

# GEORGE MUNICIPALITY

## SUPPLY CHAIN MANAGEMENT (SCM) POLICY 2022/2023 (Revision 1)

# **George Municipality**

## **SUPPLY CHAIN MANAGEMENT POLICY**

The policy was adopted by the George Municipality Special Executive Mayor-in-Committee meeting which was held 08 February 2023 in terms of Section 111 of the Municipal Finance Management Act, No 56 of 2003. This policy super-cedes all other procurement policies previously in force at the Municipality.

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## 1. ABBREVIATIONS AND DEFINITIONS

In this Policy, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Municipal Finance Management Act, no 56 of 2003, has the same meaning as in the Act,

<b>ABBREVIATION</b>	<b>DEFINITION</b>
<b>B-BBEE</b>	Broad Based Black Economic Empowerment
<b>BEE</b>	Black Economic Empowerment
<b>AO</b>	Accounting Officer
<b>CFO</b>	Chief Financial Officer
<b>CIDB</b>	Construction Industry Development Board
<b>CIDBA</b>	Construction Industry Development Board Act
<b>EPWP</b>	Expanded Public Works Programme
<b>DTI</b>	Department of Trade and Industry
<b>FM</b>	Financial Manager
<b>HDI</b>	Historically Disadvantaged Individuals
<b>GCC</b>	General Conditions of Contract
<b>MEC</b>	Member of Executive Council
<b>MUNICIPALITY</b>	George Municipality
<b>MTEF</b>	Medium Term Expenditure Framework
<b>MFMA</b>	Municipal Finance Management Act (Act 56 of 2003)
<b>NSBC</b>	National Small Business Council
<b>PAIA</b>	Promotion of Access to Information Act (Act 2 of 2000)
<b>PAJA</b>	Promotion of Administrative Justice Act (Act 3 of 2000)
<b>PPP</b>	Public Private Partnership

<b>ABBREVIATION</b>	<b>DEFINITION</b>
<b>PPPFA</b>	Preferential Procurement Policy Framework Act (Act 5 of 2000)
<b>RDP</b>	Reconstruction and Development Programme
<b>RFI</b>	Request for Information
<b>RFP</b>	Request for Proposal
<b>RFQ</b>	Request for Quotation
<b>SAPO</b>	South African Post Office
<b>SAPS</b>	South African Police Services
<b>SARS</b>	South African Revenue Services
<b>SASSA</b>	South Africa Social Security Agency
<b>SBD</b>	Standard Bidding Documents
<b>SCA</b>	Supreme Court of Appeal
<b>SCM</b>	Supply Chain Management
<b>SCM TR</b>	Supply Chain Management Treasury Regulations, 2005
<b>SCMU</b>	SCM Unit
<b>SITA</b>	State Information Technology Agency
<b>SLA</b>	Service Level Agreement
<b>SMME</b>	Small Medium and Micro Enterprise
<b>SP</b>	Service Provider
<b>SPLUMA</b>	Spatial Planning and Land Use Management Act, 2013
<b>TCO</b>	Total Cost of Ownership
<b>TOR</b>	Terms of Reference

<b>WORD</b>	<b>EXPLANATION</b>
<b>Abuse</b>	Abuse” in terms of the City’s Supply Chain Management System means conduct by an official or person that is tantamount to: fraud; corruption; favouritism; unfair, irregular and unlawful practices; misrepresentation on information submitted for the purposes of procuring a contract with the Municipality; misrepresentation regarding the supplier’s B-BEE status level of contributor, expertise and capacity to perform in terms of a contract procured via the supply chain management system; breach of a contract procured via the supply chain management system; failure to comply with the supply chain management system; or and any other conduct referred to under the heading of” Combatting Abuse of the Supply Chain Management System
<b>Acceptable Bid</b>	means any bid which, in all respects, complies with the specifications and bid conditions. Also referred to as a “Responsive Bid
<b>Accounting Officer</b>	The person appointed by the Council as Municipal Manager in terms of section 82 of the Municipal Structures Act, 1998 (Act 117 of 1998) and as defined in the Municipal Finance Management Act, 2003 (Act 56 of 2003), including any person acting in that position or to whom authority is delegated;
<b>Adjudication points</b>	means the points for price and points for B-BBEE contribution referred to in the Preferential Procurement Regulations, 2022 and the Preferential Procurement section of this policy, also referred to as “evaluation points
<b>Bid</b>	means a written offer in a prescribed or stipulated form in response to an invitation by the Municipality for the provision of goods, services or construction works through price quotations, advertised competitive bidding processes or proposals, or any other proposition for business with the Municipality whether solicited or not;
<b>Bid Document</b>	means a written or electronic document required to be submitted in response to a bid;
<b>Bidder</b>	Means any person or entity who submit a bid;
<b>B-BBEE</b>	Means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
<b>B-BBEE status level of contributor</b>	Means the B-BBEE status of an entity in terms of a code of good practice on black economic empowerment issued in terms of section 9(1) of the Broad-based Black Economic Empowerment Act
<b>Broad-Based Black Economic</b>	means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003)



<b>WORD</b>	<b>EXPLANATION</b>
<b>Empowerment Act</b>	
<b>Capital Asset</b>	means any immovable asset such as land, property or buildings; or any movable asset that can be used continuously or repeatedly for more than one year in the production or supply of goods or services, for rental to others or for administrative purposes, and from which future economic benefit can be derived, such as plant, machinery and equipment;
<b>Chief Financial Officer</b>	The person appointed in terms of section 80(2)(a) of the MFMA and includes any person acting in that position or to whom authority is delegated;
<b>Commercial value</b>	in relation to the sale or leasing of land or property relates to land or property which has a commercial value and can be sold or sub-let on a stand-alone basis and excludes small pockets of land such as small alley ways, erven or annexures which are only of value in relation to the adjoining properties or structures.
<b>Competitive bidding process</b>	means a competitive bidding process referred to in paragraph 12 (1) (d) of the Supply Chain Management Regulations;
<b>Competitive bid</b>	means a bid in terms of a competitive bidding process
<b>Construction Industry Development Board (CIDB) Act</b>	means the Construction Industry Development Board Act, 2000, (Act 38 of 2000) and includes the regulations pertaining thereto.
<b>Consultants</b>	Means a person or entity providing services requiring knowledge based expertise, and includes professional service providers.
<b>Contract</b>	means the agreement, which is concluded when the City accepts, in writing, a bid
<b>Delegated Authority</b>	means any person or committee delegated with authority by the City in terms of the provisions of the MFMA.
<b>Emergency</b>	means a serious, unexpected, unforeseen and potentially dangerous and damaging situation requiring immediate action and which is not due to a lack of planning

WORD	EXPLANATION
<b>Final award</b>	in relation to bids or quotations submitted for a contract, means the final decision on which bid or quote to accept
<b>Formal written quotation</b>	means a written or electronic offer to the Municipality in response to an invitation to submit a quotation.
<b>Fronting Practice</b>  <b>(Also referred to as Tokenism or Window dressing)</b>	<ul style="list-style-type: none"> <li>• means a transaction, arrangement or other act or conduct that directly or indirectly undermines or frustrates the achievement of the objectives of the B-BBEE Act or the implementation of any of the provisions of the B-BBEE Act, including but not limited to practices in connection with a B-BBEE initiative:</li> <li>• in terms of which black persons who are appointed to an enterprise are discouraged or inhibited from substantially participating in the core activities of that enterprise.</li> <li>• in terms of which the economic benefits received as a result of the broad-based black economic empowerment status of an enterprise do not flow to black people in the ratio specified in the relevant legal documentation.</li> <li>• involving the conclusion of a legal relationship with a black person for the purpose of that enterprise achieving a certain level of broad-based black economic empowerment compliance without granting that black person the economic benefits that would reasonably be expected to be associated with the status or position held by that black person; or</li> <li>• involving the conclusion of an agreement with another enterprise in order to achieve or enhance broad-based black economic empowerment status in circumstances in which: <ol style="list-style-type: none"> <li>1. there are significant limitations, whether implicit or explicit, on the identity of suppliers, service providers, clients or customers.</li> <li>2. the maintenance of business operations is reasonably considered to be improbable, having regard to the resources available.</li> </ol> </li> </ul>

WORD	EXPLANATION
	<p>3. the terms and conditions were not negotiated at arm's length and on a fair and reasonable basis.</p>
<b>In the service of the State</b>	<p>means to be -</p> <p>(a) a member of –</p> <p>(i) any municipal council.</p> <p>(ii) any provincial legislature; or</p> <p>(iii) the National Assembly or the National Council of Provinces.</p> <p>(b) a member of the board of directors of any municipal entity.</p> <p>(c) an official of any Municipality or municipal entity.</p> <p>(d) an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance management Act, 1999 (ActNo.1 of 1999).</p> <p>(e) an executive member of the accounting authority of any national or provincial public entity; or</p> <p>(f) an employee of Parliament or a provincial legislature</p>
<b>Functionality</b>	<p>means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents. This is determined by the measurement according to predetermined norms, as set out in the bid documents, of the totality of features and characteristics of the goods or services that bears on the ability of thereof to satisfy the stated or implied needs. "Functionality" is also referred to as "Quality".</p>
<b>Long-term contract</b>	<p>means a contract with a duration period exceeding one year</p>
<b>List of accredited prospective providers</b>	<p>means the list of accredited prospective providers which a Municipality or municipal entity must keep in terms of SCM Regulation 14</p>

