

# **DIPALESENG LOCAL MUNICIPALITY**



## **DRAFT SUPPLY CHAIN MANAGEMENT POLICY**

**2020/21**

The **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 DIPALESENG LOCAL MUNICIPALITY.

Date of Adoption:\_\_\_\_\_

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## 1. *Definitions*

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

**“Accounting Officer”** means the Municipal Manager of Dipaleseng Local Municipality as per section 60 of the MFMA;

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

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

**“Chief Financial Officer”** means a person designated in terms of MFMA section 80(2)(a);

**“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 Dipaleseng Local Municipality must keep in terms of paragraph 14 of this policy;

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

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

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

**“Senior Manager”** means

- (a) in relation to a municipality, means a manager referred to in section 56 of the Municipal Systems Act; or
- (b) in relation to a municipal entity, means a manager directly accountable to the Chief Executive Officer of the entity;

**“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 Municipality”** means the Dipaleseng Local Municipality;

**“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.

# ***Chapter 1***

## ***Implementation of Supply Chain Management Policy***

### ***2. Supply chain management policy***

- (1) All officials and other role players in the supply chain management system of the Dipaleseng Local 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
    - (i) any minimum norms and standards that may be prescribed in terms of section 168 of the Act;
  - (d) is consistent with other applicable legislation;
  - (e) does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and
  - (f) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.

### ***3. Scope of Application***

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

- (d) selects external mechanisms referred to in section 80 (1) (b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in section 83 of that Act.

#### **4. Exclusions**

- (1) 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.

#### **5. Adoption and amendment of the supply chain management policy**

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



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

- (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 –
    - (j) Chapter 8 or 10 of the Act; and
    - (i) this Policy;
  - (b) to maximize administrative and operational efficiency in the implementation of this Policy;
  - (c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favoritism and unfair and irregular practices in the implementation of this Policy; and
  - (d) to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.
- (2) Sections 79 and 106 of the Act apply to the sub delegation of powers and duties delegated to an accounting officer in terms of subparagraph (1).
- (3) Council or the accounting officer may not sub delegate any supply chain management powers or duties to a person who is not an official of 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.

## **7. *Sub delegations***

- (1) The accounting officer may in terms of section 79 or 106 of the Act sub delegate any supply chain management powers and duties, including those delegated to the accounting officer in terms of this Policy, but any such sub delegation must be

- consistent with subparagraph (2) of this paragraph and paragraph 4 of this Policy.
- (2) The power to make a final award –
- (a) above R10 million (VAT included) may not be sub delegated by the accounting officer;
  - (b) above R2 million (VAT included), but not exceeding R10 million (VAT included), may be sub delegated but only to –
    - (i) the chief financial officer;
    - (i) a senior manager; or
    - (ii) a bid adjudication committee of which the chief financial officer or a senior manager is a member; or
  - (c) not exceeding R2 million (VAT included) may be sub delegated but only to –
    - (i) the chief financial officer;
    - (i) a senior manager;
    - (ii) a manager directly accountable to the chief financial officer or a senior manager; or
    - (iii) a bid adjudication committee.
- (3) An official or bid adjudication committee to which the power to make final awards has been sub delegated in accordance with subparagraph (2) must within five days of the end of each month submit to the official referred to in subparagraph (4) a written report containing particulars of each final award made by such official or committee during that month, including–
- (a) the amount of the award;
  - (b) the name of the person to whom the award was made; and
  - (c) the reason why the award was made to that person.
- (4) A written report referred to in subparagraph (3) must be submitted –
- (a) to the accounting officer, in the case of an award by –
    - (j) the chief financial officer;
    - (i) a senior manager; or
    - (ii) 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
    - (i) a bid adjudication committee of which the chief financial officer or a senior manager is not a member.
- (5) Subparagraphs (3) and (4) of this policy do not apply to procurements out of petty cash.
- (6) This paragraph may not be interpreted as permitting an official to whom the power to make final awards has been subdelegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this Policy.
- (7) No supply chain management decision-making powers may be delegated to an advisor or consultant.

## **8. *Oversight role of council***

- (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
    - (i) whenever there are serious and material problems in the implementation of this Policy, immediately submit a report council.
- (3) The accounting officer must, within 10 days of the end of each quarter, submit a report on the implementation of the supply chain management policy to the mayor.

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

## **9. *Supply chain management unit***

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

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

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

## ***Chapter 2***

### ***11. Format of supply chain management system***

This Policy provides systems for –

- (i) demand management;
- (i) acquisition management;
- (ii) logistics management;
- (iii) disposal management;
- (iv) risk management; and
- (v) performance management.

### ***Part 1: Demand management***

### ***12. System of demand management***

- (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***

### ***13. System of acquisition management***

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

### ***14. Management of Procurement Requirements***

- (1) All requests for the procurement of goods or services, for which no bids are required, shall be submitted by the Heads of Departments to the Procurement Section of the Budget and Treasury office. All requests shall comply to the following and must be in writing:
  - (a) Clearly specify the description of goods or services required, where applicable the quantity of goods (in correct units of measure, e.g. 10 packets of 20 units per packet), packaging size (e.g. 1kg), of the goods

required as well as the address of where the goods or services should be delivered.

