

DR. JS MOROKA LOCAL MUNICIPALITY SUPPLY CHAIN MANAGEMENT POLICY



dr.jsmlm

Dr JS Moroka Local Municipality

REVIEWED FOR 2018/2019 FINANCIAL YEAR

LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003

Council resolves in terms of section 111 of the Local Government Municipal Finance Management Act (No. 56 of 2003), to adopt the following proposal as the Supply Chain Management Policy of the **municipality**

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Definitions

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

“competitive bidding process” means a competitive bidding process referred to in paragraph 12 (1) (d) of this Policy;

“competitive bid” means a bid in terms of a competitive bidding process;

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

“formal written price quotation” means quotations referred to in paragraph 12 (1) (c) of this Policy;

“in the service of the state” means to be –

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

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

“list of accredited prospective providers” means the list of accredited prospective providers which the **municipality** must keep in terms of paragraph 14 of this policy;

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

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

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

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

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

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

“Local”, means a co-operative, small medium enterprise or any entity whose offices reside in the Dr. Moroka Local Municipality

CHAPTER 1

IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

Supply chain management policy

2. (1) All officials and other role players in the supply chain management system of the **municipality**, must implement this Policy in a way that –
 - (a) Gives effect to –
 - (i) Section 217 of the Constitution; and
 - (ii) Part 1 of Chapter 11 and other applicable provisions of the Act;
 - (b) is fair, equitable, transparent, competitive and cost effective;
 - (c) Complies with –
 - (i) The Regulations; and
 - (ii) Any minimum norms and standards that may be prescribed in terms of section 168 of the Act;
 - (d) is consistent with other applicable legislations, policies and strategy documents of the municipality and will only supersede all other pieces of legislation on financially related matters as prescribed by the MFMA;
 - (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.

- (3) This Policy applies when the **municipality**
 - (a) procures goods or services;
 - (b) Disposes goods no longer needed;
 - (c) Selects contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies

- (4) This Policy, except where provided otherwise, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Act, including –
 - (a) Water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and

- (b) Electricity from Eskom or another public entity, another municipality or a municipal entity.

Amendment of the supply chain management policy

3. (1) The accounting officer must –
- (a) at least annually review the implementation of this Policy; and
 - (b) When the accounting officer considers it necessary, submit proposals for the amendment of this Policy to the **council**
- (2) If the accounting officer submits proposed amendments to the **council** that differs from the Supply Chain Regulations, Gazette no 27636 issued by the National Treasury, the accounting officer must –
- (a) ensure that such proposed amendments comply with the Supply Chain Regulations, Gazette no 27636; and
 - (b) Report any deviation from the Supply Chain Regulations Gazette no 27636, 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, particularly to promote accessibility of supply chain management systems for small businesses must be taken into account.

Delegation of supply chain management powers and duties

4. (1) The **council** hereby delegates all powers and duties to the accounting officer which are necessary to enable the accounting officer –
- (a) to discharge the supply chain management responsibilities conferred on accounting officers in terms of –
 - (i) Chapter 8 or 10 of the Act; and
 - (ii) this Policy;
 - (b) to maximise administrative and operational efficiency in the implementation of this Policy;
 - (c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of this Policy; and
 - (d) to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.

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

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

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

Subdelegations

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

(2) The power to make a final award –

- (a) above R6 million(VAT included), but not exceeding R10 million (VAT included) may not be sub delegated by the accounting officer;
- (b) above R 200 000 (VAT included), but not exceeding R6 million (VAT included), may be sub delegated only to –
 - (i) a bid adjudication committee of which the chief financial officer and senior manager/s is a member
 - (ii) section 5(2)(b)(i) is subject to the bid adjudication complying with section 29(5)(a)(b) of this policy ; or
- (c) exceeding R 30 000 (VAT included), but not exceeding R 200 000, be sub delegated but only to –
 - (i) a senior manager (section 56 employees) of the requesting department, subject to section 18(f),12(1)(d) and section 18(b); .
- (d) Not exceeding R 30 000 (VAT included), be sub delegated but only
 - (i) Divisional managers reporting directly to the department head (section 57 managers),subject to section 18(f)

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

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

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

- (a) *to the accounting officer, in the case of an award by –*
 - (i) *the chief financial officer;*
 - (ii) *a senior manager; or*
 - (iii) *a bid adjudication committee of which the chief financial officer or a senior manager is a member; or*
- (b) *to the chief financial officer or the senior manager responsible for the relevant bid, in the case of an award by –*
 - (i) *a manager referred to in subparagraph (2)(c)(iii); or*
 - (ii) *a bid adjudication committee of which the chief financial officer or a senior manager is not a member.*

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

(6) This paragraph may not be interpreted as permitting an official to whom the power to make final awards has been 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, consultant or a person who is not an official of the municipality.

Oversight role of council

6. (1) The **council** reserves its right to maintain oversight over the implementation of this Policy.
- (2) For the purposes of such oversight the accounting officer must –
- (a) (i) within 30 days of the end of each financial year, submit a report on the implementation of this Policy and the supply chain management policy of any municipal entity under the sole or shared control of the municipality, to the council of the municipality; and
- (ii) Whenever there are serious and material problems in the implementation of this Policy, immediately submit a report to the council.
- (3) *The accounting officer must, within 10 days of the end of each quarter, submit a report on the implementation of the supply chain management policy to the **mayor** .*
- (4) The reports must be made public in accordance with section 21A of the Municipal Systems Act.

Supply chain management unit

7. (1) A supply chain management unit is hereby established to implement this Policy, in which all procurement of goods and services are hereby centralized to this unit
- (2) The supply chain management unit operates under the direct supervision of the chief financial officer or an official to whom this duty has been delegated in terms of section 82 of the Act.

Training of supply chain management officials

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

CHAPTER 2

SUPPLY CHAIN MANAGEMENT SYSTEM

Format of supply chain management system

9. This Policy provides systems for –
- (i) demand management;
 - (ii) acquisition management;
 - (iii) logistics management;
 - (iv) disposal management;
 - (v) risk management; and
 - (vi) performance management.+

Part 1: Demand management

System of demand management

10. (1) The accounting officer must establish and implement an appropriate demand management system in order to ensure that the resources required by **the municipality** support its operational commitments and its strategic goals outlined in the Integrated Development Plan.
- (2) The demand management system must –
- (a) include timely planning and management processes to ensure that all goods and services required by **the municipality** are quantified, budgeted for and timely and effectively delivered at the right locations and at the critical delivery dates, and are of the appropriate quality and quantity at a fair cost;
 - (b) take into account any benefits of economies of scale that may be derived in the case of acquisitions of a repetitive nature; and
 - (c) provide for the compilation of the required specifications to ensure that its needs are met.
 - (d) To undertake appropriate industry analysis and research to ensure that innovations and technological benefits are maximized.

Part 2: Acquisition management

System of acquisition management

11. (1) The accounting officer must implement the system of acquisition management set out in this Part in order to ensure –

- (a) that goods and services are procured by **the municipality** in accordance with authorized processes only;
 - (b) that expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the Act;
 - (c) that the threshold values for the different procurement processes are complied with;
 - (d) that bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation;
- and
- (e) that any Treasury guidelines on acquisition management are properly taken into account.