<b>WORD</b>	<b>EXPLANATION</b>
<b>Municipality</b>	Means George Municipality, established in terms of sections 12 and 14 of the Municipal Structures Act.
<b>Municipal Systems Act.</b>	means the Local Government: Municipal Systems Act, No 32 of 2000
<b>National Treasury</b>	means the National Treasury established by section 5 of the Public Finance Management Act, 1999 (Act No. 55 of 1998)
<b>Obtain</b>	means to come into possession of; get, acquire, or procure, as through an effort or by a request
<b>Organ of the state</b>	<p>means –</p> <p>(a) Any department of state or administration in the national, provincial or local sphere of government; or</p> <p>(b) Any other functionary or institution</p> <p>(i) exercising a power or performing a function in terms of the Constitution or a provincial constitution.</p> <p>(ii) exercising a public power or performing a public function in terms of any legislation but does not include a court or judicial officer</p>
<b>Other applicable legislation</b>	<p>means any other legislation applicable to municipal supply chain management, including -</p> <p>(a) the Preferential Procurement Policy Framework Act, Act No. 5 of 2000.</p> <p>(b) the Construction Industry Development Board Act, Act No. 38 of 2000</p>
<b>Preferred Bidder</b>	means a bidder with whom negotiations may be entered into to conclude the final terms of a contract.
<b>Procurement</b>	is the acquisition of goods/services
<b>Provincial Treasury</b>	means the Treasury of the Western Cape Province
<b>Plight of the poor</b>	means the plight of a group of people or a section of a community where the majority of the households in a specific area qualify as indigent or poor in terms of the Municipality Consumer Care, Credit Control and Debt Collection Policy

<b>WORD</b>	<b>EXPLANATION</b>
<b>PPPFA</b>	means the Preferential Procurement Policy Framework Act, No 5 of 2000
<b>Price</b>	includes all applicable taxes less all unconditional discounts
<b>Regulations</b>	means the Local Government: Municipal Finance Management Act, 2003: Supply Chain Management Regulations (Notice 868 of 2000)
<b>Senior Manager</b>	means a manager in the employment of the George Municipality who heads a directorate or sub-directorate or who reports to the municipal manager or a director or the head of a sub-directorate of the Municipality
<b>Sole providers</b>	can be broadly defined as manufacturers, licence holders, publishers, intellectual property holders or service providers appointed by a sole provider as their sole agent or distributor in a specific area
<b>Specific goals</b>	means specific goals as contemplated in section 2(1)(d) of the Act which may include contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender and disability including the implementation of programmes of the Reconstruction and Development Programme as published in Government Gazette No. 16085 dated 23 November 1994;
-	
<b>Treasury guidelines</b>	means any guidelines on supply chain management issued by the Minister in terms of section 168 of the Act
<b>The Act</b>	means the Local Government: Municipal Finance Management Act, No 56 of 2003; (MFMA)
<b>Written quotations</b>	means a written or electronic offer to the Municipality in response to an invitation to submit a quotation.

# CHAPTER 1 - ESTABLISHMENT AND IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

## 2. SUPPLY CHAIN MANAGEMENT POLICY

- (1) The **MUNICIPALITY OF GEORGE** has resolved in terms of Section 111 of the Municipal Finance Management Act, No 56 of 2003, to have and implement a Supply Chain Management Policy 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 regulatory framework prescribed in Chapter 2 of the Regulations; and
    - (ii) any minimum norms and standards that may be prescribed in terms of Section 168 of the Act.
  - (d) is consistent with other applicable legislation, including but not limited to the following legislation:
    - The Constitution of South Africa, Act 108 of 1996
    - Municipal Finance Management Act, Act 56 of 2003
    - Preferential Procurement Policy Framework Act, Act 5 of 2000
    - Promotion of Administrative Justice Act, Act 3 of 2000
    - Promotion of Access to Information Act, Act 2 of 2000
    - Construction Industry Development Board Act, Act 38 of 2000
    - Competition Act, Act 89 of 1998

- The Prevention and Combating of Corrupt Activities Act, Act 12 of 2004
  - State Information Technology Act, Act 88 of 1998
  - Broad-Based Black Economic Empowerment Act, Act 53 of 2003
- (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.
- (g) assigns responsibility for the implementation of the policy to the Accounting Officer of the Municipality
- (h) in the absence of the Accounting Officer or if the Accounting Officer is impeded from doing his/her work assigns the responsibility for the implementation of the policy to the person acting in his stead or, alternatively, the Chief Financial Officer, subject to Regulation 5(2) and 5(4) of the SCM Regulations.
- (2) The Municipality may not act otherwise than in accordance with this Supply Chain Management Policy when -
- (a) procuring goods or services.
  - (b) disposing of goods no longer needed or which have become redundant.
  - (c) disposing or letting of fixed assets, including land, of proven commercial value no longer required for basic municipal service delivery purposes, subject to Sections 14 and 90 of the Act.
  - (d) selecting contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies; or
  - (e) selecting external mechanisms referred to in Section 80 (1) (b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in Section 83 of that Act.



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

### **3. ADOPTION AND AMENDMENT OF THE SUPPLY CHAIN MANAGEMENT POLICY**

- (1) The Accounting Officer must -
- (a) at least annually review this Policy and its implementation; 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.
  - (b) Report any deviation from this Policy to the National Treasury and the relevant Provincial Treasury.
- (3) When amending this Supply Chain Management Policy, the need for uniformity in supply chain practices, procedures and forms between organs of State in all spheres, particularly to promote accessibility of supply chain management systems for small businesses, must be taken into account.
- (4) The Accounting Officer must, in terms of section 62(1) (f) (iv) of the Act, take all reasonable steps to ensure that the Municipality has and implements this Supply Chain Management Policy.

### **4. DELEGATION TO SUPPLY CHAIN MANAGEMENT POWERS AND DUTIES**

- (1) The authority and power to create a Supply Chain Management Unit within the Policy framework of Council, with such support structures as may be necessary to give effect to the

provisions of this Policy and legislation, is granted to the Accounting Officer in terms of Sections 79, 106 and 115 of the Act and Section 66 of the Municipal Systems Act.

- (a) to discharge the supply chain management responsibilities conferred on Accounting Officers in terms of -
    - (i) Chapter 8 or 10 of the Act; and
    - (ii) the Supply Chain Management Policy.
  - (b) to maximise administrative and operational efficiency in the implementation of the Supply Chain Management Policy; and
  - (c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of the Supply Chain Management Policy.
- (2) The Accounting Officer has the delegated power to formulate such operational policies and procedures as may deemed be necessary to give effect to the intentions of this Policy and enabling legislation. He/she may delegate his/her powers in writing to a member of the municipality's top management referred to in section 77 of the Act or any other official in terms of Section 79 of the Act in regard to supply chain management activities.
- (3) The Council or Accounting Officer may not delegate or sub-delegate any supply chain management powers or duties to a person who is not an official of the Municipality or to a committee which is not exclusively composed of officials of the Municipality.
- (4) Paragraph 4 (3) 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.

## **5. SUB-DELEGATIONS**

- (1) The Accounting Officer may, in terms of Section 79 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 5 (2) 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 4(2) of this Policy, must within five working days of the end of each month, submit to the official referred to in subparagraph 4 of this Policy a written report containing particulars of each final award made by such official or committee during that month, including -
  - (a) the amount of the award.
  - (b) the name of the person to whom the award was made; and
  - (c) the reason why the award was made to that person.
  - (d) the status of the supplier's level of contribution.
- (4) A written report referred to in subparagraph 5(3) of this Policy must be submitted –
  - (a) to the Accounting Officer, in the case of an award by -

- (i) the chief financial officer.
  - (ii) a senior manager.
  - (iii) a manager referred to in subparagraph 5(2)(c)(iii) of this Policy; or
  - (iv) a Bid Adjudication Committee of which the Chief Financial Officer or a Senior Manager is not a member.
- (b) to the chief financial officer or the senior manager responsible for the relevant bid, in the case of an award by –
  - (i) a manager referred to in subparagraph 5(2)(c); or
  - (ii) a bid adjudication committee of which the chief financial officer or a senior manager is not a member.
- (5) Subparagraph 5(3) and 5(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 sub-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.
- (7) No supply chain management decision-making powers may be delegated to an advisor or consultant.

## **6. OVERSIGHT ROLE OF COUNCIL**

- (1) The Council must maintain oversight over the implementation of this Supply Chain Management Policy.
- (2) For the purposes of such oversight the Accounting Officer must -
  - (i) within 30 days of the end of each financial year, submit a report on the implementation of the Supply Chain Management Policy of the Municipality and of any municipal entity under its sole or shared control, to the Council of the Municipality: and
  - (ii) whenever there are serious and material problems in the implementation of the Supply Chain Management Policy, immediately submit a report to the Council.

- (3) The Accounting Officer must, within 10 days of the end of each quarter, submit a report on the implementation of the Supply Chain Management Policy to the Mayor.
- (4) The reports referred to in paragraph 6(2) must be made public in accordance with Section 21A of the Municipal Systems Act, No 32 of 2000.
- (5) No Councillor of the Municipality may be a member of any municipal bid committee or any other committee evaluating or approving tenders, quotations, contracts or other bids, nor attend any such meeting as an observer.

## **7. SUPPLY CHAIN MANAGEMENT UNIT**

- (1) The Accounting Officer must establish a Supply Chain Management Unit and determine the terms of reference of the Unit to implement this Supply Chain Management Policy
- (2) The Supply Chain Management Unit shall operate as a centralised supply chain management function to administer and co-ordinate all the supply chain management activities and functions of the Municipality as described in this Policy.
- (3) The Supply Chain Management Unit will operate under the direct supervision of the Chief Financial Officer or an official to whom this duty has been delegated in terms of Section 82 of the Act.

## **8. TRAINING OF SUPPLY CHAIN MANAGEMENT OFFICIALS**

The training of officials involved in implementing the Supply Chain Management Policy will be in accordance with any Treasury guidelines on supply chain management training as well as the Municipal Regulations on Minimum Competency Levels, GN493 of 15 June 2007.

### **8.1 COMPLIANCE WITH ETHICAL STANDARDS**

In order to create an environment where business can be conducted with integrity and in a fair and reasonable manner, this Policy will strive to ensure that the Municipal Manager and all representatives of the George Municipality involved in supply chain management activities shall act with integrity and in accordance with the highest ethical standards.

All officials or role players involved in the implementation of the Supply Chain Management Policy shall adhere to the code of conduct of municipal staff contained in schedule.