- (b) Avoid the use of brand names and the preparation of specifications aimed at procuring goods or services provided by only specific suppliers.
- (c) Bear the certification by the official responsible for financial management in the department concerned that there is sufficient provision in the current annual budget of the department for the envisaged expenditure.

In the case of procurement requirements extending over more than one financial year – that provision has also been included in the annual budgets for the ensuing financial year(s) and be signed by the head of department concerned or by a senior official in the department designated by the head of department for this purpose, provided that such designated official shall be a deputy or assistant head of the department or the equivalent.

- (d) In the event that a product or service of a particular brand name, specifications, personal preference or work of art is desired, such request to the Procurement Section must be fully motivated by the Head of Department.
- (e) No procurement shall be conducted outside the supply chain management unit and framework.

## ***15. Preferential Procurement Policy Framework Act (PPPFA)***

- (a) In order to give effect to the objectives of this policy the Council supports measures to make the bid process more accessible to HDI's and small, medium and micro enterprises (SMME's). Consideration must be given to the relaxation of certain criteria. The Accounting Officer will have the right to deviate from this policy in pursuit of implementing the Black

Economic Empowerment Act, Act 53 of 2003. Detail thereof will be covered in the implementation manual.

- (b) (i) In evaluating a tender two preference systems are prescribed that are:
- The 80/20 preference point system is applicable to bids (including price quotations) with a Rand value equal to, or above R30 000 and up to a Rand value of R50 million (all applicable taxes included)
  - The 90/10 preference point system is applicable to bids with a Rand Value above R50 million (all applicable taxes included).

### **Calculation of points for price**

Points for price are calculated by using the below formulae as per the prescripts PPPFA:

80/20 Preference Point System

$$Ps = 80 \left\{ 1 - \frac{PT - Pmin}{Pmin} \right\}$$

Where:

Ps = Points scored for comparative price of bid under consideration.

Pt = Rand value of comparative price of bid under consideration

Pmin = Rand value of comparative price of lowest acceptable bid

And 90/10 Preference Point System

$$Ps = 90 \left\{ 1 - \frac{PT - Pmin}{Pmin} \right\}$$

Where:

Ps = Points scored for comparative price of bid under consideration.

Pt = Rand value of comparative price of bid under consideration

Pmin = Rand value of comparative price of lowest acceptable bid



### Calculation of points for B-BBEE status level contributor

Bidders are required to, together with their bids, submit original valid BBEE Status Level Verification Certificates or certified copies thereof to substantiate their BBEE rating claims.

Points must be awarded to a bidder for attaining the B-BBEE status level of contributor in accordance with the table below:

B-BBEE Status Level of Contributor	Number of Points (90/10 system)	Number of Points (80/20 system)
1	10	20
2	9	18
3	6	14
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

### Condition for B-BBEE for pointing scoring of 80/20

- (A) A tenderer must submit proof of its B-BBEE status level of contributor.
- (B) A tenderer failing to submit proof of B-BBEE status level of contributor or is a non-compliant contributor to B-BBEE may not be disqualified, but-
  - (i) may only score points out of 80 for price; and
  - (ii) scores 0 points out of 20 for B-BBEE.
- (C) A tenderer may not be awarded points for B-BBEE status level of contributor if the tender documents indicate that the tenderer intends subcontracting more than 25% of the value of the contract to any other person not qualifying for at least the points that the tenderer qualifies for, unless the intended subcontractor is an EME that has the capability to execute the subcontract.
- (D) The points scored by a tenderer for B-BBEE in terms of sub regulation (2) must be added to the points scored for price under sub regulation (1).
- (E) The points scored must be rounded off to the nearest two decimal places.
- (F) Subject to sub-regulation (9) and regulation 11, the contract must be awarded to the tenderer scoring the highest points.
  - (i) (a) If the price offered by a tenderer scoring the highest points is not market-related, the organ of state may not award the contract to that tenderer.
  - (b) The organs of state may-

- (i) negotiate a market-related price with the tenderer scoring the highest points or cancel the tender;
  - (ii) if the tenderer does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the second highest points or cancel the tender;
  - (iii) if the tenderer scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the third highest points or cancel the tender.
- (c) If a market-related price is not agreed as envisaged in paragraph (b)(iii), the organ of state must cancel the tender.

**Condition for B-BBEE for pointing scoring of 90/10**

- (A) A tenderer failing to submit proof of B-BBEE status level of contribution or is a non-compliant contributor to B-BBEE may not be disqualified, but-
- (a) may only score points out of 90 for price; and
- (B) scores 0 points out of 10 for B-BBEE.
- (C) A tenderer may not be awarded points for B-BBEE status level of contributor if the tender documents indicate that the tenderer intends subcontracting more than 25% of the value of the contract to any other person not qualifying for at least the points that the tenderer qualifies for, unless the intended subcontractor is an EME that has the capability to execute the subcontract.
- (D) The points scored by a tenderer for B-BBEE contribution in terms of sub regulation (E) must be added to the points scored for price under sub regulation (1).
- (F) The points scored must be rounded off to the nearest two decimal places.
- (G) Subject to sub regulation (9) and regulation 11, the contract must be awarded to the tenderer scoring the highest points.
- (H)(a) If the price offered by a tenderer scoring the highest points is not market related, the organ of state may not award the contract to that tenderer.
- (I) The organs of state may-
- (i) negotiate a market-related price with the tenderer scoring the highest points or cancel the tender;
  - (ii) if the tenderer does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the second highest points or cancel the tender;
  - (iii) if the tenderer scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the third highest points or cancel the tender.
- (c) If a market-related price is not agreed as envisaged in paragraph (b)(iii), the organ of state must cancel the tender.