(2) When procuring goods or services contemplated in section 110(2) of the Act, the accounting officer must make public the fact that such goods or services are procured otherwise than through the **municipality's** supply chain management system, including -

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

(3) that in respect of paragraph 11 (1) and (2), all procurement of goods and services must be handled by the supply chain unit of the municipality, as established by this paragraph 7 (1) and (2) of this policy.

Range of procurement processes

12. (1) Goods and services may only be procured by way of –

- (a) petty cash purchases from R0.01 up to R2000(Vat Included)
- (b) 3 written quotations for procurements of a transaction value over R2000 up to 5000(VAT included);
- (c) 3 formal written quotations for procurements of a transaction value over R5 000 up to R15 000 (VAT included);
- (d) 3 formal written price quotations for procurements of a transaction value over R15 000 up to R200 000(VAT included); and

- (e) a competitive bidding process for–
 - (i) procurements above a transaction value of R200 000 (VAT included); and
 - (ii) the procurement of long term contracts.

- (2) The accounting officer may, in writing-
 - (a) lower, but not increase, the different threshold values specified in subparagraph (1); or
 - (b) direct that –
 - (i) written or verbal quotations be obtained for any specific procurement of a transaction value lower than R5 000;
 - (ii) formal written price quotations be obtained for any specific procurement of a transaction value lower than R5000; or
 - (iii) a competitive bidding process be followed for any specific procurement of a transaction value lower than R200 000.

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

General preconditions for consideration of written quotations or bids

- 13.** A written **quotation or bid** may not be considered unless the provider who submitted the quotation or bid –
- (a) has furnished that provider's –
 - (i) full name;
 - (ii) identification number or company or other registration number; and
 - (iii) tax reference number and VAT registration number, if any;
 - (b) has authorized the **municipality** to obtain a tax clearance from the South African Revenue Services that the provider's tax matters are in order; and
 - (c) has indicated –
 - (i) whether he or she is in the service of the state, or has been in the service of the state in the previous twelve months;
 - (ii) if the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the state, or has been in the service of the state in the previous twelve months; or
 - (iii) whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in subparagraph (ii) is in the service of the state, or has been in the service of the state in the previous twelve months.

Lists of accredited prospective providers

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

Petty cash purchases

15. There will be no petty cash purchases allowed up to the value of R2000 per department, in which all transactions must be in line with the approved petty cash procedure manual and no deviation from the procedure manual will be permissible, unless the accounting officer determines otherwise

Written or verbal quotations

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

- (a) Quotations must be obtained only by the supply chain management unit from different providers on rotation basis preferably from, but not limited to, providers whose names appear on the list of accredited prospective providers of the **municipality**, provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria set out in paragraph 14(1)(b) and (c) of this Policy;
- (b) to the extent feasible, providers must be requested to submit such quotations in writing;
- (c) if it is not possible to obtain at least three quotations where required by paragraph 12 of this policy, the reasons must be recorded and reported quarterly to the accounting officer or another official designated by the accounting officer;
- (d) the accounting officer must record the names of the potential providers requested to provide such quotations with their quoted prices; and
- (e) if a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider.
- (f) **and must comply with the process as set out on the procedure manual as contained in this policy**

Formal written price quotations

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

- (a) quotations must be obtained only by the supply chain management unit in writing from at least three different providers whose names appear on the list of accredited prospective providers of the **municipality**
- (b) quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria set out in paragraph 14(1)(b) and (c) of this Policy;

- (c) if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the chief financial officer or an official designated by the chief financial officer, and
- (d) the accounting officer must record the names of the potential providers and their written quotations.
- (e) **The above must comply with the process as set out on the procedure manual as contained in this policy**

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

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

- 18.** The procedure for the procurement of goods or services through written or verbal quotations or formal written price quotations, is as follows:
- (a) when using the list of accredited prospective providers the accounting officer must promote ongoing competition amongst providers by inviting providers to submit quotations on a rotation basis;
 - (b) **all requirements in excess of R30 000 (VAT included) that are to be procured by means of formal written price quotations must, in addition to the requirements of paragraph 17, be advertised for at least seven days on the website and an official notice board of the municipality, and must comply with the process as set out on the procedure manual as contained in this policy;**
 - (c) **offers received must be evaluated on a comparative basis taking into account unconditional discounts;**
 - (d) **the accounting officer or chief financial officer must on a monthly basis be notified in writing of all written or verbal quotations and formal written price quotations accepted by an official acting in terms of a subdelegation;**
 - (e) offers below R30 000 (VAT included) must be awarded based on compliance to specifications and conditions of contract, ability and capability to deliver the goods and services and lowest acceptable price;
 - (f) acceptable offers, which are subject to the preference points system (PPPFA and associated regulations), must be awarded to the bidder who scored the highest points;

- (g) **All verbal, written and formal written price quotations are to be obtained only by the Supply Chain Unit, in line with the procedure manual, as established by this policy.**

Competitive bids

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

Process for competitive bidding

20. The procedures for the following stages of a competitive bidding process are as follows:
- (a) Compilation of bidding documentation as detailed in paragraph 21;
- (b) Public invitation of bids as detailed in paragraph 22;
- (c) Site meetings or briefing sessions as detailed in paragraph 22;
- (d) Handling of bids submitted in response to public invitation as detailed in paragraph 23;
- (e) Evaluation of bids as detailed in paragraph 28;
- (f) Award of contracts as detailed in paragraph 29;
- (g) Administration of contracts
- (i) After approval of a bid, the accounting officer and the bidder must enter into a written agreement.
- (ii) The procuring department will be responsible for contract administration,
- (h) Proper record keeping
- (i) Original / legal copies of written contracts agreements should be kept in a secure place for reference purposes.

Bid documentation for competitive bids

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

- (a) take into account –
 - (i) the general conditions of contract and any special conditions of contract, if specified;
 - (ii) any Treasury guidelines on bid documentation; and
 - (iii) the requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;
 - (iii) and any other related or applicable legislation
- (b) include the preference points system to be used , goals as contemplated in the Preferential Procurement Regulations and evaluation and adjudication criteria, including any criteria required by other applicable legislation;
- (c) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;
- (d) if the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish–
 - (i) if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements –
 - (aa) for the past three years; or
 - (bb) since their establishment if established during the past three years;
 - (ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;
 - (iii) particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
 - (iv) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality or municipal entity is expected to be transferred out of the Republic; and

- (f) 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.
- (g) Include incentives to appointed bidder/s in order to obtain trade discounts, promote local economic development and programs that support the development of the community of Dr. Moroka Local Municipality
- (h) Include as part of the evaluation criteria functionality which will take into account the complexity of the project and promote statements contained in (g) above

Public invitation for competitive bids

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

- (a) Any invitation to prospective providers to submit bids must be by means of a public advertisement in newspapers commonly circulating locally, the website of the **municipality** or any other appropriate ways (which may include an advertisement in the Government Tender Bulletin); and
- (b) the information contained in a public advertisement, must include –
 - (i) the closure date for the submission of bids, which may not be less than 30 days in the case of transactions over R10 million (VAT included), or which are of a long term nature, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to subparagraph (2) of this policy;
 - (ii) a statement that bids may only be submitted on the bid documentation provided by the **municipality**; and
 - (ii) date, time and venue of any proposed site meetings or briefing sessions.;

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

- (3) Bids submitted must be sealed.