## **CHAPTER 2 – FRAMEWORK FOR SUPPLY CHAIN MANAGEMENT**

### **9. FORMAT OF SUPPLY CHAIN MANAGEMENT**

This Supply Chain Management Policy provides systems for -

#### Part 1

- (i) Demand management

#### Part 2

- (ii) Acquisition management

#### Part 3

- (iii) Logistics management
- (iv) Disposal management
- (v) Risk management
- (vi) Performance management

## **PART 1**

### **DEMAND MANAGEMENT**

#### **10. SYSTEM OF DEMAND MANAGEMENT**

- (1) The Accounting Officer must establish, through operational procedures, an effective system of demand management in order to ensure that the resources required to support the strategic and operational commitments are delivered at the correct time, at the right price and at the right location, and that the quantity and quality satisfy the needs.
- (2) The demand management system must –
  - (a) include timely planning and management processes to ensure that all goods and services (including construction works and consultant 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.

- (3) Demand management should be co-ordinated by SCM officials in consultation with the end users and must form part of the strategic planning exercise.
- (4) Procurement plans for all tenders must be developed to be implemented by the SCM Unit. This plan should indicate the following:
  - (a) description of the goods, works or service.
  - (b) the end user
  - (c) the contact person representing the end-user.
  - (d) estimated value
  - (e) date of submission of specifications
  - (f) date of advertisement of the bid
  - (g) estimated evaluation time
  - (h) date of the Bid Adjudication Committee meeting
  - (i) envisaged date of the Accounting Officer approval (for all procurement above R10 million)
  - (j) envisaged date of issuance of an official order.
- (5) For all tenders a bid register for the management of the procurement process for each requirement should be compiled.
- (6) The procurement plan should on a continuous basis be assessed and updated when required.

## **PART 2**

### **ACQUISITION MANAGEMENT**

#### **11. SYSTEM OF ACQUISITION MANAGEMENT**

- (1) The objectives of this acquisition management system are to ensure:
  - (a) that goods and services (including construction works and consultant services) are procured by the Municipality in accordance with authorised processes only.
  - (b) that expenditure on goods and services (including construction works and consultant services) is incurred in terms of an approved budget in terms of Section 15 of the Act.
  - (c) that the threshold values for the different procurement processes are complied with;



- (d) that bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation; and
  - (e) that any Treasury guidelines on acquisition management are properly taken into account.
- (2) This Supply Chain Management Policy, except where stated in the Policy, does not apply in respect of the procurement of goods and services (including construction works and consultant services) contemplated in Section 110(2) of the Act, including -
  - (a) water from the Department of Water Affairs or a public entity, another Municipality or a municipal entity; and
  - (b) electricity from Eskom or another public entity, another Municipality or a municipal entity.
- (3) The following information must be made public wherever goods or services contemplated in Section 110(2) of the Act are procured other than through the Supply Chain Management system -
  - (a) the kind of goods or services; and
  - (b) the name of the supplier.

## **12. RANGE OF PROCUREMENT PROCESSES**

- (1) The procurement of goods and services (including construction works and consultant services) through this Policy is provided by way of -
  - (a) petty cash purchases, up to a transaction value of R2 000.00 (VAT included).
  - (b) at least 3 (three) written quotations for procurements of a transaction value exceeding R2 000.00- R 10 000, including VAT and up to R 30 000 including VAT.
  - (c) formal written quotations for procurements of a transaction value exceeding R30 000 and up to R200 000 (VAT included); and
  - (d) a competitive bidding process for-
    - (i) procurement 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 12 (1); or
  - (b) direct that -
    - (i) quotations be obtained as per the Municipality's Expenditure Policy for any specific procurement of a transaction value lower than R2000 (VAT included);
    - (ii) written quotations be obtained for any specific procurement of a transaction value lower than R10 000 (VAT included); or
    - (iii) a competitive bidding process be followed for any specific procurement of a transaction value lower than R200 000 (VAT included).
- (3) Goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of the Policy. When determining transaction values, a requirement for goods or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction.
- (4) The preferential point system as prescribed by the PPPFA and its Regulations shall apply to all procurement equal to or above R30 000 (VAT included).

### **13. GENERAL CONDITIONS FOR CONSIDERATION OF WRITTEN QUOTATIONS, FORMAL WRITTEN QUOTATIONS AND TENDERS**

A written quotation, formal written quotation or tender shall not be considered unless the provider who submitted the bid -

- (1) has furnished that provider's -
  - (a) full name.
  - (b) identification number or company or other registration number; and
  - (c) tax reference number and VAT registration number, if any.
- (2) has indicated -

- (a) whether he/she is in the service of the State or has been in the service of the State in the previous twelve months.
  - (b) 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
  - (c) 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.
- (3) In the case of formal written quotations and tenders, that is transactions exceeding R30 000, including VAT:
- (a) a valid original Tax Clearance Certificate or a copy of the Tax Verification Pin must accompany the bid documents unless the bidder is registered on the Accredited Supplier Database the Municipality use and the Municipality has a valid original Tax Clearance Certificate for the bidder there on record. The onus is on the bidder to ensure that the Municipality has a valid original Tax Clearance Certificate on record. If the South African Revenue Services (SARS) cannot provide a valid original Tax Clearance Certificate; the bidder must submit a letter from SARS on an original SARS letterhead that their tax matters are in order.
  - (b) If the bid of the preferred bidder is not supported by a valid original Tax Clearance Certificate or Tax Verification Pin, either as an attachment to the bid documents or on record in the case of suppliers registered on the Supplier Database the Municipality use, the Municipality reserves the right to obtain such document, within a time as specified by the Municipality, after the closing date to verify that the bidder's tax matters are in order. If no such document can be obtained, the bid will be disqualified.
  - (c) A copy of the bidder's municipal account, not older than 90 days (for the Municipality where the bidder pays his account) for the months preceding the quotation closure date must accompany the quotation documents. If such a copy does not accompany the bid document of the successful bidder, the Municipality reserves the right to obtain such documents (including sworn affidavits) after the closing date to verify that their municipal accounts are in order.

- (d) No bid will be awarded to any bidder which is or whose directors are in arrears for more than three months with their municipal rates and taxes or municipal charges due to any Municipality or any of its entities. Where a bidder rent their premises, proof must be submitted of the rental agreement.

#### **14. LIST OF ACCREDITED PROSPECTIVE PROVIDERS**

- (1) George Municipality will at all times utilise a list of accredited prospective providers of goods and services (including construction works and consultant services) for the procurement of goods and services (including construction works and consultant services) through written quotations.
- (2) George Municipality utilizes the Central Supplier Database and will source prospective providers of goods and services (including construction works and consultant services) from it.
- (3) The Municipality reserves the right to also utilize any other form of database as long as it complies to the registration requirements as set out by National Treasury and implemented by Provincial Treasury.

#### **15. PETTY CASH PURCHASES**

- (1) The following shall be applicable to all purchases not exceeding R300, including VAT, up to R2 000 (VAT included) as determined by the Accounting Officer in terms of this Policy, or such other amount as may be legislated from time to time.
- (2) Conditions for petty cash purchases -
  - (a) Only officials duly delegated to authorise requisitions and certify invoices for payments may authorise the request for petty cash and authorise the expenditure incurred through petty cash transactions.
  - (b) No request for petty cash transactions may be lodged for items that is held as inventory in the municipal stores; and
  - (c) Only one quotation has to be obtained when procuring goods or services to a value equal to, or lesser than the petty cash threshold.

## **16. WRITTEN QUOTATIONS**

- (1) The Accounting Officer must establish the conditions for the procurement of goods or services through written quotations for requirements exceeding the petty cash threshold up to R30 000 (VAT included), which must include conditions stating:
  - (a) that quotations must be obtained in writing from at least three different providers whose names appear on the list of accredited supplier database utilised by the Municipality.
  - (b) that quotations may be obtained from providers who are not listed on the Accredited Supplier Database the Municipality use, provided that such providers meet the required listing criteria of the accredited supplier database.
  - (c) that providers must be requested to submit such quotation in writing.
  - (d) that if it is not possible to obtain at least three quotations or formal written quotations, the reasons must be recorded and approved by the Chief Financial Officer or an official designated by the Chief Financial Officer, and
  - (e) that the Accounting Officer must record the names of the potential providers and their written quotations.
- (2) The preferential point system as prescribed by the PPPFA and its Regulations shall apply to all procurement above R30 000 (VAT included).
- (3) A designated official must within three working days of the end of each month report to the Chief Financial Officer on any approvals, in terms of par. (1) (d), given during that month.

## **17. PROCURING GOODS/SERVICES THROUGH WRITTEN QUOTATIONS (Include R10k to R30k)**

When goods or services are procured through written quotations the following will apply –

- (1) when using the accredited supplier database, the ongoing competition amongst providers must be promoted, including by inviting providers to submit quotations on a rotation basis.
- (2) offers below R30 000 (VAT included) must be awarded based on compliance to specifications and conditions of contract, ability and capability to deliver the goods and services (including

construction works and consultant services) and lowest price. The preferential point system may be applied to procurement less than R30 000 (VAT included) if and when deemed appropriate by delegated official.

- (3) all reasonable steps must be taken to ensure that the procurement of goods and services (including construction works and consultant services) through written quotations is not abused.
- (4) the Accounting Officer or his/her delegated authority must, on a monthly basis, be notified in writing of all written quotations accepted by an official acting in terms of a sub-delegation.

