency Situations**

- (a) Where an emergency arises, the senior Municipal official available decides on the action needed to mitigate the threat. Where procurement of goods or services is involved, he takes the needed action, and within one working day, in writing, informs the procurement Section and department concerned of the action taken and gives them all the necessary information to enable them to place the orders and arrange for payment.
- (b) Emergency procurement must be authorized by Head of Department only.
- (c) Selection of suppliers providing services on emergencies must be done on rotational basis

#### **56. FRONTING OF SUPPLIERS**

Imbabazane Local Municipality prohibits fronting of supplier, any supplier that will be found fronting certain people will

- (a) be blacklisted from Imbabazane database
- (b) no longer enter into any contract with the Municipality

#### **57. PARTICIPATION IN HIV/AIDS PROGRAMMES BY SERVICE PROVIDERS**

Whereby service providers participate in any kind with regards to AIDS/HIV activities, such involvement must be disclosed to the Municipality.

#### **58. SAVINGS ON PROJECTS**

All monies left on the estimated project value, in order of such monies to be used, the following steps must be followed

- (a) Responsible Head of Department must submit a proposal to Bid Specification Committee indicating scope of work to be done.
- (b) Accountable Officer must compile a report that will show that how savings occurred.

Once approved by Bid Specification Committee

- (a) Bid Specification Committee must submit a report to Bid Evaluation Committee.

If the Bid Evaluation Committee is satisfied about spending on savings, then

- (a) It can approve the project and write a report to the Bid Adjudication committee for final decision.

Once approved by the Bid Adjudication Committee only then savings on project can be used.

#### **59. MEETINGS OF THE COMMITTEES**

- (1) Committees must meet-
  - (a) whenever necessary;
  - (b) at a time determined by the Chairperson; and
  - (c) at a venue determined by the Chairperson.
- (2) The Chairperson or Deputy Chairperson must preside at a meeting of the Committee, but if both the Chairperson and the Deputy Chairperson are

not available, the members present must elect another member to act as chairperson for that meeting.

## **60. MEETING PROCEDURES OF COMMITTEES**

- (1) Subject to these regulations, Committees must determine the procedure for its meetings, having regard, amongst others, to the following:
  - (a) Adequate written notice of meeting being given to members; and
  - (b) Members being prohibited from re-entering the committee meeting, whilst it is still in progress.

## **61. ACCESS TO MEETINGS OF THE COMMITTEES**

A person may only attend or be present at a meeting of the Committee-

- (a) if he or she is an official of Council's Administration office; or
- (b) when authorized to attend by national or provincial legislation, or an order of court.

### **61.1 Secretariat**

An official from the bid administration section must be made available to act as secretary to bid committees.

### **61.2 Quorum**

A Bid Committee meeting is properly constituted only if at least sixty percent (60%) of its members are present.

#### **61.2.1 Secundi**

For the purpose of continuity and not to delay meetings the Accounting officer/Authority may also appoint secundi to temporarily replace members that are absent from meetings due to illness, leave, etc. The Accounting officer/Authority will also decide whether or not such secundi will have the same powers as members.

### **61.2.2 Notice of Meetings**

The agenda of a meeting serves as the programme of the meeting and unless the committee decides otherwise, the items and sequence may not be changed during the meeting. In order to afford members, the opportunity to prepare for meeting, the agenda shall be made available to members at least three (3) working days before the actual meeting.

### **61.2.3 Minutes**

The minutes will be the written record reflecting a brief clear and impartial manner, the decisions of Bid Committee. The signed minutes will serve as proof of the decisions of that Committee.

Should a member wish to have a specific matter other than a decision recorded, it must be specifically requested. A member's reasons for a dissenting voice must also be recorded. Proceedings are also recorded mechanically to enable the secretary to prepare verbatim reports required by court of law.

### **61.2. 4 Register**

Members shall sign a register at each meeting serving as the attendance register as well as an undertaking to confidentiality of that meeting. The register will also provide for the declaration of interest.

Members must declare all gift and invitations accepted to social events received from suppliers or potential suppliers, irrespective of the value of such a gift.

Such declarations must be captured in the minutes of the meeting and must be reported to the Chief Financial Officer.

Any such gifts and /or invitations accepted by the Chief Financial Officer must be reported to the Accounting Officer.

### **61.2.5 Chairperson**

Each meeting will be presided over by a chairperson. In the absence of the chairperson, the vice-chairperson will preside as chairperson, in which case he/she will occupy the chair for the duration of the meeting, even if the chairperson should arrive during the course of the meeting. Every member attending the meeting owes deference to the chairperson and may be removed if that person does not respect the authority of the chair.

### **61.2.6 Points of Order**

A member may speak on point of order only if he/she is of the opinion that there has been a departure from the rules of order e.g. an objection against improper language used, that a speaker has transgressed etc.