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

Procedure for handling, opening and recording of bids

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

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

Negotiations with preferred bidders

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

- (a) does not allow any preferred bidder a second or unfair opportunity;
- (b) is not to the detriment of any other bidder; and
- (c) does not lead to a higher price than the bid as submitted.
- (d) Offers incentives to appointed bidder/s in order to obtain trade discounts, promote local economic **development and programs that support the emancipation of the community of Dr. Moroka Local Municipality**

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

Two-stage bidding process

25. (1) A two-stage bidding process is allowed for –
- (a) large complex projects;
 - (b) projects where it may be undesirable to prepare complete detailed technical specifications; or
 - (c) long term projects with a duration period exceeding three years.

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

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

Committee system for competitive bids

26. (1) A committee system for competitive bids is hereby established, consisting of the following committees for each procurement or cluster of procurements as the accounting officer may determine:

- (a) a bid specification committee;
- (b) a bid evaluation committee; and
- (c) a bid adjudication committee;

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

(3) A neutral or independent observer, appointed by the accounting officer, must attend or oversee a committee when this is appropriate for ensuring fairness and promoting transparency. Provided such an appointment is not in contravention with section 117 of the Act

(4) The committee system must be consistent with –

- (a) paragraph 27, 28 and 29 of this Policy; and
- (b) any other applicable legislation.

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

Bid specification committees

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

(2) Specifications –

- (a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
- (b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organisation, or an authority accredited or recognized by the South African National Accreditation System with which the equipment or material or workmanship should comply;
- (c) must, where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;
- (d) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labeling of conformity certification;
- (e) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the word “equivalent”;
- (f) must indicate each specific goal for which points may be awarded in terms of the points system set out in the Preferential Procurement Regulations 2001; and
- (g) must be approved by the accounting officer prior to publication of the invitation for bids in terms of paragraph 22 of this Policy.
- (h) Conduct its business as contained on the procedure manual of this policy

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

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

(5) neither be a member, advisor nor observer of any other Bid committee

Bid evaluation committees

- 28.** (1) A bid evaluation committee must –
- (a) evaluate bids in accordance with –
 - (i) the specifications for a specific procurement; and
 - (ii) the points system set out in terms of paragraph 27(2)(f).
 - (b) evaluate each bidder's ability to execute the contract;
 - (c) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears, and;
 - (d) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.
 - (e) Conduct its business as contained on the procedure manual of this policy
- (2) A bid evaluation committee must as far as possible be composed of-
- (a) officials who are divisional managers from different departments; and
 - (b) at least one supply chain management practitioner of the **municipality**
 - (c) no person, advisor or corporate entity involved with the bid evaluation committee, or director of such a corporate entity may be part of a bid for any resulting contracts; and
 - (d) neither be a member, advisor nor observer of any other Bid committee

Bid adjudication committees

- 29.** (1) A bid adjudication committee must –
- (a) consider the report and recommendations of the bid evaluation committee; and
 - (b) either –
 - (i) depending on its delegations, make a final award or a recommendation to the accounting officer to make the final award; or
 - (ii) make another recommendation to the accounting officer how to proceed with the relevant procurement.
 - (iii) Conduct its business as contained in the procedure manual of this policy
- (2) A bid adjudication committee must consist of at least four senior managers (managers as defined by the Sec 56 of municipal systems act 32 of 2000) of the **municipality** which must include –

- (a) the chief financial officer or, if the chief financial officer is not available, another manager in the budget and treasury office reporting directly to the chief financial officer and designated by the chief financial officer; and
- (b) at least one senior supply chain management practitioner who is an official of the **municipality**; and
- (c) a technical expert in the relevant field who is an official, if such an expert exists.

(3) The accounting officer must appoint the chairperson of the committee. If the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside at the meeting.

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

- (5)
 - (a) **If the bid adjudication committee decides to recommend an award to a bidder other than the one recommended by the bid evaluation committee, the bid adjudication committee must after recommending the awarding the bid –**
 - (i) **check in respect of the preferred bidder whether that bidder’s municipal rates and taxes and municipal service charges are not in arrears, and;**
 - (ii) **notify the accounting officer in a form of a report to the accounting officer, indicating reasons for the recommendation and deviation to the evaluation committee**
 - (b) **The accounting officer may –**
 - (i) **after due consideration of the reasons for the deviation(from the two committees), ratify or reject the decision of the bid adjudication committee referred to in paragraph (a); and**
 - (ii) **if the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration or make an award on basis of the bid evaluation committee**

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

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

Procurement of banking services

- 30.** (1) A contract for banking services –
- (a) must be procured through competitive bids;
 - (b) must be consistent with section 7 or 85 of the Act; and
 - (c) may not be for a period of more than five years at a time.

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

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

Procurement of IT related goods or services

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

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

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

- (a) the transaction value of IT related goods or services required in any financial year will exceed R50 million (VAT included); or
- (b) the transaction value of a contract to be procured whether for one or more years exceeds R50 million (VAT included).

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

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

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

- (a) the contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;
- (b) there is no reason to believe that such contract was not validly procured;
- (c) there are demonstrable discounts or benefits to do so; and
- (d) that other organ of state and the provider have consented to such procurement in writing; and only if
- (e) the bid committees have satisfied themselves of the above

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

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

Procurement of goods necessitating special safety arrangements

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

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

Proudly SA Campaign

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

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

Appointment of consultants

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

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

- (3) In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish particulars of –
- (a) all consultancy services provided to an organ of state in the last five years; and
 - (b) any similar consultancy services provided to an organ of state in the last five years.

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

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

- 36.** (1) The accounting officer may –
- (a) dispense with the official procurement processes established by this Policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only –
 - (i) in an emergency;
 - (ii) if such goods or services are produced or available from a single provider only;
 - (iii) for the acquisition of special works of art or historical objects where specifications are difficult to compile;
 - (iv) acquisition of animals for zoos and/or nature and game reserves; or

- (v) in any other exceptional case where it is impractical or impossible to follow the official procurement processes; and
- (b) ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature.

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

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

Unsolicited bids

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

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

- (a) the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;
- (b) the product or service will be exceptionally beneficial to, or have exceptional cost advantages;
- (c) the person who made the bid is the sole provider of the product or service; and
- (d) the reasons for not going through the normal bidding processes are found to be sound by the accounting officer.

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

- (a) reasons as to why the bid should not be open to other competitors;
- (b) an explanation of the potential benefits if the unsolicited bid were accepted; and
- (c) an invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.

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

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

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

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

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

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

on the award of the unsolicited bid is taken, but no contract committing the **municipality** to the bid may be entered into or signed within 30 days of the submission.

Combating of abuse of supply chain management system

- 38.** (1) The accounting officer must–
- (a) take all reasonable steps to prevent abuse of the supply chain management system;
 - (b) investigate any allegations against an official or other role player of fraud, corruption, favouritism, unfair or irregular practices or failure to comply with this Policy, and when justified –
 - (i) take appropriate steps against such official or other role player; or
 - (ii) report any alleged criminal conduct to the South African Police Service;
 - (c) check the National Treasury’s database prior to awarding any contract to ensure that no recommended bidder, or any of its directors, is listed as a person prohibited from doing business with the public sector;

- (d) reject any bid from a bidder–
 - (i) if any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the **municipality** or to any other municipality or municipal entity, are in arrears for more than three months; or
 - (ii) who during the last five years has failed to perform satisfactorily on a previous contract with the **municipality** or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;
- (e) reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;
- (f) **cancel a contract awarded to a person if –**
 - (i) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or**
 - (ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and**
- (g) reject the bid of any bidder if that bidder or any of its directors –
 - (i) has abused the supply chain management system of the **municipality** or has committed any improper conduct in relation to such system;
 - (ii) has been convicted for fraud or corruption during the past five years;
 - (iii) **has willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or**
 - (iv) has been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).