## **18. PROCEDURES FOR PROCURING GOODS/SERVICES THROUGH FORMAL WRITTEN QUOTATIONS (> R30 000 up to R200 000)**

When goods or services are procured through formal written quotations the following will apply –

- (1) all requirements in excess of R30 000 up to R200 000 (VAT included) that are to be procured by means of formal written quotations must, in addition to the requirements of paragraph 16, be advertised for at least seven (7) days on the website which serves as notice board of the Municipality.
- (2) offers received must be evaluated on a comparative basis taking into account unconditional discounts.
- (3) acceptable offers, which are subject to the preference points system (PPFA and associated regulations), must be awarded to the bidder who scored the highest points.
- (4) all reasonable steps must be taken to ensure that the procurement of goods and services (including construction works and consultant services) through formal written quotations is not abused.
- (5) the Accounting Officer or his/her delegated authority must, on a monthly basis, be notified in writing of all formal written quotations accepted by an official acting to whom the powers to make awards for formal written price quotations had been sub-delegated.
- (6) proper records of all bid documents and related correspondence must be kept; and
- (7) a lockable safe tender box must be kept at the main municipal buildings in which quotations and/or tender or bid documents can be deposited from 07h45 to 16h30, Monday to Friday.

## **19. COMPETITIVE BIDDING PROCESS (Above R200 000)**

- (1) Goods or services above a transaction value of R200 000 (VAT included) and long-term contracts may only be procured through a competitive bidding process, subject to paragraph 11(2) of this Policy; and
- (2) No requirement for goods or services above an estimated transaction value of R200 000 (VAT included), may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.
- (3) The following information must be submitted by the senior manager responsible for the Vote to the Chief Financial Officer prior to the public advertisement of any bids in excess of R10 million (VAT included):
  - (a) Proof that budgetary provision exists for procurement of the goods, services and/or infrastructure projects.
  - (b) Any ancillary budgetary implications related to the bid, for example, if the project is for the acquisition of a municipal asset, does budgetary provision exist for the operation of the asset, maintenance costs relating to the asset, administration costs and rehabilitation/renewal costs.
  - (c) Any multi-year budgetary implications, for example, if a project will take more than one financial year, the estimated expenditure per financial year.
- (4) Contracts above the value of R10 million (VAT included) may only be awarded to the preferred bidder after the Chief Financial Officer or his/her delegate has verified in writing that budgetary provision exists for the acquisition of the goods, infrastructure projects and/or services and that it is consistent with the Integrated Development Plan. This consent may be granted after the bids is received.

## **20. PROCEDURE FOR COMPETITIVE BIDDING**

Official procedures exist for the following stages of the competitive bidding process which must be followed. These stages include:



- (1) the compilation of bidding documentation.
- (2) the public invitation of bids.
- (3) site meetings or briefing sessions, if applicable.
- (4) the handling of bids submitted in response to public invitation.
- (5) the evaluation of bids.
- (6) the award of contracts.
- (7) the administration of contracts; and
- (8) proper record keeping.

## **21. BID DOCUMENTATION FOR COMPETITIVE BIDS**

The Municipality's bid documentation must, in addition to the requirements stated in paragraph 13 of this Policy –

- (1) Take into account -
  - (a) the general conditions of contract and any special conditions of contract, if specified.
  - (b) any objective criteria the municipality intends to apply in terms of section 2(1)(f) of the Preferential Procurement Act. Such objective criteria must be stipulated in the tender document.
  - (c) any Treasury guidelines on bid documentation; and
  - (d) the requirements of the Construction Industry Development Board (CIDB), in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure.
- (2) Include evaluation and adjudication criteria, including any criteria required by other applicable legislation.
- (3) Include the preferential procurement system that will be used in the evaluation of the bids. If it is unclear which preference point system will be applicable that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system,

- (4) Compel bidders to declare any conflict of interest they may have in the transaction for which the tender is submitted.
- (5) Compel bidders to complete and submit the Certificate of Independent Bid Determination.
- (6) Compel bidders to declare their previous supply chain management practices and state whether or not they
  - (a) have been found guilty by a Court of Law or a structure established by Council or the Accounting Officer for handling alleged abuses of the Municipality or the municipal entity's supply chain management system or committed any improper conduct in relation to such a system.
  - (b) have been convicted for fraud or corruption during the past five years.
  - (c) have wilfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years.
  - (d) have 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.
- (7) If the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish -
  - (a) if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements -
    - (i) for the past three years; or
    - (ii) since their establishment if established during the past three years.
  - (b) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a Municipality or other service provider in respect of which payment is overdue for more than 30 days.
  - (c) 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.

- (d) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the Municipality is expected to be transferred out of the Republic; and
- (8) 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.

## **22. PUBLIC INVITATION FOR COMPETITIVE BIDS**

The procedure for the invitation of competitive bids will as a minimum adhere to the following conditions.

- (1) Any invitation to prospective providers to submit bids must be by means of a public advertisement in newspapers commonly circulating locally, the website of the Municipality or any other appropriate way (which may include an advertisement in the Government Tender Bulletin); and on the e-Tender Publication Portal
  - (a) 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) and long-term nature contracts, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to subparagraph 22(3) of this Policy.
    - (ii) a statement that bids may only be submitted on the bid documentation provided by the Municipality.
- (2) The Accounting Officer or his delegate 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 and be clearly marked. Unsealed, unmarked and/or late bids will not be accepted and will be returned to the bidder.
- (4) Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies. The bidder must declare, in writing, that the electronic format contains the exact same information as the hard copy.
- (5) Goods, services including construction works and consultants services above the expected value of R10 million (all applicable taxes included) may only be advertised after the CFO has

verified in writing that budgetary provision exists for the commencement of the particular project.

## **22.1 PROCEDURE FOR HANDLING COMPULSORY SITE MEETINGS, INFORMATION OR BRIEFING SESSIONS**

- (1) Bid documentation should indicate whether a site meeting, information or briefing session is compulsory or not.
- (2) The address and time where the meeting or session will take place as well as the contact person with contact details should be stipulated.
- (3) Prospective bidders that arrive after 15 (fifteen) minutes of the advertised time the meeting started will not be allowed to attend the meeting or to sign the attendance register unless the person chairing the meeting give permission to do so. Reasons for the chairperson's decision must be duly minuted.
- (4) An attendance register must be completed at all meetings or sessions.
- (5) Minutes must be kept at all meetings or sessions and be distributed to all attendees.
- (6) Any additional information, clarifications, correction of errors or modifications to the bid documents must be distributed to all attendees in sufficient time before the closing date and time of the bid to enable bidders to take appropriate action if necessary.

## **23. PROCEDURE FOR HANDLING, OPENING AND RECORDING OF BIDS**

1. The procedure for the handling, opening, and recording of bids are as follow:
  - (a) bids
    - (i) must be opened in public.
    - (ii) must be opened simultaneously and as soon as possible after the closing time.
  - (b) the names of the bidders who submitted bids in time must be read out and, if practical each bidder's total bidding price.
  - (c) bids that are received after the closing time will be marked late with an official stamp with the time at which it was received. The bidder will be notified of the action and the bid returned.

- (d) only bids that have been placed in the Municipality's tender box will be regarded as having been received on time.
  - (e) Unsealed bids will not be accepted and will be returned to the bidder.
  - (f) a register must be kept in which all bids received in time are recorded.
    - (i) the register must reflect the bid closing date, date and time of opening the bids, name and title of persons opening the bids together with their signatures and an indication as to whether any late/unmarked submissions were received.
    - (ii) the register must be available for public inspection; and
2. After the closure of any advertised competitive bid the Municipality must, further to information to be published in terms of Section 75 of the MFMA, publish on its website, the reference number of the bid, the description of the goods, services including construction works and consultant services, names of all bidders, the B-BBEE status level of contribution of all bidders, where applicable, total price of the bids, by all bidders that submitted bids in relation to that particular advertisement.
  3. The municipality will publish the aforementioned information within ten (10) working days after a final award has been made and it must remain on the website of the municipality for at least thirty (30) days.
  4. The bid opening forms will only be made available to bidders that submitted a bid.

## **24. NEGOTIATIONS WITH PREFERRED BIDDERS**

- (1) The Accounting Officer or his delegate may negotiate the final terms of a contract with bidders identified through a bidding process as preferred bidders, provided that such negotiation -
  - (a) do not allow any preferred bidder a second or unfair opportunity.
  - (b) are not to the detriment of any other bidder; and
  - (c) does not lead to a higher price (or a lower price in terms of an income generating bid) than the bid as submitted.
- (2) The Accounting Officer or his delegate may negotiate for market related prices, if all else fail this may lead to cancelation of the bid.

- (3) Minutes of such negotiations must be kept for record purposes and a member of Supply Chain Management unit must be present at such negotiations.
- (4) If negotiations fail to result in acceptable contract terms, the Accounting Officer, or the person authorised in terms of clause 24, may terminate the negotiations and invite the next ranked bidder(s) for negotiations. The original preferred bidder(s) should be informed of the reasons for termination of the negotiations. Once negotiations have been terminated, they may not be re-opened. If negotiations eventually fail with the tenderer scoring the third highest points, the tender must be cancelled.

## **25. TWO-STAGE BIDDING PROCESS**

- (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 specialist projects with a duration period exceeding three years.
- (2) In a two-stage (prequalification) bidding process, bidders are first invited to prequalify in terms of predetermined functionality criteria, without being required to submit detailed technical proposals (where applicable) or a financial offer.
- (3) In the second stage all bidders that qualify in terms of the predetermined functionality criteria will be shortlisted and invited to submit final technical proposals (where applicable) and/or a financial offer.

### **25.1 TWO-ENVELOPE SYSTEM**

A two-envelope system differs from a two-stage (prequalification) bidding process in that a technical proposal and the financial offer are submitted in separate envelopes at the same place and time. The financial offers will only be opened once the technical proposals have been evaluated.

### **25.2 ISSUING OF BID DOCUMENTS**

- (a) Bid documents and any subsequent notices may only be issued by officials designated by the Director: Financial Services from time to time.

## **25.3 COMMUNICATION WITH BIDDERS BEFORE BID CLOSING**

- (a) The Bid Specification Committee may, if necessary, authorise communication with bidders prior to bids closing.
- (b) Any communication authorised by the Bid Specification Committee, which has implications of consequence for all tenderers, shall be in the form of a written notice issued to all bidders by the Manager: Supply Chain Management, or his nominee, by either e-mail, facsimile, or registered post as appropriate. A copy of the notice together with a transmission verification report/proof of posting shall be kept for record purposes. Notices should be issued at least one week prior to the bid closing date, where possible.
- (c) Notwithstanding a request for acknowledgement of receipt of any notice issued, the bidder will be deemed to have received such notice if the procedures in clause (25.3 (b)) have been complied with.