## ***16. Range of procurement processes***

- (1) Goods and services may only be procured by way of –
  - (a) at least one written or verbal quotation for purchases, up to a transaction value of R2 000 (VAT included);
  - (b) written quotations for procurements of a transaction value over R2 000 up to R10 000 (VAT included);
  - (c) formal written price quotations for procurements of a transaction value over R10 000 up to R200 000 (VAT included); and
  - (d) a competitive bidding process for–
    - (i) procurements above a transaction value of R200 000 (VAT included); and
    - (i) the procurement of long term contracts.
- (2) The accounting officer may, in writing–
  - (a) lower, but not increase, the different threshold values specified in subparagraph (1); or
  - (b) direct that –
    - (i) written or verbal quotations be obtained for any specific procurement of a transaction value lower than R2 000;
    - (i) formal written price quotations be obtained for any specific procurement of a transaction value lower than R10 000; or
    - (ii) a competitive bidding process be followed for any specific procurement of a transaction value lower than R200 000.
- (3) Goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of the policy. When determining transaction values, a requirement for goods or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction.

**NB.** Dipaleseng Local Municipality is no longer using the Petty Cash purchasing method. As such no policy on the management of Petty Cash will be developed by the municipality.

**17. *General preconditions for consideration of written quotations or bids***

- (1) A written quotation or bid may not be considered unless the provider who submitted the quotation or bid –
  - (a) has furnished that provider's –
    - (i) full name;
    - (ii) identification number or company or other registration number; and
    - (iii) tax reference number and VAT registration number, if any;
  - (b) has authorised the 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.

**18. *Lists of accredited prospective providers***

- (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.
  - (e) All listed service providers are also required to register on the National treasury central database (CSD in line with Section 14(1)(b) of the Municipal Supply Chain Management Regulations.
- (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.

### ***19. Written or verbal quotations***

- (1) The conditions for the procurement of goods or services through written or verbal quotations, are as follows:
- (a) Quotations must be obtained from at least three different providers preferably from, but not limited to, providers whose names appear on the list of accredited prospective providers of the Municipality and CSD, provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria set out in paragraph 18(1)(b) and (c) of this Policy;
  - (b) to the extent feasible, providers must be requested to submit such quotations in writing;
  - (c) if it is not possible to obtain at least three quotations, the reasons must be recorded and reported quarterly to the accounting officer or another official designated by the accounting officer;
  - (d) the accounting officer must record the names of the potential providers requested to provide such quotations with their quoted prices; and

- (e) if a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider.

## ***20. Formal written price quotations***

- (1) The conditions for the procurement of goods or services through formal written price quotations, are as follows:
  - (a) quotations must be obtained in writing from at least three different providers whose names appear on the list of accredited prospective providers of the Municipality and central supplier database;
  - (b) quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria set out in paragraph 18(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.

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

- (1) 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 or central supplier database 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 21, be advertised for at least seven (07) days on the website and an official notice board of the Municipality;

- (c) Offers received must be evaluated on a comparative basis taking into account unconditional discounts;
- (d) the accounting officer or chief financial officer must on a monthly basis be notified in writing of all written or verbal quotations and formal written price quotations accepted by an official acting in terms of a sub delegation;
- (e) Offers below R30 000 (VAT included) must be awarded based on compliance to specifications and conditions of contract, ability and capability to deliver the goods and services and lowest price;
- (f) Acceptable offers, which are subject to the preference points system (PPPPFA and associated regulations), must be awarded to the bidder who scored the highest points;

## **22. *Competitive bids***

- (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 13(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.

## **23. *Process for competitive bidding***

- (1) The procedures for the following stages of a competitive bidding process are as follows:
  - (a) Compilation of bidding documentation as detailed in paragraph 25;
  - (b) Public invitation of bids as detailed in paragraph 26;

- (c) Site meetings or briefing sessions as detailed in paragraph 26;
- (d) Handling of bids submitted in response to public invitation as detailed in paragraph 27;
- (e) Evaluation of bids as detailed in paragraph 32;
- (f) Award of contracts as detailed in paragraph 33;
- (g) Administration of contracts
  - (i) After approval of a bid, the accounting officer and the bidder must enter into a written agreement.
- (h) Proper record keeping
  - (i) Original / legal copies of written contracts agreements should be kept in a secure place for reference purposes.
- (j) Payments for bid document deposits are as follows, and will be reviewed annually with the consideration of budget tariffs:-
  - (i) Small and medium projects (R70 001 – 1 000 000) = R150, 00
  - (ii) Large projects (R1 000 001 and above) = R250, 00

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

- (1) The criteria to which bid documentation for a competitive bidding process must comply, must –
  - (a) Take into account –
    - (i) the general conditions of contract and any special conditions of contract, if specified;
    - (ii) any Treasury guidelines on bid documentation; and
    - (iii) the requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;
  - (b) include the preference points system to be used, goals as contemplated in the Preferential Procurement Regulations 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
- (e) stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law.