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

Part 3: Logistics, Disposal, Risk and Performance Management

Logistics management

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

Disposal management

- 40.** (1) The criteria for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the Act.
- (2) Assets may be disposed of by –
 - (i) transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;
 - (ii) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
 - (iii) selling the asset; or
 - (iv) destroying the asset.
 - (4) The accounting officer must ensure that –
 - (a) immovable property is sold only at market related prices except when the public interest or the plight of the poor demands otherwise;

- (b) movable assets are sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous;
- (c) firearms are not sold or donated to any person or institution within or outside the Republic unless approved by the National Conventional Arms Control Committee;
- (d) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise;
- (e) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed;
- (f) where assets are traded in for other assets, the highest possible trade-in price is negotiated; and
- (g) in the case of the free disposal of computer equipment, the provincial department of education is first approached to indicate within 30 days whether any of the local schools are interested in the equipment.

Risk management

41. (1) The criteria for the identification, consideration and avoidance of potential risks in the supply chain management system, will be determined by the risk assessments being conducted from time to time;

(2) Risk management must include –

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

Performance management

42. The accounting officer must establish and implement an internal monitoring system in order to determine, on the basis of a retrospective analysis, whether the authorised supply

chain management processes were followed and whether the objectives of this Policy were achieved

Part 4: Other matters

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

43. (1) No award above R15 000 may be made in terms of this Policy to a person whose tax matters have not been declared by the South African Revenue Service to be in order.

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

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

Prohibition on awards to persons in the service of the state

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

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

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

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

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

Ethical standards

46. (1) A code of ethical standards as set out in **subparagraph (2)** is hereby established for officials and other role players in the supply chain management system of the **municipality** in order to promote –

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

(2) An official or other role player involved in the implementation of this Policy –

- (a) must treat all providers and potential providers equitably;
- (b) may not use his or her position for private gain or to improperly benefit another person;
- (c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350;
- (d) notwithstanding subparagraph (2) (c), must declare to the accounting officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;
- (e) must declare to the accounting officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by, the **municipality**;
- (f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;
- (g) must be scrupulous in his or her use of property belonging to **municipality**;
- (h) must assist the accounting officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system; and
- (i) must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including –
 - (i) any alleged fraud, corruption, favouritism or unfair conduct;
 - (ii) any alleged contravention of paragraph 47(1) of this Policy; or
 - (iii) any alleged breach of this code of ethical standards.

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

- (a) must be recorded in a register which the accounting officer must keep for this purpose;
- (b) by the accounting officer must be made to **the mayor of the municipality** who must ensure that such declarations are recorded in the register.

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

(5) A breach of the code of ethics must be dealt with as follows -

- (a) in the case of an employee, in terms of the disciplinary procedures of the **municipality** envisaged in section 67(1)(h) of the Municipal Systems Act;
- (b) in the case a role player who is not an employee, through other appropriate means in recognition of the severity of the breach.
- (c) In all cases, financial misconduct must be dealt with in terms of chapter 15 of the Act.

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

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

- (a) any inducement or reward to the **municipality** for or in connection with the award of a contract; or
- (b) any reward, gift, favour or hospitality to –
 - (i) any official; or
 - (ii) any other role player involved in the implementation of this Policy.

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

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

Sponsorships

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

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

Objections and complaints

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

Resolution of disputes, objections, complaints and queries

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

- (a) to assist in the resolution of disputes between the **municipality** and other persons regarding -
 - (i) any decisions or actions taken in the implementation of the supply chain management system; or
 - (ii) any matter arising from a contract awarded in the course of the supply chain management system; or
- (b) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.

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

- (3) The person appointed must –
 - (a) strive to resolve promptly all disputes, objections, complaints or queries received; and
 - (b) submit monthly reports to the accounting officer on all disputes, objections, complaints or queries received, attended to or resolved.

- (4) A dispute, objection, complaint or query may be referred to the

relevant [provincial treasury](#) if –

- (a) the dispute, objection, complaint or query is not resolved within [60 days](#); or
- (b) [no response is](#) forthcoming within [60 days](#).

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

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

Contracts providing for compensation based on turnover

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

- (a) a cap on the compensation payable to the service provider; and
- (d) that such compensation must be performance based.

Commencement

52. This Policy takes effect on *31 May 2013*.

53. Procurement to local contractors and co-operatives

53.1. The municipality may, in the bid specification for construction or infrastructure projects with cost estimate above R3 million, require contractors whose head offices are not located in the area of jurisdiction of the Dr. Moroka Local Municipality or whose head offices are located in the area of jurisdiction of the Dr. Moroka Local Municipality, to subcontract at least 30% of their contract value including construction work, skills transfer and procurement of goods and services in line with the bill of quantities in the bid, to a local contractor or co-operatives registered in the municipal local contractor database, in which the supply chain management unit will produce to the appointed bidder. The latter will be conducted in line with section 11(9) of the preferential procurement policy framework act as amended in 2011

53.2 With no liability to the municipality, no construction work on awarded contracts above R3 million shall commence unless the contractor has satisfied the Municipal Manager or his delegated authority with the following in respect of subcontracted work

53.2.2 The contractor has signed a subcontract which is legal and valid and is subject to written consent of the municipality with such a contract indicating amongst others

53.2.2.1 The contractor will pay the local sub-contractor timeously at least 30 days after submission of invoices by the subcontractor

53.2.2.2 The Contractor grants the municipality the authority and power to deduct local subcontractor invoices from payments due to the contractor and pay to the subcontractor directly, should the contractor have previously defaulted in paying the local contractor after the municipality had paid the contractor payments covering the local contractor's invoices

53.2.2.3 The sub -contracted local contractor is registered in the municipal database for local contractors and co-operatives

53.2.2.4 The sub -contracted local contractor is validly registered with the CIPC, is validly registered with appropriate CIDB grading and where applicable NHBRC or any other legislative body requirements other than the latter;

53.2.2.5 The sub-contracted local contractor is owned by Historically Disadvantaged individuals resident in the Dr. Moroka Local Municipality;

53.2.2.6 The sub-contracted local contractor will procure most goods and services with Dr. Moroka Local Municipality;

53.2.2.7 The subcontracted local contractor will employ local residents within Dr. Moroka Local Municipality

53.3 In the ordinary course of business local contractors or contractors whose head offices are located within the jurisdiction of the Dr. Moroka Local Municipality and contribute on at least level 4 are not precluded from directly bidding for infrastructural and construction projects above R3 million if they meet requirements of the bid and shall be exempted from a requirement to subcontract 30% of the bid value to another local contractor in terms of section 53.1 of the policy

53.4 The supply chain management unit must prior to the signing of the service level or appropriate agreement and commencement of construction by the contractor, facilitate

and convene a meeting with the project management unit and the appointed contractor to consider and facilitate compliance with requirements of section 53.2

53.5 The Municipal Manager may in consultation with council, extend the requirement for subcontracting of 30% of the contract value to other services and supplies

53.6 An automated database for all local contractors and co-operatives must be established and all sub-contracting projects must be appointed on a rotational basis, through the supply chain management systems.