## **26. COMMITTEE SYSTEM FOR COMPETITIVE BIDS**

- (1) The Accounting Officer is required to -
  - (a) establish the committee system for competitive bids consisting of -
    - (i) Bid Specification Committee.
    - (ii) Bid Evaluation Committee; and
    - (iii) Bid Adjudication Committee.
  - (b) appoint the members of the Bid Adjudication Committee, taking into account Section 117 of the MFMA; and
  - (c) has delegated the authority to appoint members of the bid specification and bid evaluation committees on an ad hoc basis to a senior manager as defined in paragraph 1 of this Policy.
  - (d) provided for an attendance or oversight process by a neutral or independent observer, appointed by the Accounting Officer, when this is appropriate for ensuring fairness and promoting transparency.
- (2) The committee system must be consistent with -
  - (a) paragraphs 27, 28 and 29 of this Policy; and



- (b) any other applicable legislation.
- (3) The Accounting Officer may apply the committee system to formal written quotations.
- (4) All Committee proceedings must be duly min
- (5) uted and attendance registers personally signed by all those present. These records must be filed with all other documentation relating to the relevant bid or quotation.

## **27. BID SPECIFICATION COMMITTEES**

- (1) The Senior Manager, in terms of section 26.1(c) must appoint a Bid Specification Committee (BSC) on an ad hoc basis to compile the specifications for each tender/bid of the Municipality.
- (2) Specifications -
  - (a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services.
  - (b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organisation, or an authority accredited or recognised by the South African National Accreditation System with which the equipment or material or workmanship should comply.
  - (c) must where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design.
  - (d) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labelling of conformity certification.
  - (e) may not make reference to any particular trademark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the words “equivalent”.
  - (f) may not make reference to any particular trademark, name, patent, design, type, specific origin or producer unless in exceptional cases where it is essential that the goods to be procured need to be specifically named. Reasons motivating this must be recorded in writing and where possible or applicable be stipulated in the specifications in the bidding documents; and

- (g) must be approved by Chairperson of the Bid Specification Committee prior to publication of the Invitation for bids in terms of paragraph 22 of this Policy.
- (3) The Bid Specification Committee must consist of at least four (4) officials –
  - (a) Standing members:
 

A Supply Chain Practitioner as identified by the SCM Unit.
  - (b) Other:
    - (i) Director or Deputy Director/Senior Manager appointed by the Director of the user Department who will be the Chairperson.
    - (ii) At least one other official of the line Department.
    - (iii) Representative from legal Services
    - (iv) An official from another Directorate with knowledge of the matter
    - (v) Where appropriate external specialist advisors
- (4) Three members shall constitute a quorum.
- (5) No person, advisor or corporate entity involved with the Bid Specification Committee, or a director of such a corporate entity, may bid for any resulting contracts.
- (6) Workflow of the BSC
  - (a) The responsible official of the user Directorate will submit the specifications to the SCM Practitioner 4 days before the BSC meeting.
  - (b) The responsible SCM practitioner will ensure that the specifications adhere to the conditions of section 27.2 and compile a tender document which will be tabled at the scheduled BSC all the SCM requirements in the document are correct.
  - (c) The SCM practitioner will be responsible for compiling the agenda and the minutes of the meeting.
  - (d) The Chairperson will check the minutes and sign-off the minutes. The SCM unit will distribute the minutes to the Director and other members of the committee.
  - (e) Any amendments to the specifications must be made by the directorate, and the document must be signed off by the Director and provided to the SCM practitioner.
  - (f) The SCM practitioner will draft the Tender Advertisement, the Director will sign off the Advertisement, and the SCM unit will place the advertisement in the appropriate media platforms.

## **28. BID EVALUATION COMMITTEES**

- (1) The Accounting Officer or his/her delegate appoints the Bid Evaluation Committee on an ad hoc basis to -

- (a) evaluate bids in accordance with:
    - (i) the specifications for a specific procurement; and
    - (ii) the points system set out in terms of the Preferential Procurement Regulations, 2022 and such other legislation as may be applicable.
  - (b) evaluate each bidder's ability and capacity to execute the contract.
  - (c) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears, and.
  - (d) submit to the Adjudication Committee a report and recommendations regarding the award of the bid or any other related matter.
- (2) A Bid Evaluation Committee must consist of at least five (5) officials.
- a) Standing members:
    - (i) Deputy Director: SCM and Expenditure, will be the Chairperson of the Bid Evaluation Committee.
    - (ii) Senior Manager: Legal Services.
    - (iii) SCM Practitioner to be identified by the Supply Chain Unit
  - (b) Other members:
    - (i) At least one representative from the department requiring the service, or the official who is responsible for the management of the services as appointed by the Director.
    - (ii) An additional member from another division who has the requisite expertise (with voting rights).
- (3) Three (3) members (which must consist of at least one member of SCM, one member of Legal and one member of the user Department) constitutes a quorum.
- (4) Workflow of BEC:
- (a) Following the closure of bids, the bids are submitted to the relevant directorate where consultants/consulting engineers may be involved or where functionality is evaluated.
  - (b) The matter is then submitted to the BEC.
  - (c) The BEC must meet weekly at a standard time.
  - (d) Items must be distributed to the members at least two days in advance.

- (e) Items will be finalised in departmental sequence to enable the rotating members to be excused as their items are completed.
- (f) SCM will be responsible for the minutes.
- (g) A standard template will be used to compile the evaluation report.
- (h) The Chairperson will check the minutes and sign-off the minutes.
- (i) The minutes must be available and circulated at least 2 working days before the BAC meeting.

## **29. BID ADJUDICATION COMMITTEES**

- (1) The Bid Adjudication Committee, will function as a Standing Committee as appointed by the Accounting Officer and must -
  - (a) consider the report and recommendations of the Bid Evaluation Committee; and either.
    - (i) depending on its delegations, make a final award or make a recommendation to the Accounting Officer to make the final award; or
    - (ii) make another recommendation to the Accounting Officer how to proceed with the relevant procurement.
- (2) The Bid Adjudication Committee shall consist of the following members:
  - (a) Standing members:
    - (i) The CFO, who is the Chairperson of the Committee.
    - (ii) The Head: SCM.
    - (iii) Director: Civil Engineering Services.
    - (iv) Director: Community Services.
    - (v) Director: Corporate Services.
    - (vi) Director: Electro-technical Services; and
    - (vii) Director: Human Settlements, Planning and Development.
  - (b) Non-voting Members:

- (i) Any technical experts in the relevant field, when deemed necessary by the Chairperson.
- (ii) Deputy Director Legal and Compliance and
- (ii) One of the members from the Audit Committee.

### (3) Quorum

- (a) The quorum for each meeting of the BAC is four (4) of the standing members.
- (b) If the Chairperson is absent from the committee meeting, the members of the committee who are present must elect a committee member to preside at the meeting.

### (4) Workflow of BAC

- (a) The BAC meeting must meet weekly at a fixed time if any items included in agenda.
  - (b) This should ideally be 4 working days after the BEC meeting in order to give the BEC sufficient time to prepare their reports for the BAC.
  - (c) The Committee Services Unit is responsible for the collation of the agenda.
  - (d) The Committee Services Unit is responsible for the minutes.
- (5) 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.
- (6) If the Bid Adjudication Committee decides to award a bid other than the one recommended by the Bid Evaluation Committee, the Bid Adjudication Committee must, prior to awarding the bid -
- (a) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears, and;
  - (b) notify the Accounting Officer.
- (7) The Accounting Officer may -
- (a) after due consideration of the reasons for the deviation, ratify or reject the decision of the Bid Adjudication Committee referred to in paragraph 6; and
  - (b) if the decision of the Bid Adjudication Committee is rejected, refer the decision back to that committee for reconsideration.

- (8) The Accounting Officer may, at any stage of a bidding process, refer any recommendation made by the Evaluation Committee or the Adjudication Committee back to that committee for reconsideration of the recommendation.
- (9) As required by Section 114 of the Act, if a tender other than the one recommended in the normal course of implementing this Policy is approved, the Accounting Officer must, in writing, notify the Auditor-General, the Provincial Treasury and the National Treasury of the reasons for deviating from such recommendation. This does not apply if a different tender was approved in order to rectify the irregularity. The accounting officer must comply with section 114 of the Act within 10 working days.
- (10) Only the Accounting Officer or directors of the municipality may cancel a bid. A written memorandum must be submitted to SCM and the Bid Adjudication Committee clearly stating the reasons for the cancellation.
- (11) (1) An organ of state may, before the award of a tender, cancel a tender invitation if-
  - (a) due to changed circumstances, there is no longer a need for the goods or services specified in the invitation;
  - (b) funds are no longer available to cover the total envisaged expenditure;
  - (c) no tender or no acceptable tender is received; or
  - (d) there is a material irregularity in the tender process.
- (2) The decision to cancel a tender invitation in terms of sub-paragraph (1) must be published on the municipal website.
- (12) All requests for cancellations of tenders must be reported to the Bid Adjudication Committee in writing prior to the relevant Director approving the cancellation.
- (13) The information as stipulated in the MFMA Circular No. 83 with regard to the successful and unsuccessful bidders must be published on the e-Tender Publication Portal within seven (7) working days after the award was made.

### **30. PROCUREMENT OF BANKING SERVICES**

- (1) Banking services -
  - (a) must be procured through competitive bidding process.

- (b) must be consistent with Section 7 or 85 of the MFMA; and
  - (c) may not be for a period longer than five years.
- (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, No. 94 of 1990.

### **31. PROCUREMENT OF IT-RELATED GOODS OR SERVICES**

- (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 Council, the National Treasury, the Provincial Treasury and the Auditor General prior to awarding the bid.