## **COMMENCEMENT**

**62.** This policy was amended by the council meeting that was held on the.....

**ANNEXTURE A**  
**CODE OF CONDUCT FOR SUPPLY CHAIN MANAGEMENT PRACTITIONERS  
AND OTHER ROLE PLAYERS**

The purpose of this Code of Conduct is to promote mutual trust and respect and an environment where business can be conducted with integrity and in a fair and reasonable manner.

**General Principles**

The municipal commits itself to a policy of fair dealing and integrity in the conduction of its business. Officials and other role players involved in supply chain management (SCM) are in position of trust, implying a duty to act in the public interest. Officials and other role players should not perform their duties to unlawfully gain any form of compensation, payment or gratuities from any person, or provider/contractor for themselves, their family or their friends.

Official and other role players involved in SCM should ensure that they perform their duties efficiently, effectively and with integrity, in accordance with the relevant legislation, policies and guidelines. They should ensure that public resources are administered responsibility.

Official and other role players involved in SCM should be fair and impartial in the performance of their functions. They should at no time afford any undue preferential treatment to any group or individual or unfairly discriminate against any group or individual. They should not abuse the power and authority vested in them.

### **Conflict of interest**

An official or other role player involved with supply chain management

- 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, favor, hospitality or other benefits directly or indirectly, including to any close family members, partner or associate of that person, of a value of more than R350.00;
- d) must declare to the accounting officer details of any reward, gift, favor, 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, or in any award of a contract by the municipality;
- f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which



- that person, or any close family member, partner or associate, has any private or business interest;
- g) must declare any business, commercial and financial interest or activities undertaken for financial gain that may raise a possible conflict of interest;
  - h) should not place him/herself under any financial or other obligation to outside individuals or organizations that might seek to influence them in the performance of their official duties; and
    - i) should not take improper advantage of their previous office after leaving
    - ii) their official position.

### **Accountability**

Practitioners are accountable for their decisions and actions to the public.

Practitioners should use public property scrupulously.

Only accounting officers or their delegated have the authority to commit the municipality to any transaction for the procurement of goods and / or services.

All transactions conducted by a practitioner should be recorded and accounted for in an appropriate accounting system. Practitioners should not make any false or misleading entries into such a system for any reason whatsoever.

Practitioners must assist the accounting officer in combating fraud, corruption, favoritism and unfair and irregular practices in the supply chain management system.

Practitioners 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, favoritism or unfair conduct;
- (ii) any alleged contravention of the policy on inducements, rewards, gifts and favors to municipality, officials or other role players; and
- (iii) any alleged breach of this code of conduct.

Any declarations made must be recorded in a register which the accounting officer must keep for this purpose. Any declarations made by the accounting officer must be made to the mayor who must ensure that such declaration is recorded in the register.

### **Openness**

Practitioners should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only if it is in the public interest to do so.

### **Confidentiality**

Any information that is the property of the municipality or its providers should be protected at all times. No information regarding any bid/contract/bidder/contractor may be revealed if such an action will infringe on the relevant bidder's/contractor's personal rights.

Matters of confidential nature in the possession of officials and other role players

involved in SCM should be kept confidential unless legislation, the performance of duty or the provisions of law requires otherwise. Such restrictions also apply to officials and other role players involved in SCM after separation from service.

### **Bid Specification /Evaluation / Adjudication Committees**

- 6.1 Bid specification, evaluation and adjudication committees should implement supply chain management on behalf of the municipality in an honest, fair, impartial, transparent, cost-effective and accountable manner.
- 6.2 Bid evaluation/ adjudication committees should be familiar with and adhere to the prescribed legislation, directives and procedures in respect of supply chain management in order to perform effectively and efficiently.
- 6.3 All members of bid adjudication committees should be cleared by the accounting officer at the level of “CONFIDENTIAL” and should be required to declare their financial interest annually.
- 6.4 No person should -
  - 6.4.1 interfere with the supply chain management system of the municipality; or
  - 6.4.2 amend or tamper with any price quotation/ bid after its submission.

Matters of confidential nature in possession of officials and other role players and supply chain practitioners involved in SCM should be kept confidential unless legislation, or the provisions of law requires otherwise.

This also applies to officials and other role players involved in SCM even after leaving service.

In accordance with the accounting officer's / [authority's] directives/delegated powers:

The specifications, evaluation and adjudication [team] committees may be authorized to deal with all supply chain management matters and finalize bids, price and quotations.

### **Combative Practices**

Combative practices are unethical and illegal and should be avoided at all cost.

They include but are not limited to;

- (i) Suggestions to fictitious lower quotations;
- (ii) Reference to non-existent competition;
- (iii) Exploiting errors in price quotations / bids;
- (iv) Soliciting price quotations / bids from bidders / contractors whose names appear on the Register for Tender Defaulters.