53.7 Therefore after the bid has been awarded, all sub-contractors that have been selected by the automated database, must be invited for quotations, evaluated and adjudicated by the relevant committees (as established by section 26 of this policy)

53.8 The municipality will ring fence some part of its capital projects to small emerging enterprises and co-operatives with a construction industry board grading 1,2 and 3 that are listed on the municipalities database.

53.9 In support of local economic development the municipality will only allow a competitive bidding process on projects with a value below R4,000,000.00 (vat inclusive) to only to local small medium enterprises and co-operatives residing in the Dr. Moroka Local Municipality.

54. CONTRIBUTION TOWARDS CAPITAL PROJECTS

- a) If a service provider has funds to assist the municipality in funding any of its council funded capital projects, that service provider will be appointed as an implementing agent by accounting officer.
- b) if funds in the are to be paid back by the municipality, such much agreement must be entered into with that service provider in line with municipal finance management act 56 of 2003
- c) This section is not applicable to projects funded by any grants from government, thus this section seeks to assists in all council funded projects, in order to assist in accelerating services delivery
- d) This section may not be interpreted as permitting the accounting officer in implementing the above in contravening of the applicable legislation in relation to both the municipal finance management act 56 of 2003 and the construction industry board regulations.

SUPPLY CHAIN PROCEDURE MANUAL

1 Acquisitions of goods and services below R30,0000(vat inclusive)

- The requesting Department's authorized person (person authorized in terms of section 5 of this policy) must complete a requisition and attach a detail description (specification) of the good or services he/she wants to procure.
- The said authorized person (**person authorized in terms of section 5 of this policy**) is to ensure that the goods and services are budgeted for and the budget is sufficient, by firstly verifying with the Budget officer.
- The authorized person (**person authorized in terms of section 5 of this policy**) must also ensure that the correct vote number is utilized on the store requisition form, this will also be confirmed by the Budget officer
- The authorized person (**person authorized in terms of section 5 of this policy**) to submit the requisition together with specification to the Supply Chain Management Unit.
- On receipt the relevant documents by the acquisition Section of Supply Chain Management Unit, necessary tests will be performed to check the sufficiency of the budget, the use of the correct vote number and the signature of the person authorized the requisition.
- The supply chain unit will then source quotations for the requesting department.
- .On receipt of the quotation the supply chain management unit(acquisition section) will then write recommendations to the assistant manager supply chain manager or the chief financial officer, or anyone who is acting on their behalf, on quotations received for his or her approval
- On approval by the **assistant manager of the requesting division or the chief financial officer or anyone who is acting on their behalf**, an official purchase order will then be issued.
- All requests for requisition which do not follow the above mentioned procedure will not be considered by the supply chain management unit(acquisition Section), but will be returned for corrective action to take place. Unless a deviation is approved by the accounting office

2 Acquisitions of goods and services above R30,000, but below R200,000(vat inclusive)

- The requesting Department's authorized person (person authorized in terms of section 5 of this policy) must complete a requisition and attach a detail description (specification) of the good or services he/she wants to procure.
- The said authorized person(**person authorized in terms of section 5 of this policy**) is to ensure that the goods and services are budgeted for and the budget is sufficient, by firstly verifying with the Budget officer.
- The authorized person(**person authorized in terms of section 5 of this policy**) must also ensure that the correct vote number is utilized on the store requisition form, this will also be confirmed by the Budget officer
- The authorized person (**person authorized in terms of section 5 of this policy**) to submit the requisition together with specification to the Supply Chain Management Unit.
- On receipt of the relevant documents by the acquisition Section of Supply Chain Management Unit, necessary tests will be performed to check the sufficiency of the budget, the use of the correct vote number and the signature of the person authorized the requisition.
- **The supply chain unit will then create an advert to be placed for seven days on the notice board and municipal website, which together with the advert and specification will be approved by the accounting officer, before being placed on the website and the notice board.**
- On the closure date the received bids will be opened by the acquisition section of the supply chain management unit, in the presence of the assistant manager supply and an observer elected by the accounting officer in writing, and bids will be recorded on the bids opening register, then the register will be placed on the website
- **.On receipt of the quotations, the supply chain management unit (acquisition section) will then write recommendations to the assistant manager supply chain manager, the chief financial officer, the divisional manager(assistant manager) or any person who is acting on their behalf, on quotations received for the head(section 56 employee) or any person who is acting on their behalf of the procuring unit's approval**
- **On approval by the head (section 56 employee) of the procuring unit or any person who is acting on their behalf, an official purchase order will then be issued.**
- All requests for requisition which do not follow the above mentioned procedure will not be considered by the supply chain management unit(acquisition Section), but will be

returned for corrective action to take place. Unless a deviation is approved by the accounting officer

3 Stock for the stores

- The Stores financial system generates a low stock level report automatically.
- The Assistant Manager Assets places a requisition for the items required.
- Chief Financial Officer approves requisition by the Assistant Manager Assets.
- Processes to procure items required in line with policy, pending on the anticipated cost, will be followed

4 Emergency procurement of non stock items

- Emergency procurement should not be seen as an opportunity to by – pass the normal procurement procedures. Emergency cases will be treated on their merits, and if it is found beyond reasonable grounds that the individual case does not warrant to be treated as emergency, measures will be taken against the relevant person.
- On emergency, the following reasonable procedures must be followed:
- The authorized official to access the situation and declare the situation as an emergency, then informs the accounting officer.
- The authorized official to prepare a report to the accounting officer, justifying reasons why the situation is to be declared emergency.
- The authorized official, **after approval of the accounting officer**, to notify the Procurement section of the situation and his or .her intention to procure the urgently required goods or services.
- **If the procurement section cannot be reached, the authorized official to proceed with the procurement and to record the reasons for not being able to reach the Procurement Section.**
- Once the goods have been received and necessary check-ups have been done the authorized official to authorize the invoice payment.
- The Procurement Section to keep a schedule of all emergency procurements for reporting purposes and record the above on the deviations register.

5 Receiving of Goods

- On delivery, goods should be offloaded in the presence of receiving official from the supply chain management unit and the procuring unit, who should:
- Obtain the delivery note from the delivery personnel and by referring to the order number thereon locate the purchase order (which should have been filed numerically)
- Check the quantity and description of goods delivered against the purchase order and the service provider's delivery note. Taking note of the **following**:
 - Match to the corresponding good received note, delivery note, and purchase order for:
 - Quantity and description of goods
 - Correct prices and discounts
 - Review to confirm that the amount on the invoice have been allocated to the correct amount.
- Perform at least a superficial test of the condition of the goods delivered e.g broken or wet boxes.
- Reject all incorrect deliveries and clearly identify rejections on both copies of the delivery note and purchase order.
- Include only those goods which have been accepted on the goods received note.
- Ensure that suppliers' personnel sign both copies of the good delivery notes including all amendments e.g. identification of short deliveries.
- Sign the delivery note.
- The delivery note and the approved invoice are submitted to the supply chain unit.
- The supply chain unit then prepares the Goods Received Note.
- The GRN number is generated by the financial system.
- The GRN number is written onto the Purchase Order document.
- The supply chain unit prepares the documents in the following order, for the expenditure section to effect payment:
 - The invoice in front
 - The stores requisition form
 - The Delivery Note and the
 - The Purchase order