### **32 .PROCUREMENT OF GOODS AND SERVICES (INCLUDING CONSTRUCTION WORKS AND CONSULTANT SERVICES) UNDER CONTRACTS SECURED BY OTHER ORGANS OF STATE**

- (1) Goods or services may be procured under 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 the other organ of State and the provider have consented to such procurement in writing.
  - (e) the organ of State gives written permission to utilize the remaining portion of the contract.
  - (f) the Municipality indicated participation before the procurement process commenced and is specifically included by the other organ of State.
  - (g) Subject to national Treasury prescripts.
- (2) Subparagraphs (1) (c) and (d) do not apply if -
- (a) a municipal entity of the Municipality procures goods or services through a contract secured by the Municipality; or
  - (b) the Municipality as the parent Municipality procures goods or services through a contract secured by the entity.

## **PROCUREMENT OF GOODS NECESSITATING SPECIAL SAFETY ARRANGEMENTS**

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

### **33.1 ROSTER SYSTEM**

A Roster System may be applied for a list of preferred service providers, suppliers, contractors and/or consultants subject to the development and adoption of a Roster System Policy containing the following:

- (1) Roster scope for service providers, suppliers, contractors and/or consultants
- (2) Process of selection and appointment on the Roster System Database



### **34. PROUDLY SOUTH AFRICA CAMPAIGN**

The Municipality supports the Proudly SA Campaign in its procurement of goods and services (including construction works and consultant services) to the extent that, all things being equal, preference is given to procuring local goods and services (including construction works and consultant services) from:

- (1) Firstly, suppliers and businesses within the municipal district of George Municipality
- (2) Secondly, suppliers and businesses within the Garden Route District Municipal area
- (3) Thirdly, suppliers and businesses within the Western Cape province
- (4) Fourthly, suppliers and businesses within the rest of the Republic of South Africa

### **35. APPOINTMENT OF CONSULTANTS (read with Cost Containment policy)**

- (1) The Municipality should consult the National Treasury's instructions in respect of the appointment of consultants.
- (2) Consultants should only be engaged when the necessary skills and/or resources to perform a project/duty/study are not available and the Accounting Officer cannot be reasonably expected either to train or to recruit people in the time available.
- (3) If transfer of knowledge and skills or training is an objective, it should be specifically outlined. The terms of reference or specifications should indicate the objectives, nature, scope and goals of the training programme, including details on trainers and trainees, skills to be transferred, time frames and monitoring and evaluation arrangements to enable consultants to estimate the required resources.
- (4) As consultant services are specialised types of services, specifications for procurement should be drafted on a case-by-case basis depending on the nature and the type of consulting work under consideration.
- (5) Specifications should take into account production of documents where copy-right, patents/ownership is concerned when drafting documentation of this nature. Copyright, patent right or ownership shall be vested in the Municipality. Evaluation criteria should include:
  - (a) Consultant's relevant experience.
  - (b) Quality of the methodology.
  - (c) Qualifications of key personnel; and

- (d) Transfer of skills and knowledge (if applicable)
- (6) 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 5 years.
  - (b) Any similar consultancy services provided to an organ of State in the last 5 years.
- (7) The work undertaken by a consultant should be regulated by a contract and/or Service Level Agreement. The relationship between the Municipality and the Consultant will be one of purchaser/provider and not employer/employee. The Accounting Officer or his/her delegated official is, however, responsible for monitoring and evaluating contractor performance and outputs against project specifications and targets and should take remedial action if performance is below standard.
- (8) The appointment of consultants shall be done in accordance with applicable Supply Chain Management legislation, regulations and this policy. The procurement method selection will be determined by the scope of the project, the quality of the service and complexity of the project.
- (9) A consultant request form must be completed and the need for consultants must be linked to the strategic objective of the relevant project. Issues that should be discussed and clarified are:
  - (a) The need for a consultant.
  - (b) Whether it would be a once-off or recurrent service.
  - (c) Will any skills or knowledge transfer be required?
- (10) While the specific rules and procedures to be followed for selecting consultants depend on the circumstances of the particular case, at least the following four major considerations should guide the Accounting Officer's/authority's policy on the selection process:
  - (a) the need for high-quality services.
  - (b) the need for economy and efficiency.
  - (c) the need to give qualified consultants an opportunity to compete in providing the services.
  - (d) the importance of transparency in the selection process.
- (11) Consultants should not be hired under the following circumstances:
  - 1. A firm, which has been engaged by the AO to provide goods or works for a project and any of its affiliates, should be disqualified from providing consulting services for the same project. Similarly, a firm hired to provide consulting services for the preparation or implementation of a project and any of its affiliates, should be disqualified from subsequently providing goods or works or services related to the initial assignment (other than a continuation of the firm's earlier consulting services as described below)

for the same project, unless the various firms (consultants, contractors, or suppliers) are performing the contractor's obligations under a turnkey or design-and-build contract;

2. Consultants or any of their affiliates should not be hired for any assignment which, by its nature, may be in conflict with another assignment of the consultants. As an example, consultants hired to prepare an engineering design for an infrastructure project should not be engaged to prepare an independent environmental assessment for the same project, and consultants assisting a client in the privatization of public assets should not purchase, nor advise purchasers of such assets.

### **36. DEVIATION FROM AND RATIFICATION OF MINOR BREACHES OF PROCUREMENT PROCESSES**

- (1) The Accounting Officer or a senior official of the Municipality to whom the Accounting Officer has delegated the authority in writing 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 as defined in paragraph 1 of this Policy.
    - (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) exceptional case where it is impractical or impossible to follow the official procurement processes.
  - (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 36(1)(a) and (b) above and report them to the next meeting of the Council and include as a note to the annual financial statements.
- (3) Subparagraph 36(2) does not apply to the procurement of goods and services (including construction works and consultant services) contemplated in paragraph 11(2) of this Policy.
- (4) A Deviation process may be followed in the following cases:

- (a) Where the Municipality followed a competitive bidding process and for Tenders no bids were received.
  - (b) Where the Municipality followed a competitive bidding process for Formal Written Quotations and no quotations were received.
  - (c) When a Deviation process is followed in terms of paragraphs (a) and (b) above the same specification must be used as in the original Tender or Formal Written Quotation.
- 6) The following will be deemed not to be deviations, but exceptions from SCM processes:
- (a) Advertisements that are placed in the newspaper that is commonly circulated.
  - (b) Advertisements that are placed in National Government and Provincial Government Gazettes.
  - (c) The acquisition of accommodation and air travel for official purposes subject thereto that the acquisition of such services be dealt with in terms of the Municipality's Payment of Travel and Subsistence for Councillors and Officials Policy as amended from time to time as well as in terms of the Municipality's Delegation of Powers and Duties as amended from time to time.
  - (d) The procurement of fuel from any recognised Fuel Company and their depots, except when fuel is procured for the Municipal Depot.
  - (e) Vehicles serviced by the agent in terms of the warranty or service plan of the vehicle.
  - (f) Training and expansion of current operating systems used by the Municipality.
  - (g) Service Agent.
  - (h) Subscriptions/membership.

### **37. UNSOLICITED BIDS**

- (1) In accordance with Section 113 of the MFMA the Municipality has no obligation to consider unsolicited bids received outside a normal bidding process.
- (2) The Accounting Officer may, however, decide in terms of Section 113(2) of the MFMA to consider an unsolicited bid, only if –
  - (a) the product or service or proposal offered in terms of the bid is a demonstrably or proven unique, innovative or valuable concept; and/or
  - (b) the product or service or proposal will be exceptionally beneficial, or have exceptional cost advantages to the Municipality;

- (c) the bidder who made the bid is the sole provider of the product or service or is the only proposer of the concept; 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 37(2) of this Policy, the decision must be made public in accordance with Section 21A of the Municipal Systems Act, together with -
  - (a) reasons as to why the bid should not be open to other competitors.
  - (b) an explanation of the potential benefits if the unsolicited bid is accepted; and
  - (c) an invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.
- (4) All written comments received pursuant to subparagraph 37(3), including any responses from the unsolicited bidder, must be submitted to the National Treasury and the relevant Provincial Treasury for comment.
- (5) The Adjudication Committee must consider the unsolicited bid and may award the bid or make a recommendation to the Accounting Officer, depending on its delegations.
- (6) A meeting of the Adjudication Committee to consider an unsolicited bid must be open to the public.
- (7) When considering the matter, the Adjudication Committee must take into account -
  - (a) any comments submitted by the public; and
  - (b) any written comments and recommendations of the National Treasury or the Provincial Treasury.
- (8) If any recommendations of the National Treasury or the Provincial Treasury are rejected or not followed, the Accounting Officer must submit to the Auditor General, the 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.
- (10) Unsolicited bids for the purchase and/or development or renting of municipal land or fixed property of commercial value as defined in paragraph 1 of this Policy will not be considered.

### **38. COMBATING OF ABUSE OF SUPPLY CHAIN MANAGEMENT SYSTEM**

1. The Accounting Officer must

- (a) take all reasonable steps to prevent abuse of the Supply Chain Management System;
- (b) investigate any allegations against an official or other role player of fraud, corruption, favouritism, unfair or irregular practices or failure to comply with this Supply Chain Management Policy, and when justified.
  - (i) take appropriate steps against such official or other role player; or
  - (ii) report any alleged criminal conduct to the South African Police Service or any other recognised authority.
- (c) check the National Treasury's database prior to awarding any contract to ensure that no recommended bidder, or any of its directors, is listed as a person prohibited from doing business with the public sector.
- (d) reject any bid from a bidder -
  - (i) if any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the Municipality, or to any other Municipality or municipal entity, are in arrears for more than three months; or
  - (ii) who, during the last five years, has failed to perform satisfactorily on a previous contract with the Municipality; or any other organ of State after written notice was given to that bidder that performance was unsatisfactory.
- (e) reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract.
- (f) cancel a contract awarded to a person if -
  - (i) the person committed any abuse of the Supply Chain Management System 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 been found guilty by a Court of Law or a structure established by Council or the Accounting Officer for investigating or the arbitration of related to abuses of

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 wilfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
  - (iv) has been listed in the Register for Tender Defaulters in terms of Section 29 of the Prevention and Combating of Corrupt Activities Act, No 12 of 2004.
- (h) Upon detecting that a tenderer submitted false information regarding its B-BBEE status level of contributor, or any other matter required in terms of the Preferential Procurement Regulation, 2022 which will affect the evaluation of a tender, or where a tenderer has failed to declare any subcontracting arrangements, the stipulations as contained in the said Regulation 38 must be complied with.
2. The Municipality shall ensure that, where possible, fronting is identified before a contract is awarded and act accordingly. Where, after an award of a contract was made and it becomes evident that the award made was based on incorrect information constituting fronting, the appropriate action will be taken in accordance with all legal remedies available.
  3. The Accounting Officer must inform the National Treasury and the Provincial Treasury in writing of any actions taken in terms of subparagraphs 38(1)(b)(ii), (e) or (f) above.