## ***25. Public invitation for competitive bids***

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

## ***26. Procedure for handling, opening and recording of bids***

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

- (d) The accounting officer must –
  - (i) record in a register all bids received in time;
  - (ii) make the register available for public inspection; and
  - (iii) publish the entries in the register and the bid results on the website.

## ***27. Negotiations with preferred bidders***

- (1) The accounting officer may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provided that such negotiation –
  - (a) does not allow any preferred bidder a second or unfair opportunity;
  - (b) is not to the detriment of any other bidder; and
  - (c) does not lead to a higher price than the bid as submitted.
- (2) Minutes of such negotiations must be kept for record purposes.

## ***28. Two-stage bidding process***

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

## ***29. Committee system for competitive bids***

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

- (a) a bid specification committee;
  - (b) a bid evaluation committee; and
  - (c) a bid adjudication committee;
- (2) The accounting officer appoints the members of each committee, taking into account section 117 of the Act; and
- (3) A neutral or independent observer, appointed by the accounting officer, must attend or oversee a committee when this is appropriate for ensuring fairness and promoting transparency.
- (4) The committee system must be consistent with –
  - (a) paragraph 31, 32 and 33 of this Policy; and
  - (b) any other applicable legislation.
- (5) The accounting officer may apply the committee system to formal written price quotations.

### ***30. Bid specification committees***

- (1) A bid specification committee must compile the specifications for each procurement of goods or services by the Municipality.
- (2) Specifications –
  - (a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
  - (b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organisation, or an authority accredited or recognised by the South African National Accreditation System with which the equipment or material or workmanship should comply;
  - (c) must, where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;

- (d) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labeling of conformity certification;
  - (e) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the word “equivalent”;
  - (f) must indicate each specific goal for which points may be awarded in terms of the points system set out in the Preferential Procurement Regulations 2001; and
  - (g) must be approved by the accounting officer prior to publication of the invitation for bids in terms of paragraph 22 of this Policy.
- (3) A bid specification committee must be composed of one or more officials of the Municipality preferably the manager responsible for the function involved, and may, when appropriate, include external specialist advisors.
- (4) No person, advisor or corporate entity involved with the bid specification committee, or director of such a corporate entity, may bid for any resulting contracts.

### **31. Bid evaluation committees**

- (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 31(2)(f).
  - (b) evaluate each bidder’s ability to execute the contract;
  - (c) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears, and;

- (d) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.
- (2) A bid evaluation committee must as far as possible be composed of-
  - (a) officials from departments requiring the goods or services; and
  - (b) at least one supply chain management practitioner of the Municipality.

### ***32. Bid adjudication committees***

- (1) A bid adjudication committee must –
  - (a) consider the report and recommendations of the bid evaluation committee; and
  - (b) either –
    - (i) depending on its delegations, make a final award or a recommendation to the accounting officer to make the final award; or
    - (ii) make another recommendation to the accounting officer how to proceed with the relevant procurement.
- (2) A bid adjudication committee must consist of at least four senior managers of the Municipality -
  - (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 evaluation committee, nor an advisor or person assisting the evaluation committee, may be a member of a bid adjudication committee.
- (5) (a) If the bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee, the bid adjudication committee must prior to awarding the bid –
  - (i) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears, and;
  - (ii) notify the accounting officer.
- (b) The accounting officer may –
  - (i) after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in paragraph (a); and
  - (ii) if the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.
- (6) The accounting officer may at any stage of a bidding process, refer any recommendation made by the evaluation committee or the adjudication committee back to that committee for reconsideration of the recommendation.
- (7) The accounting officer must comply with section 114 of the Act within 10 working days

### ***33. Payment of emerging contractors for capital work***

- (1) To enhance economic empowerment of SMME's and HDI's, the following will apply:-
  - (a) On a fourteen (14) day basis up to a maximum of R40 000 bi weekly, provided that all documentation is duly completed and authorised;
  - (b) No payment to be made to any creditor that is indebted to the municipality for any services fees/rentals; and

- (c) Any outstanding amount must be deducted from the payment due to the creditor.

### **34. CRDP - Comprehensive Rural Development programme**

#### **35.1 Construction Contracts**

##### **(a) Sureties/Guarantees**

The municipality will reduce the level of sureties/guarantees as follows on all contracts between R70 001 and R200 000:

<b>Contract Value</b>	<b>Surety / Guarantee</b>
Small (R 70,000 to R 200,000)	6%
Medium (R 200,001 to R 500,000)	7%
Large (R 500,001 and above)	10%

- (i) Where in the case of small projects the sureties have been reduced, a cash surety will be allowed which can be deducted from the first three payment certificates in equal amounts.
- (ii) In the case of medium and large contracts the surety is required from a bank or insurance company in accordance with the general conditions of contract.