Procedure Manual for goods and services above R200,000(Vat included),BID COMMITTEE SYSTEM

Step 1

- ▶ The department concerned constructs a comprehensive report which includes terms of reference, evaluation criteria and cost estimations (**municipality's engineers estimate**) for the project.
- ▶ The report must include comments from the Chief Financial Officer, to ascertain that funds are available for the project.
- ▶ The report along with costed bill of quantities and any necessary documentation must be submitted to the Supply management unit.
- ▶ The supply chain management unit , will then ascertain if the information is linked to all the relevant strategic documents of the municipality, check time frames, liaison with the all the relevant departments.
- ▶ The supply chain management unit, through the secretary of the bid committees, will draft an agenda for the bid specification committee and alert the chairperson of the committee about the planned meeting.
- ▶ The specification committee prepares specifications which will **include the evaluation criteria**, based on the terms of reference and then drafts an advert for the project.
- ▶ A conclusive report from the bid specification along with any other necessary documentation about the project will then be handed to the municipal manager and the supply chain management unit by the chairperson of the bid specification committee.
- ▶ The municipal manager after careful consideration may or may not approve the specifications, as when the specifications get approved then an advert will be placed on 1 newspaper by the supply chain management unit.

Step 2

- ▶ After the advert has been placed and tenders have been closed, the following steps must take place;
- ▶ The opening of the tenders on the closing date in the presence of the public, where the name of the bidder, amount tender and a checklist on submitted compulsory legislative documentation, will be announced. This will be done by supply chain management unit and in the presents of corporate services and the project management unit.
- ▶ A register of all the submitted bids containing amounts (price offers) and name of each bidder will be drafted at the meeting signed and stamped by two officials of which, one them must come from the supply chain management unit and the other from corporate services or the project management unit.

Step 3 **Pre-evaluation report**

- ▶ With the discretion of the accounting officer, on the closing date of the advert for a bid, the supply chain management unit with the observations of internal audit unit, the procuring department and where applicable a professional service provider appointed to assist in implementing the project, will open the bids in public and read out the price per bid from each bidder.
- ▶ after the above has been completed, a pre-evaluation report shall be compiled by the procuring department, the supply chain management unit and where applicable a professional services provider, with the observation of the internal audit unit.
- ▶ When the report is concluded and in cases where a professional service provider has been appointed to assist in implementing the project documents of the pre-evaluation report must be handed to the professional service provider in order to obtain a professional opinion on the recommendations made on the pre-evaluation report with a maximum turnaround time of 3 days per report.
- ▶ However with regards to the latter all processes(including obtaining a professional opinion)must be conducted within the facilities of Dr Js Moroka local Municipality and within the specified turnaround time.
- ▶ After the professional opinion has been obtained, the documents must be submitted to the supply chain management unit.
- ▶ The supply chain management unit will then prepare an agenda which will have the report as an attachment for the bid evaluation to convene

Step 4 **Bid Evaluation committee**

- The bid evaluation committee will convene and evaluate the bid/s taking into consideration the recommendations of the pre-evaluation report and the where applicable the report professional service provider appointed to assist in implementing the project.
- The bid evaluation committee shall conduct its evaluation in terms of section 29 of the supply chain management policy and will ensure that the procurement compiles with any other applicable piece of legislation
- The bid evaluation will then compile a report with recommendations to the bid adjudication committee.
- The secretary through the chairperson of the bid evaluation must submit the minutes of the meeting , which also include the report by the evaluation committee to the supply chain management unit and the office of the municipal manager

the supply chain management unit through the chairperson of the bid adjudication will prepare an agenda for the bid adjudication meeting,

Step 5

Bid Adjudication committee

- ▶ The bid adjudication committee shall convene and discuss the recommendations of the bid evaluation and shall conduct its business in terms section 30 of the supply chain management policy and any other relevant piece of legislation.
- ▶ The bid adjudication depending on its delegation shall either make recommendations to the Municipal Manager or proceed with the conclusion of the appointment.

Step 6

Municipal Manager

- ▶ The municipal manager shall on receipt of the recommendations of the bid adjudication and bid evaluation committee, consider both recommendations before making the final appointment, if there are contradicting views on the recommendations, seek clarity from both chairpersons of the latter mentioned committees.
- ▶ On approval by the municipal manager or bid adjudication (depending on its delegation), the assistant manager supply chain will then draft an appointment letter on basis of the recommendations of the municipal manager or bid adjudication, to the chairperson of the adjudication committee (depending on the delegation to bid adjudication), or the municipal manager.
- ▶ The legal department will then draft a legally binding contract (Service Level agreements) which must contain time frames, taking note of the recommendations by the adjudication. Thus the final negotiations will take place at this point

KEY NOTES

1. *Notwithstanding the above, the municipal manager may intervene at any given stage of the above process.*
2. *However the municipal manager may do so (intervene), but not in contravention of this policy*
3. *All Supply Chain Management Role player (including bid committee)s must adhere to the above procedure manuals*

PROCUREMENT THROUGH SECTION 32 OF THIS POLICY

1. The department requesting the goods or service has written a report to the accounting officer detailing the **motivation, demonstrable discounts and benefits** to procure through this process;
2. Upon approval by the Accounting officer, the approval documents must be send to Supply Chain for future processing in terms of Sec 32 of the Supply Chain Regulations
3. Supply chain unit should be insure that goods and services to be procured are contained in the IDP, and it is budgeted for.
4. The municipality must then write a letter to the organ of state where such goods or services will be sourced requesting the following:
 - i. **Consent** to use the contract secured by that organ of state
 - ii. Request proof that the contract was **validly** procured, in a form of:
 - Minutes, reports and attendance register/s of the bid specification committee
 - Proof that the accounting officer has approved specifications
 - Copy of the newspaper advert
 - Minutes, reports and attendance register/s of the bid evaluation committee
 - Minutes, reports and attendance register/s of the bid evaluation committee
 - Appointment letter and contract of the awarded bidder
 - The bidders tax clearance certificate and declarations at the time of appointment
 - Copy of the bid document of the awarded bidder (in order to determine whether the bid document meets the requirement of regulation 21 of the supply chain regulations)
 - iii. If the above documents have been obtained, the accounting officer must write to that awarded bidder, to **request consent** to use that bid from the other organ of state
 - iv. Upon receipt of the **consent** from that awarded bidder, an appointment letter may be issued
 - v. The accounting officer may at his discretion for due diligence purposes submit the documents to the bid adjudication committee or the internal audit unit to be scrutinized and a report submitted to back to the accounting officer;

- vi. All document detailed above, must be submitted to the supply chain management for filing and reporting

PROCUREMENT THROUGH SECTION 36 OF THIS POLICY

1. All request for procurement through deviation must meet the requirements of section 36 of this policy, thus they must not be due because of poor planning;
2. Thus the requesting department must write a memorandum (in a template to be provided by the accounting officer) with detailed reasons for the use of section 36;
3. The memorandum must be handed to the supply chain manager, to recommend to the Chief Financial Officer and for the approval by the Accounting officer
4. If reason for the request to deviate are not valid and not in terms of section 36 of this policy, request should not be considered by the accounting officer
5. Only request for deviations approved by the accounting officer should be processed by the supply chain management unit.