## **PART 3**

### **LOGISTICS, DISPOSAL AND RISK MANAGEMENT AND PERFORMANCE MONITORING**

#### **39. LOGISTICS MANAGEMENT**

- (1) The Accounting Officer must establish an effective system of logistics management which must include –
  - (a) the monitoring of spending patterns on types or classes of goods and services (including construction works and consultant services) incorporating, where practical;
  - (b) the coding of items to ensure that each item has a unique number;
  - (c) the setting of inventory levels that includes re-ordering; minimum and maximum levels and lead times wherever goods are placed in stock;
  - (d) the placing of manual or electronic orders for all acquisitions other than those from petty cash.
  - (e) before payment is approved, certification by the responsible delegated employee that the goods and services (including construction works and consultant 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.
  - (f) 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.
  - (g) monitoring and review of the supply vendor performance to ensure compliance with specifications and contract conditions for particular goods or services.
  - (h) taking stock on a regular basis, identifying discrepancies and reporting such discrepancies immediately to the relevant delegate; and
  - (i) compilation and submission of financial year end information as required.



## 40. DISPOSAL MANAGEMENT

- (1) The Accounting Officer must establish an effective system of disposal management for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, immovable property, subject to Sections 14 and 90 of the MFMA, which must stipulate the following:
  - (2) The disposal of assets must -
    - (a) be by one of the following methods -
      - (i) transferring the asset to another organ of State in terms of a provision of the Act enabling the transfer of assets.
      - (ii) transferring the asset to another organ of State at market -related value or, when appropriate, free of charge.
      - (iii) selling the asset by way of an auction or a competitive bidding process; or
      - (iv) destroying the asset.
    - (b) provided that -
      - (i) immovable property may be sold only at market-related prices except when the public interest or the plight of the poor demands otherwise.
      - (ii) movable as well as immovable assets may be sold at market-related prices either by way of written quotations, a competitive bidding process or auction, whichever is the most advantageous to the Municipality.
      - (iii) in the case of the free disposal of computer equipment, the Provincial Department of Education must first be approached to indicate within 30 days whether any of the local schools are interested in the equipment and
      - (iv) in the case of the disposal of firearms, the National Conventional Arms Control Committee has approved any sale or donation of firearms to any person or institution within or outside the Republic.
    - (c) furthermore, ensure that -
      - (i) immovable property is let at market-related rates except when the public interest or the plight of the poor demands otherwise; and

- (ii) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed; and
- (d) ensure that where assets are traded in for other assets, the highest possible trade-in price is negotiated.

#### **41. RISK MANAGEMENT**

- (1) The Accounting Officer shall provide for an effective system of risk management for the identification, consideration and avoidance of potential risks in the Supply Chain Management system.
- (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.

#### **42. PERFORMANCE MANAGEMENT**

- (1) The head of the municipal department which required the goods or a service in terms of a competitive bidding process must ensure that the goods had been delivered or the service completed according to the Municipality's quality and other requirements as specified in the relevant bid documentation.
- (2) In the case of goods and services (including construction works and consultant services) supplied in response to a quotation invited by the Municipality the head of the client department or section of the Municipality which requested the goods or service must certify on the supplier's invoice that the goods or service had been supplied in accordance with the Municipality's requirements before payment is made.
- (3) In the case of goods or services procured through a tender process as specified in terms of paragraph 19 of this Policy, the head or section of the relevant department must within a 30

(thirty) working days of the final delivery of the required work submit a written report to the Manager of Supply Chain Management on the performance of the supplier.

(4) The report must state -

(a) whether or not the performance of the supplier was satisfactory in terms of adherence to specifications and delivery or completion schedules, product or service quality and quality of workmanship.

(b) include details, supported by copies of any written notifications regarding service delivery given to the supplier.

(c) include a recommendation on any further action to be taken against the supplier in terms of paragraph 42 of this Policy.

## **42.1 CONTRACT MANAGEMENT**

(1) The Accounting Officer must ensure that all written contracts or service level agreements that are entered into by their respective institutions are legally sound. This measure is aimed at avoiding potential litigation and minimizing possible fraud and corruption.

(2) the appointment of a contract manager by the line Department to manage the contract.

(3) Such contracts or agreements must be actively managed in order to ensure that both parties (the municipality and the contractors) meet their respective obligations.

(4) All contracts entered into by the Municipality in the tender process referred to in paragraph 19 of this Policy must -

(a) be in writing;

(b) stipulate the terms and conditions of the contract or agreement, which must include provisions providing for –

(i) the termination of the contract or agreement in the case of non- or under-performance.

(ii) dispute resolution mechanisms to settle disputes between parties.

(iii) a periodic review of the contract or agreement once every three years in the case of a contract or agreement for longer than three years; and

(iv) any other matter that may be prescribed.

- (c) include the General Conditions of Contract as prescribed by National Treasury.
  - (d) specify the duration of the contract.
  - (e) specify the payment terms in respect of the goods or service, including construction works and consultants services supplied.
  - (f) be monitored by the designated project Manager of the Municipality which requested the goods or service to ensure that all the contract requirements are met.
- (5) Unauthorised deviations or breaches of the contract as in paragraph 41(1)(d) above by the supplier or service provider must be reported to the Head: Legal Services for initiating appropriate action as well as to the SCM Unit which must enter the details in a register for the recording of such deviations and breaches.
- (6) Copies must be made of original signed contracts entered into in the course of the implementation of this Policy and the original document must be forwarded to the SCM Unit for safekeeping or filing in the Documentation Centre of the Municipality together with the bid committee documentation related to the contract.
- (7) Contracts, with the exception of transversal contracts, may not be expanded or varied by more than 20% for constructions related goods, services and/or infrastructure projects and 15% for all other goods and/or services of the original value of the contract. Anything above the mentioned thresholds must be reported to council.
- (8) Any expansion or variation in excess of the thresholds stated above must be dealt within the provisions of section 116(3) of the MFMA which will be regarded as an amendment of the contract.

## **42.2 PERFORMANCE MONITORING**

- (1) The Accounting Officer must establish an effective internal monitoring system in order to determine, on the basis of a retrospective analysis, whether the authorised supply chain management processes were followed and whether the desired objectives were achieved.
- (2) Issues to be reviewed include:
  - (a) Compliance to norms and standards.
  - (b) Cost-efficiency of the supply chain management process; and
  - (c) Whether supply chain practices are consistent with the Government's broader policy focus.

## **PART 4**

### **OTHER MATTERS**

#### **43. PROHIBITION ON AWARDS TO PERSONS WHOSE TAX MATTERS ARE NOT IN ORDER**

- (1) The Accounting Officer must ensure that, irrespective of the procurement process followed, no award above R30 000 (VAT included) is given to a person whose tax matters have not been declared by the South African Revenue Service (SARS) to be in order.

#### **44. PROHIBITION ON AWARDS TO PERSONS IN THE SERVICE OF THE STATE**

- (1) No award may be given to a person -
  - (a) who is in the service of the State; or
  - (b) if that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the State; or
  - (c) who is an advisor or consultant contracted with the Municipality or municipal entity.
- (2) As no award may be given to a person who is in the service of the state, it is expected of all prospective bidders to declare their interests in the prescribed forms in bidding documents.

#### **45. AWARDS TO CLOSE FAMILY MEMBERS OF PERSONS IN THE SERVICE OF THE STATE**

- (1) The notes to the annual financial statements must disclose particulars of any award of more than R2 000 (VAT included) 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.

- (2) All Supply Chain Management officials have to disclose and declare related parties on an annual basis.
- (3) All key management personnel have to disclose and declare related parties on an annual basis.
- (4) All members of Bid Committees have to declare their interest and disclose and declare related parties for each and every bid that they serve on as a member of a Bid Committee.

## **46. ETHICAL STANDARDS**

- (1) A code of ethical standards is hereby established for officials and all other role players in the Supply Chain Management System in order to promote -
  - (a) mutual trust and respect; and
  - (b) an environment where business can be conducted with integrity and in a fair and reasonable manner.
- (2) An official or other role player involved in the implementation of the Supply Chain Management Policy:
  - (a) must treat all providers and potential providers equitably.
  - (b) may not use his or her position for private gain or to improperly benefit another person.
  - (c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350 (VAT included);
  - (d) notwithstanding subparagraph 51(2)(c), must declare to the Accounting Officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person.
  - (e) must declare to the Accounting Officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by, the Municipality.

- (f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest.
- (g) must be scrupulous in his or her use of property belonging to the Municipality.
- (h) must assist the Accounting Officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system; and
- (i) must report to the Accounting Officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including –
  - (i) any alleged fraud, corruption, favouritism or unfair conduct.
  - (ii) any alleged contravention of paragraph 51(1) of this Policy; or
  - (iii) any alleged breach of this code of ethical standards.
- (3) Declarations in terms of subparagraph 51(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) The National Treasury Code of Conduct for Supply Management Practitioners, attached as Annexure A, is adopted by the Municipality and shall apply mutatis mutandis to and be binding on supply chain management practitioners and other role players involved in the supply chain management of the Municipality.
- (6) A breach of the code of conduct adopted by the Municipality must be dealt with in accordance with Schedule 1 (Code of Conduct for Councillors) and Schedule 2 (Code of Conduct for Municipal Staff Members) of the Municipal Systems Act, No 32 of 2000.