##### **(b) Retention**

- (i) Retention money withheld from a contractor during the construction and defects liability period must be afforded according to risk. The following limits to retention shall be applicable:

<b>Type of Project</b>	<b>Value</b>	<b>Defects Liability Period</b>
Small Projects (R70 000 to R200000)	5%	One year
Medium Projects (R200001 to R500000)	7%	One year
Large Projects (above R500000)	10%	One year

##### **(c) Insurance**



- (i) Every contractor appointed by the municipality should insure all plant and equipment owned leased or hired by him which is brought on the site.
- (ii) The contractor shall comply with the Occupational Health and Safety Act and be required to sign an indemnity form as prescribed by municipality's insurers.
- (iii) The contractor shall be required to take out public liability insurance cover to the satisfaction of the municipality.
- (iv) In the absence of acceptable public liability cover, the municipality will take out the necessary insurance on behalf of the service provider on the following conditions:
  - The premium / installment would be payable by the contractor and deducted from the first progress payment of the project; and all excess amounts would be payable by the contractor.

### ***35. Procurement of banking services***

- (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 (05) years at a time.
- (2) The process for procuring a contract for banking services must commence at least nine (09) 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 26(1). Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

### ***36. Procurement of IT related goods or services***

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

- (2) Both parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to, SITA.
- (3) The accounting officer must notify SITA together with a motivation of the IT needs if –
  - (a) the transaction value of IT related goods or services required in any financial year will exceed R50 million (VAT included); or
  - (b) the transaction value of a contract to be procured whether for one or more years exceeds R50 million (VAT included).
- (4) If SITA comments on the submission and the Municipality disagrees with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the council, the National Treasury, the relevant Provincial Treasury and the Auditor General.

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

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

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

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

### ***39. Proudly SA Campaign***

- 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.

To achieve the above goal, the municipality needs to reflect the location of the service providers in its list of prospective service providers.

### ***40. Development of Local Businesses***

- (1) The accounting officer must ensure that all appointed businesses; contractors and service providers who have been awarded bids above the threshold of R200, 000, plough back 1% of the value of their contract to the community of the Municipality as part of their social responsibility. These funds must be deposited into the Municipality's primary bank account for use on approved community development initiatives.
- (2) The accounting officer must identify projects that on the basis of their specifications cannot be implemented by a local business, local contractor or local service provider due to a lack of capacity.
- (3) The Supply Chain Management Policy is available on the municipal website [www.dipaleseng.gov.za](http://www.dipaleseng.gov.za). The accounting officer must ensure that local businesses,

contractors and service providers are informed of the municipal website and the supply chain management information that is posted on the website, for example, bids advertisement, bids awarded, policies and procedures, etc.

- (4) The accounting officer must report to Council on a quarterly basis on all bids that were awarded.

#### ***41. Appointment of consultants***

- (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.

#### ***42. Deviation from, and ratification of minor breaches of, procurement processes***

- (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 13(2) of this policy.

### **43. *Unsolicited bids***

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

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

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

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

- (1) The accounting officer must–
- (a) take all reasonable steps to prevent abuse of the supply chain management system;
  - (b) investigate any allegations against an official or other role player of fraud, corruption, favoritism, 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***

### ***45. Logistics management***

- (1) 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.

#### ***46. Disposal management***

- (1) The criteria for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, should take into account 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.
- (3) The accounting officer must ensure that –
  - (a) immovable property is sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
  - (b) movable assets are sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous;
  - (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.

#### ***47. Risk management***

- (1) 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

#### ***48. Performance management***

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.

Performance management shall accordingly be characterised by a monitoring process and retrospective analysis to determine whether: Value for money has been attained;

- (1) Proper processes have been followed; ii) Desired objectives have been achieved;
- (2) There is an opportunity to improve the process;
- (3) Suppliers have been assessed and what that assessment is; and
- (4) There has been deviation from procedures and, if so, what the reasons for that deviation are.

The performance management system shall accordingly focus on, amongst others:

- (1) Achievement of goals;
- (2) Compliance to norms and standards;
- (3) Savings generated;
- (4) Cost variances per item;
- (5) Non-compliance with contractual conditions and requirements; and
- (6) The cost efficiency of the procurement process itself.

The CFO shall report quarterly to the Council on the following aspects:

- (1) Total procurement spend;
- (2) Process disputes if any;
- (3) Instances of alleged and proven fraud and corruption if any;
- (4) Information regarding deviation process followed., such as:
  - (a) Non-utilization of supplier database;
  - (b) Subdividing of total requirements; and
  - (c) Unplanned spending and obtaining less than the required number of quotations.

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

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

- (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.
- (4) The Municipality is not responsible to obtain a tax clearance certificate on behalf of the bidder. It remains the bidder's responsibility to submit a valid and original tax clearance certificate when responding to the Municipality's call for bids.

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

- (1) 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.

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

- (1) The accounting officer must ensure that the notes to the annual financial statements disclose particulars of any award of more than R2,000 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.

## **52. *Ethical standards***

- (1) A code of ethical standards as set out in Annexure A of this Policy 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.

A municipal code of ethical standards must stipulate that an official or other role player involved in the implementation of the supply chain management policy of the municipality or municipal entity -

- (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;
- (d) notwithstanding sub regulation (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 or municipal entity;
- (f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in

- which that person, or any close family member, partner or associate, has any private or business interest;
- (g) must be scrupulous in his or her use of property belonging to the municipality or municipal entity;
  - (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 –
    - (j) any alleged fraud, corruption, favouritism or unfair conduct;
    - (ii) any alleged contravention of regulation 47(1); or
    - (ii) any alleged breach of the code of ethical standards.
- (2) 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.