SUPPLY CHAIN MANAGEMENT DELEGATIONS (INTERMS OF SECTION 5 OF THE SUPPLY CHAIN MANAGEMENT POLICY)

PROCUREMENT FROM R1' - R30,000 (INCLUDING VAT)

1. The power to authorize transactions on procurement of goods and services from R0'- R30,000(vat inclusive), is sub-delegated a divisional manager of the procuring department after having complied with the supply chain management policy.
2. The above delegation does not permit any individual to procure any goods and services without having complied with the supply chain management policy.

PROCUREMENT FROM R30,000(INCLUDING VAT)-R200,000(INCLUDING VAT)

1. The power to authorize requisition and appoint for procurement of goods and services above R30,000 (vat inclusive)-R200,000 (vat inclusive) is sub-delegated to a Senior

- manager (section 56 employee) of the procuring department after having complied with the supply chain management policy.
2. The Senior Manager will consider the report of the from the supply chain management unit, which will include comments of the Chief Financial Officer and the manager budget, and treasury unit.
 3. The above delegation does not permit any individual to procure any goods and services without having complied to the supply chain management policy

PROCUREMENT ABOVE R200,000(INCLUDING VAT)- R6,000,000(INCLUDING VAT)

1. The power to appoint on procurement of goods and services from R200,000 (vat inclusive) but below R6,000,000(vat inclusive) is sub-delegated to the bid adjudication committee, only if the bid adjudication committee **complies** with section 29(5)(a)(b) of the supply chain management policy and all the sections in the supply chain management policy,

PROCUREMENT ABOVE R6,000,000 (INCLUDING VAT)

1. The power to appoint on procurement of goods and services from R6,000,000(vat inclusive) is delegated only to the accounting officer, after consideration of the recommendations of all municipal Bid Committees as established by the supply chain management policy

Ethics Guide

This guide is to be used as a guiding tool in the procurement process of the Dr. Js Moroka Local Municipality, in line with section 46 of this policy.

WHAT THE SUPPLIER SHOULD EXPECT FROM DR. JS MOROKA LOCAL MUNICIPALITY'S EMPLOYEES

Public Service is a public trust. For the individual public servant, at all levels of government from Mayor, Councilors, Municipal Manager, Senior managers,, Assistant Managers and Supervisors, to the most junior staff person, that means placing professional and job-related responsibilities before personal gain and individual interest. Municipal employees may neither engage in, nor give the appearance of engaging in dishonest or unethical actions. Both are injurious to the public's perception of honest government. In the context of municipal contracting, this means that municipal personnel may not:

- Show favoritism, and instead must take actions and make decisions based upon merit in accordance with requirements of established laws, rules, policies and procedures;

- Accept a gift worth more than R350 from any person or firm doing or intending to do business with the municipality (a gift includes cash, goods, meals, travel, entertainment, loans, services, or anything else of value, separate gifts within a 12 month period from the same person or company, or from related persons or firms (for example, from two employees of a single supplier) are grouped together);
- Work for any supplier that has a contract or other business dealings with the municipality or have an ownership interest in any supplier that has a contract or other business dealings with Municipality, (the restriction on ownership also applies to the public servant's spouse, but limited to what is contemplated in paragraph 45 of the Supply Chain Policy);
- Disclose for private use, including personal or family gain, any confidential information learned as a result of Municipality employment; nor
- Discuss prospects of employment with any supplier seeking or doing business with the Municipality as long as the employee remains involved in business dealings with that supplier.

Municipality personnel have an affirmative obligation to report known or suspected wrongdoing, including supplier offers to engage in the above described conduct. On the other hand, if a supplier knows or suspects that another supplier or a Municipality Employee is involved in questionable activity, the supplier should inform the municipality. The Municipal Manager has an obligation in terms of paragraph 38 of the Supply Chain Management Policy to enforce these obligations as against both Municipality employees and those who would induce them to violate their public trust.

Municipality employees responsible for procurement actions are obligated, under requirements of law and policy, to obtain the best price or value for the expenditure of public funds. Generally, this is accomplished through full and open competition, which requires that:

- Municipality contracts are made accessible to a wide number of prospective suppliers through actual notice to suppliers expressing interest by requesting to be placed on the municipality database for suppliers and service providers, and by public notice of solicitations;
- Requirements, designs, work plans, and specifications are not tailored to favor a particular supplier; and
- No competitor is permitted an advantage by the premature disclosure of contract details or the disclosure of competitors' confidential information.

WHAT THE MUNICIPALITY EXPECTS FROM THE SUPPLIER

As described on the above, the Municipality relies upon open, arms-length, competitive procurements, to assure that it spends the public's money wisely. To do business with the municipality, suppliers must respect and not undermine that process. We also expect suppliers to perform fully, timely, and honestly in accordance with the terms of their contracts and to demonstrate their "responsibility" through a history of successful and honest performance.

1. Before You Consider Becoming A Supplier

For every proposed Municipality contract, a Municipality is required to consider whether the contractor has the requisite “responsibility” for the contract award. Before engaging in the Municipality procurement process, you may want to take a hard look at your company’s history of business integrity as well as whether your firm has the capability of fully meeting the demands of the work. To do business with the Municipality you must:

- Be prepared to demonstrate that your firm has the resources and experience to do the job successfully;
- Be prepared to publicly and truthfully disclose your company’s management and ownership, with an expectation that any of their legal problems will need to be explained
- Be current on your obligations, including paying your taxes, as well as water, sewer and other local assessments;

2. **WHEN YOU OFFER A QUOTATION, BID OR PROPOSAL**

Municipality officials are generally required to conduct competitive procurements and to award contracts solely on the basis of the Supply Chain Management policy and other related legislations. Efforts by a supplier or by a lobbyist acting on behalf of a supplier to gain an “inside track” by inhibiting competition or exploiting business or political relationships are prohibited.

A. Undercutting the Competitive Process

Suppliers are expected to independently and honestly prepare and submit bids and proposals based upon their own costs and operations without the benefit of knowing what their competitors will do. By this mechanism the Municipality obtains the most advantageous price or proposal available among firms doing business in that market.

- Do not cooperate” or share pricing information with competitors when preparing your bids.
- Do not submit artificially high or low bids to make a competitor’s price look more reasonable.
- Do not submit bids or proposals that are deceptively attractive with the expectation that their quantities will change after award.

B. Gifts

Do not offer a gift of any kind to a public servant to directly or indirectly influence the drafting of procurement requirements, evaluations, awards, or payment. Such an offer is not a “gift”, but a bribe. Attempts at bribery must be reported by the employee. In addition to being a crime, bribery is the fastest way to ensure that you will never do business with the Municipality as a supplier, even after you get out of jail.

Offering a gift to a public servant is a bad idea, regardless of whether your intent is to influence that person. As discussed above, the definition of a gift is very broad and includes anything that has value. Separate gifts from the same individual or firm or from related individuals or firms are combined in calculating whether the R350 threshold has been met.

Also the exceptions to the R350 gift rule are quite complicated. Even if the gift is less than R350, the Municipal Manager may find the acceptance of the gift, gave the appearance that the public servant was using his or her office for private gain.

If a Municipal employee suggests or demands a “gift” for providing any service, consideration, or advantage to you, you should report this to the office of the Municipal Manager.