## **47. INDUCEMENTS, REWARDS, GIFTS AND FAVOURS TO MUNICIPALITIES, OFFICIALS AND OTHER ROLE PLAYERS**

- (1) No person who is a provider or prospective provider of goods or services, or recipient or prospective recipient of goods disposed or to be disposed of may either directly or through a representative or intermediary promise, offer or grant -
  - (a) any inducement or reward to the Municipality for or in connection with the award of a contract; or
  - (b) any reward, gift, favour or hospitality to -
    - (i) any official; or
    - (ii) any other role player involved in the implementation of the Supply Chain Management Policy.
- (2) The Accounting Officer must promptly report any alleged contravention of subparagraph 52(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 52(1) does not apply to gifts less than R350 (VAT included) in value.

## **48. SPONSORSHIPS**

- (1) The Accounting Officer must promptly disclose to the National Treasury and the Provincial Treasury any sponsorship promised, offered or granted, whether directly or through a representative or intermediary, by any person who is -
  - (a) a provider or prospective provider of goods or services; or
  - (b) a recipient or prospective recipient of goods disposed or to be disposed.

## **49. OBJECTIONS, COMPLAINTS AND APPEALS**

Persons aggrieved by decisions or actions taken in the implementation of this Supply Chain Management policy, may lodge within 14 days of the decision or action, a written objection or complaint against the decision or action.



## **50. RESOLUTION OF DISPUTES, OBJECTIONS, COMPLAINTS AND QUERIES**

- (1) The Accounting Officer must appoint an independent and impartial person or persons, 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) An entity under the sole or shared control of the Municipality may for purposes of subparagraph 55(1) appoint the same person.
- (3) 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.
- (4) 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.
- (5) 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.
- (6) 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.

- (7) The provisions above paragraph must not be read as affecting a person's rights to approach a court at any time.

## **51. CONTRACTS PROVIDING FOR COMPENSATION BASED ON TURNOVER**

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

## **52. CONSTRUCTION INDUSTRY DEVELOPMENT BOARD**

- (1) The Construction Industry Development Board (CIDB) has been established by government to promote the uniform application of policy to the construction industry.
- (a) When calling for construction related bids -
    - (i) the same Bid Committee system as for all other bids will be applicable;
    - (ii) the prescribed CIDB (uniformity standard bid documents) may be utilised;
    - (i) only Contractors registered with the CIDB may be used;
    - (ii) all tenders must be advertised on the CIDB i-tender system if possible;
    - (iii) consultants used in the procurement process must adhere to the CIDB legislation;
    - (iv) consultants used in the procurement process are prohibited to provide goods, works or services related to the project; and
    - (v) subcontract arrangements and joint venture initiatives must be aligned to CIDB guidelines and requirements.
  - (b) When evaluating construction related bids -
    - (i) the validity of the contractor's registration and grading on the CIDB website must be verified;

- (ii) the contractor's registration will be verified and has to be valid on the day the Bid Evaluation Committee evaluates the bid;
  - (iii) the bidder's documents must be assessed against the prescribed CIDB contractor requirements; and
  - (iv) calculations for joint venture gradings must be done according to the CIDB prescriptions.
- (2) Other matters -
  - (a) all projects approved by the Municipality must be registered with the CIDB;
  - (b) contracts registered on the i-tender systems must be updated and completed;
  - (c) non-performance and non-compliance of contractors must be reported to the CIDB as per the CIDB guidelines; and
  - (d) Sub-contracting arrangements and joint-venture initiatives must be aligned to the CIDB guidelines and requirements.

## **53. ARCHIVE OF BIDDING DOCUMENTS**

- (1) Bidding documents have to be kept in a safe.
- (2) The following will be applicable before the destruction of any documents:
  - (a) Formal written quotation documents have to be kept for a minimum of five (5) years;
  - (b) The documents for tenders that were awarded for a period of less than one (1) year must be kept for a minimum of five (5) years;
  - (c) The documents for tenders that were awarded for a period of more than one (1) year must be kept for a minimum of six (6) years or for a period of six (6) years after the completion of the project;
  - (d) No documents can be destroyed without the written consent of the Records Manager and the completion of a Destruction Certificate which must be submitted by him/her to the Western Cape Provincial Archives and Records Services for approval.

## **54. MANAGEMENT OF EXPANSION OR VARIATION OF ORDERS AGAINST THE ORIGINAL CONTRACT**

- (1) Contracts may be expanded or varied by not more than 20% for construction related goods, services and/or infrastructure projects and 15% for all other goods and/or services of the original value of the contract.
- (2) Anything beyond the abovementioned thresholds in (1) must be reported to council.
- (3) Any expansion or variation in excess of these thresholds must be dealt with in terms of the provisions of section 116(3) of the MFMA which will be regarded as an amendment to the contract.
- (4) The contents of paragraph (3) are not applicable to transversal term contracts, facilitated by the relevant treasuries on behalf of municipalities and specific term contracts. The latter refers to orders placed as and when commodities are required and at the time of awarding contracts, the required quantities were unknown.

## **55. CONTRACTS HAVING FUTURE BUDGETARY IMPLICATIONS**

- (1) The Municipality may only enter into a contract that will impose financial obligations beyond the three years covered in the annual budget for that financial year if section 33 of the MFMA has been fully complied with.
- (2) Section 33(1) of the MFMA prescribes processes that must be followed when a contract will impose financial obligations on the municipality beyond three years.
- (3) Section 33(2) of the MFMA however states that these processes do not apply to contracts in terms of which the financial obligation of the municipality is below a prescribed value, for this Municipality, this value is determined at R2 million per year, VAT included.
- (4) If a bid has been awarded for three years, and the contract period is ending, the award of this bid may be extended for a period of six months and if it needs to be extended for longer, it can only be done with the approval of Council and in line with Sec116(3) of the MFMA. This extension may only be done in the following instances:
  - (a) If a new bid has been invited, but can for some reason not be awarded in time;
  - (b) If practical implementation problems of the new bid occur; or
  - (c) If the nature of the contract ending is as such that it has to be handed over to a new service provider or supplier over a period of time.

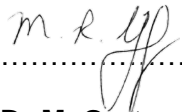
## 56. COMMENCEMENT

This revised policy takes effect on 09 February 2023

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As approved by Special Executive Mayor-in-Committee meeting which was held 08 February 2023.

Signed at GEORGE on the **09<sup>TH</sup>** day of February **2023**

A handwritten signature in dark ink, appearing to read 'M. Gratz', is written over a horizontal dotted line.

**Dr M. Gratz**

**Municipal Manager**

## **ANNEXURE A**

### **George Municipality SUPPLY CHAIN MANAGEMENT POLICY**

#### **NATIONAL TREASURY CODE OF CONDUCT FOR SUPPLY CHAIN MANAGEMENT PRACTITIONERS**

In accordance with the Regulations for Supply Chain Management issued in terms of section 168 of the Municipal Finance Management Act, 2003 (MFMA), National Treasury is required to issue a Code of Conduct for Supply Chain Management Practitioners that should be adhered to by all officials and other role players involved in supply chain management. 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.

##### **1. General Principles**

The Government of South Africa commits itself to a policy of fair dealing and integrity in the conducting of its business. The position of a supply chain management (SCM) practitioner is, therefore, a position of trust, implying a duty to act in the public interest. Practitioners 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.

Practitioners should ensure that they perform their duties efficiently, effectively and with integrity, in accordance with the relevant legislation and National Treasury Regulations and Guidelines. They should ensure that public resources are administered responsibly.

Practitioners 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.

##### **2. 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, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350;
- (d) must declare to the accounting officer details of any reward, gift favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;
- (e) must declare to the accounting officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process, or in any award of a contract by the municipality or municipal entity;
- (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 interests 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 organisations 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 their official position.

### **3. Accountability**

- (a) Practitioners are accountable for their decisions and actions to the public.
- (b) Practitioners should use public property scrupulously. Only accounting officers or their delegates have the authority to commit the government to any transaction for the procurement of goods and/or services.
- (c) 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.

- (d) Practitioners must assist the accounting officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system.
- (e) 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, favouritism or unfair conduct;
  - (ii) any alleged contravention of the policy on inducements, rewards, gifts and favours to municipalities or municipal entities, officials or other role players; and any alleged breach of this code of conduct.
  - (iii) Any declarations made must be recorded in a register that the accounting officer must keep for this purpose.

#### **4. 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.

#### **5. Confidentiality**

- (a) Any information that is the property of the government 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.
- (b) Matters of confidential nature in the possession of supply chain practitioners should be kept confidential unless legislation, the performance of duty or the provisions of law requires otherwise. Such restrictions should also apply after separation from service.

#### **6. Bid Evaluation / Adjudication Committees**

Bid evaluation / adjudication committees should regulate supply chain management on behalf of the institution in an honest, fair, impartial, transparent cost-effective and accountable manner in accordance with the Accounting Officer's directives/delegated powers.



The evaluation / adjudication committee may be authorised to deal with all supply chain management matters and finalise bids / quotations in accordance with the directives / delegated powers of the accounting officer.

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.

All members of bid adjudication committees should be cleared at the level of “CONFIDENTIAL” and should be required to declare their financial interest annually.

No person should interfere with the supply chain management system on an institution; or amend or tamper with any bid after its submission.

## **7. Combative Practices**

Combative practices are unethical and illegal and should be avoided at all cost. They include but are not limited to:

- (a) Suggestions to fictitious lower quotations;
- (b) Reference to non-existent competition;
- (c) Exploiting errors in bids;
- (d) Soliciting bids from bidders whose names appear on the National Treasury's database of persons prohibited from doing business with the public sector.

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