### ***53. Inducements, rewards, gifts and favours to officials and other role players***

- (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.

#### ***54. Sponsorships***

- (1) 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.

#### ***55. Objections and complaints***

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.

#### ***56. Resolution of disputes, objections, complaints and queries***

- (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.

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

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



- (b) that such compensation must be performance based.

### ***58. Management of expansion or variation of orders against the original contract***

- (1) It is recognized that, in exceptional cases, the accounting officer may deem it necessary to expand or vary orders against the original contract.
- (2) The accounting officer may approve contracts to be expanded or varied by not more than 20% for construction related goods, services and/or infrastructure projects and 15% for all other goods and/or services of the original value of the contract.
- (3) Anything beyond the abovementioned thresholds must be reported to the council and the National Treasury prior to the threshold being exceeded.
- (4) Any expansion or variation in excess of these thresholds must be dealt with in terms of the provisions of section 116(3) of the MFMA which will be regarded as an amendment to the contract.
- (5) All Variations to be reported to Council prior to payment
- (6) The contents of the above paragraph are not applicable to transversal term contracts, facilitated by the relevant treasuries on behalf of municipalities and municipal entities and, specific term contracts. The latter refers to orders placed as and when commodities are required and at the time of awarding contracts, the required quantities were unknown.

### ***59. Cancellation and re- invitation of bids***

- (i) In the event that, in the application of the 80/20 preference point system as stipulated in the tender documents, all tenders received exceed the estimated Rand value of R50 million, the tender invitation must be cancelled.

- (ii) If one or more of the acceptable tenders received are within the prescribed threshold of R50 million, all tenders received must be evaluated on the 80/20 preference point system.
- (iii) In the event that, the application of the 90/10 preference point system as stipulated in the tender document, all tenders received are equal to, or below R50 million, the tender must be cancelled.
- (iv) If one or more of the acceptable tenders received are above the prescribed threshold of R50 million, all tenders received must be evaluated on the 90/10 preference point system.
- (v) The Municipality may prior to the award of the tender, cancel a tender if-
  - Due to changed circumstances, there is no longer a need for the services, works or goods requested; or
  - Funds are no longer available to cover the total envisaged expenditure; or
  - No acceptable tenders are received.
- (vi) The decision to cancel a tender must be published in the Government Tender Bulletin or the media in which the original tender invitation was advertised.

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

1. The Accounting Officer may procure good or services for the municipality or municipal entity 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) the municipality or entity has no reason to believe that such contract was not validly procured;
  - (c) there are demonstrable discounts or benefits for the municipality or entity to do so; and
  - (d) that other organ of state and the provider have consented to such procurement in writing.

Sub-regulation (l)(c) and (d) do not apply if -

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

#### **61. Standard for Infrastructure Procurement and Delivery Management**

1. The municipality should comply with the circular 77 of the standard for Infrastructure procurement and Delivery management.

#### **62. *Effective Date***

This policy comes in effect on date of approval.

Implementation Date	Council Resolution no.	Adopted Date
1 July 2019		

## ***Annexure A***



## ***Dipaleseng Local Municipality***

### ***Code of Conduct for Supply Chain Management Practitioners and Other Role Players***

In accordance with regulation 46(4) and 46(5) of the Local Government Municipal Finance Management Act, 2003: Municipal Supply Chain Management Regulations, the supply chain management policy of a municipality or municipal entity is required take into account the National Treasury's code of conduct for supply chain management practitioners and other role players. Alternatively, a municipality or municipal entity may adopt the National Treasury code of conduct. When adopted, such code of conduct becomes binding on all officials and other role players involved in the implementation of the supply chain management policy of the municipality or municipal entity.

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

#### ***(1) General Principles***

- (1.1) The Dipaleseng Local Municipality (hereafter referred to as "the Municipality") commits itself to a policy of fair dealing and integrity in the conducting of its business. Officials and other role players involved in supply chain management (SCM) are in a position of trust, implying a duty to act in the public interest. Officials and other role players should not perform their duties to unlawfully gain

any form of compensation, payment or gratuities from any person, or provider/contractor for themselves, their family or their friends.

- (1.2) Officials and other role players involved in SCM should ensure that they perform their duties efficiently, effectively and with integrity, in accordance with the relevant legislation, policies and guidelines. They should ensure that public resources are administered responsibly.
- (1.3) Officials and other role players involved in SCM should be fair and impartial in the performance of their functions. They should at no time afford any undue preferential treatment to any group or individual or unfairly discriminate against any group or individual. They should not abuse the power and authority vested in them.