C. Job Offers

Should you determine that a Municipal procurement employee, or his family member, would make a perfect addition to your company, you must make sure that the employee is not involved in any Municipal procurement activity that affects your company before discussing a job offer, or even the prospect of a job. Wait until the employee is no longer involved with the procurement or until that particular procurement is completed before you discuss employment prospects. Otherwise your attempt to discuss employment may be considered an attempt to improperly influence the procurement.

If you hire a former Municipal employee, you should be aware of two restrictions. First, as a general rule, he or she may not do business, in any form with his or her former Municipality for at least one year after he/she leaves Municipality service. Secondly, he/she may not reveal or use for private advantage any confidential information gained from public service that is not otherwise available to the public, including information he/she may have about a contract you may hold or for which you may be competing.

D. Sensitive and Protected Information

Unlike private industry, companies competing for Municipality business are not permitted to obtain a competitive advantage by learning more about a proposal or contract that what is available to all other bidders or proposers.

For each procurement, there is generally a mechanism created to apprise potential suppliers of the information they need to prepare their bids or proposals. For example, all interested suppliers may be invited to ask questions at a briefing session. Often, negotiations will be conducted with winning bidders based upon a protocol developed for the procurement. Do not circumvent this process by asking a current or former Municipality Official to provide you with information to which you are not entitled. Information relating to the identity of potential bidders, proposal contents, cost/pricing data, propriety information and trade secrets, technical and cost evaluations, and rankings is confidential, at least until the award has progressed to the point where the information is publicly available.

3. YOUR WORK UNDER CONTRACT

A supplier's ethical obligations do not end upon award of contract. Gifts and job offers may not be offered to improperly influence Municipal employees to approve work, materials, or payments under the terms of a contract. Suppliers are required to perform fully in accordance with the terms of their Municipal contracts. Where progress payments are sought, or payments are made on a budgetary or cost-reimbursement basis, a supplier's business records must truthfully support its claims for payment.

A. Product Substitution

The unauthorized delivery of goods or services that fall below contractual requirements, and for which the supplier charges as if contractual specifications had been met, is known as "product substitution". Product substitution is a violation of your contract, or worse. The following acts are considered product substitution:

- Providing inferior quality or substandard raw materials and finished products (Making payments to Municipal inspectors or quality control personnel to accept or overlook performance deficiencies, or to "expedite" their review invites criminal prosecution);
- Substituting generic or foreign-made products when particular brand name or domestically produced products are required in the contract specifications;
- Substituting used or refurbished products without authorization.

B. Premature Progress Payments

Certain long-term contracts permit payments to be made as construction or other performance proceeds. These "progress payments" are generally payable upon proof that costs have been incurred or milestones in the contract have been reached. A supplier's falsification of labor or material costs, or a misrepresentation of progress reached to obtain faster Municipal payments is illegal even where the total amount paid to the Supplier is ultimately no more than the contract allows.

C. Improper Claims for Cost Reimbursement

When a new supplier enters into a Municipal contract for an amount based upon its actual costs, the supplier must maintain an accounting system that accurately categorizes its costs so that only costs that are "reasonable", "allowable", and "allocable" to Municipal work are claimed for reimbursement. Some examples of costs and certain legal costs. "Cost mischarging" occurs when unrelated costs are improperly charged to a Municipal contract.

D. Proper Control and Accounting

Internal controls – Keep control over operations and assets by maintaining adequate systems of internal controls including separation of duties.

Record keeping – Maintain reliable records to help insure that actions pertaining to the contract, inventory, expenses, and other reportable items are accurately, completely, and fairly recorded and reported.

Utilize Municipal funds for budgeted items and do not commingle Municipal funds with your personal funds or any other funds.

SANCTIONS FOR MISCONDUCT

A wide range of criminal, civil, administrative, and contractual sanctions are available to address procurement fraud and misconduct. These include, but are not limited to, voiding or rescinding a contract, and registration on the National treasury data base for tender defaulters and the database for restricted suppliers and . Stay honest. Protect yourself. Do not involve Municipal employees in dishonesty.

The Municipal Manager has the authority to void a contract between the Municipality and a contractor if the he or she finds that the contract involved a violation of the conflicts of interest law. Pursuit to registration of the contract, if the Municipal Manager finds that there is possible corruption in letting of the contract or that the proposed contractor is involved in corrupt activity. The Municipal Manager is adept at identifying and preparing criminal cases of procurement fraud for prosecution. The supplier and Municipal employee alike can find themselves facing criminal charges for fraud.

Maintaining a good relationship with the Municipality involves an understanding of both our business needs and our ethical environment. The Municipality looks forward to doing business with many knowledgeable and honest suppliers who compromise.

FREQUENTLY ASKED QUESTIONS

- Q. Can I offer to buy lunch for the contracting staff, of a Municipality with whom I have a business relationship?**
- A. The offer may create an appearance of impropriety, therefore, Municipal employees may accept a free meal only under certain limited circumstances:
- (1) The meal is offered during a meeting attended for official reasons;
 - (2) The meal is provided by the host entity at a meeting held at an out-of-the-way location, alternative facilities are unavailable and individual payment is impractical;
 - (3) The meal is offered at a company cafeteria where there is no public price structure and individual payment is impractical;
 - (5) The Municipal employee is attending a meeting for official reasons that begins in a business setting but continues through normal meal hours in a restaurant, and a refusal to participate and/or individual payment would be impractical;

- (5) It is the customary business practice to hold a meeting over meals, customary business practice for one party to pay for the other, and payment by the Municipality employee would be inappropriate, provided that selection of the restaurant and the meal conforms to customary business practice and the Municipal employee reports acceptance of the meal to the appropriate authority; or
- (6) The Municipal employee would not have otherwise purchased food if not placed in such a situation while representing the interests of the Municipality.

Q. I am currently supplying a product to the municipality and I ran into a shortage. Because of this shortage, I have substituted a different item that meets the municipality's requirements. Did I do the right thing?

A. No. The standard terms and conditions of the contract require municipal approval before substituting one for another.

Q. I recently completed work under a Municipality contract. It is December 01 and I would like to thank the municipality's staff I worked with by sending them holiday gifts. Is this a conflict of interest?

A. Probably. Although gifts valued at less than R350 are not generally prohibited, where the gift is, or appears to be, tied to a Municipal employee's performance of an official duty, it would be prohibited. Keep in mind that meals, sports activities, or tickets are "gifts" that fall within the R350 limit.

Q. I have invited my friend and his family to my vacation home. This friend happens to work for the Municipality that recently awarded me a contract. Is it a conflict of interest to extend an invitation to this friend and his family again this year?

A. Where a Municipal employee is offered a benefit that may be related to either a personal relationship or a Municipal business relationship, it is advisable to seek advice from the Office of the municipal manager, for him to advise you properly.

Q. I hired a consultant to assist me in filling in a tender document?

A. this is not prohibited as long as, the consultant is not currently employed by the municipality to render professional services on the same tender that you are applying for.

Q. Is it permitted for me and my friend, family member or a fellow competitor, to collaborate and price our documents, in such a manner that our documents are competing at all levels, e.g. I price less, he/she prices higher than me, in order to be more competitive in the process?

A. this not permitted in terms of the Competition Act No. 89 of 1998, as amended, further more in your bid document contains MBD 9, certificate of independent bid determination, which is there to ensure that it enforce the combat against collusive bids.