## **(2) *Conflict of interest***

- (2.1) An official or other role player involved with supply chain management –
  - (a) must treat all providers and potential providers equitably;
  - (b) may not use his or her position for private gain or to improperly benefit another person;
  - (c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350;
  - (d) must declare to the accounting officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;
  - (e) must declare to the accounting officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process, or in any award of a contract by the Municipality;
  - (f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;

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

### **(3) *Accountability***

- 3.1 Practitioners are accountable for their decisions and actions to the public.
- 3.2 Practitioners should use public property scrupulously.
- 3.3 Only accounting officers or their delegates have the authority to commit the Municipality to any transaction for the procurement of goods and / or services.
- 3.4 All transactions conducted by a practitioner should be recorded and accounted for in an appropriate accounting system. Practitioners should not make any false or misleading entries into such a system for any reason whatsoever.
- 3.5 Practitioners must assist the accounting officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system.
- 3.6 Practitioners must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including
  - (i) any alleged fraud, corruption, favouritism or unfair conduct;
  - (ii) any alleged contravention of the policy on inducements, rewards, gifts and favours to municipalities or municipal entities, officials or other role players; and
  - (iii) any alleged breach of this code of conduct.

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

#### **(4) *Openness***

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

#### **(5) *Confidentiality***

- 5.1 Any information that is the property of the Municipality or its providers should be protected at all times. No information regarding any bid / contract / bidder / contractor may be revealed if such an action will infringe on the relevant bidder's / contractor's personal rights.
- 5.2 Matters of confidential nature in the possession of officials and other role players involved in SCM should be kept confidential unless legislation, the performance of duty or the provisions of law requires otherwise. Such restrictions also apply to officials and other role players involved in SCM after separation from service.

#### **(6) *Bid Specification / Evaluation / Adjudication Committees***

- 6.1 Bid specification, evaluation and adjudication committees should implement supply chain management on behalf of the Municipality in an honest, fair, impartial, transparent, cost-effective and accountable manner.
- 6.2. Bid evaluation / adjudication committees should be familiar with and adhere to the prescribed legislation, directives and procedures in respect of supply chain management in order to perform effectively and efficiently.

6.3 All members of bid adjudication committees should be cleared by the accounting officer at the level of "CONFIDENTIAL" and should be required to declare their financial interest annually.

6.4 No person should-

6.4.1 interfere with the supply chain management system of the Municipality;  
or

6.4.2 amend or tamper with any price quotation / bid after its submission.

## **(7) Combative Practices**

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

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



## ***Annexure B***



### ***Dipaleseng Local Municipality***

#### ***Guidelines for members of the Bid Adjudication Committee***

##### ***1. Introduction***

These guidelines explain the mandate, role, function, composition, duties, meeting procedures and conduct of Municipal Supply Chain Management (SCM) Bid Adjudication Committees. These guidelines are supplementary to the Code of Conduct required by section 69 of the Municipal Systems Act as well as the Code of Conduct for Supply Chain Management Practitioners and other role players, required by regulation 46 of the Municipal Supply Chain Management Regulations.

##### ***2. Mandate, role and function of the Bid Adjudication Committee***

###### ***(2.1) Delegation of Powers to the BAC***

Sections 79 and 106 of the MFMA empower accounting officers to delegate powers or duties to an official to assist the accounting officer in ensuring the achievement of the aims of a specific provision of the MFMA.

## **(2.2) *Supply Chain Management System***

Chapter 11 of the MFMA prescribes that municipalities/ municipal entities must have and maintain a supply chain management (SCM) system that is fair, equitable, transparent, competitive and cost-effective.

## **(2.3) *Committee System for Competitive Bids***

Regulation 26 of the Municipal SCM Regulations stipulates that a municipality's/municipal entity's SCM system must provide for a committee system for competitive bids consisting of at least a bid specification, bid evaluation and bid adjudication committee.

## **(2.4) *Adjudication and Bid Awards***

Regulation 29 further stipulates that the Bid Adjudication Committee must consider the recommendations/reports of the Bid Evaluation Committee and, depending on the delegated powers, make:

- a final award; or
- a recommendation to the accounting officer to make a final award; or
- another recommendation to the accounting officer on how to proceed with the relevant procurement.

The Bid Adjudication Committee must ensure that:

- all necessary bid documents have been submitted;
- disqualifications are justified and that valid and accountable reasons / motivations were furnished for passing over of bids;
- scoring has been fair, consistent and correctly calculated and applied; and
- declarations of interest have been taken cognizance of.

If a bid other than the one recommended by the Bid Evaluation Committee is approved by the Bid Adjudication Committee, the accounting officer, or a senior official delegated by the accounting officer, must first be notified.

The accounting officer, or the delegated official may, after consideration of the reasons for the deviation, ratify or reject the decision of the Bid Adjudication Committee. If the decision of the Bid Adjudication Committee to approve a bid other than the one

recommended by the Bid Evaluation Committee is ratified, the Auditor-General, the relevant Provincial Treasury and the National Treasury and; in the case of a municipal entity, the parent municipality must be notified of the reasons for deviating from such recommendation.

The accounting officer or his/her delegate may at any stage refer any recommendation made by the Bid Evaluation Committee or the Bid Adjudication Committee back to the respective committee for reconsideration.

***(2.5) Dealing with amendment, variation, extension, cancellation or transfer of contracts***

The Bid Adjudication Committee must also consider and rule on all recommendations/reports regarding the amendment, variation, extension, cancellation or transfer of contracts awarded.

***(2.6) Approval of Bid Specifications***

The Bid Adjudication Committee may also, if and when required to do so, consider for approval the recommendations of the Bid Specification Committee in order to ensure that:

- the need forms part of the strategic goals and objectives contained in the municipality's Integrated Development Plan (IDP)
- a proper and unbiased specification is compiled for the specific requirement;
- proper Terms of Reference are drawn up for the service required clearly indicating the scope of the requirement, the ratio between price and functionality, the evaluation criteria as well as their weights and values;
- strategic sourcing principles were applied and that the market was properly researched and analysed (refer to pages 22, 25 and 26 in the Supply Chain Management: A Guide for Accounting Officers of Municipalities and Municipal Entities - October 2005);
- the necessary funds are available in the approved budget;
- if and when applicable, in addition to the General Conditions of Contract, appropriate Special Requirements and Conditions of Contract are specified;

- the preference point system and appropriate goals are identified and points allocated for these goals, consistent with the requirements of the Preferential Procurement Regulations; and
- where appropriate, ranges have been set (indicating breakdown of the points / percentages as provided for in the relevant sliding scales for the selected specified goals).

In order to meet their obligations, committee members must be familiar with and adhere to all relevant SCM legislation, policy, guides and circulars.

The integrity of supply chain practitioners must never be compromised and the highest level of professional competence must be maintained. Furthermore, courteous conduct is expected of all committee members.

#### ***(2.7) Attendance Register and Undertaking of Confidentiality and Impartiality***

Each member as well as all officials rendering administrative support must sign an *Attendance Register and Undertaking of Confidentiality and Impartiality* declaration form at each Bid Adjudication Committee meeting.

Members are to declare that they will:

- accept the confidentiality of the meeting;
- not make known anything regarding the meeting, unless officially authorised; and
- not purposefully favour or prejudice anybody.

#### ***(2.8) Composition of the Bid Adjudication Committee and the appointment of members***

Bid Adjudication Committees are appointed in writing by the accounting officer and the accounting officer will determine the term of office for members. Such a committee must consist of at least four senior managers constituted as follows:

- **Chairperson:** where possible, the chairperson should be the Chief Financial Officer.

- **Vice chairperson:** the vice-chairperson should be a senior manager (as referred by section 56 of the Municipal Systems Act) or an official who reports directly to a senior manager.
- **Other Members:** the committee should be composed of cross-functional teams comprising senior officials of whom at least one must be a supply chain practitioner. Where considered necessary, additional officials or advisors may be co-opted on account of their specialised knowledge. Such co-opted officials or advisors may not form part of the final decision-making process.
- **Secretariat:** an official from the municipality's / municipal entity's bid administration section should be made available to act as secretary, as required.

### **(2.9) Quorum**

The Bid Adjudication Committee cannot undertake business without a quorum present, consisting of half plus one of its total membership with voting power (rounded to the nearest whole number). For example, if there are four members in total, the quorum required is three members.

### **(2.10) Secondee**

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

### **(2.11) Duties and powers of the various committee members**

#### **(a) Chairperson**

The chairperson:

- has a casting vote as well as a deliberate vote;
- retains all his/her rights as a member;
- may adjourn a meeting;
- may rule on points of order which will be final;

- may withdraw any proposal or other matters under discussion before it is put to the vote; and
- convene extraordinary committee meetings on request.

The chairperson shall:

- maintain order during a meeting and ensure that business is conducted in an orderly manner;
- before opening a meeting, ensure that a quorum is present;
- protect the rights of every member;
- vacate his / her seat to the vice chairperson, should he/she wish to partake in a discussion in a partial manner;
- ensure all members have opportunity to speak on any matter before the committee;
- deal with items in sequence of the agenda;
- ensure that members know exactly what they are required to vote on;
- ensure that only one member holds the floor at any one time;
- provide guidance by directing the meeting, but shall not dominate;
- conduct meetings in a formal manner; and
- formulate clearly the decisions to be minuted and sign and approve the minutes after they have been verified by the committee as a true and correct record of the meeting.

**(b) Vice-chairperson**

The vice-chairperson has the same powers and duties as those of members and in addition, where necessary, shall –

- in the absence of the chairperson, preside as chairperson; and
- take the seat of and act as chairperson, should the chairperson have a conflict of interest in any matter being considered.

In the event that both the chairperson and vice-chairperson are absent from a meeting, the members present may elect one of their members to preside at such meeting.

**(c) Secretary**

The secretary shall –

- in conjunction with the chairperson/ vice chairperson compile an agenda and determine dates of meetings;
- give notice of proposed meetings to committee members;
- process and distribute all submissions/reports together with the agenda to committee members at least three working days before the actual meeting takes place;
- minute all decisions taken at meetings;
- adhere strictly to the stipulations of the National Archives of South Africa Act, No. 43 of 1996 and accompanying directives;
- ensure that the proceedings at meetings are recorded appropriately (e.g. tape);
- give written feedback of all decisions taken by the committee; and
- be responsible for all the administrative tasks of the committee.

**(d) Members**

Members of the Committee shall –

- be fully conversant with the powers and limitations of the committee as well as all directives pertaining to supply chain management, including the relevant sections of the Constitution, Municipal Finance Management Act and accompanying Regulations, Preferential Procurement Policy Framework Act and accompanying Regulations, Broad Based Black Economic Empowerment Act and its related strategy, all directives issued by the National Treasury / relevant provincial treasury as well as the delegated powers issued by the accounting officer and at all times act in accordance with above-mentioned legislation, regulations and procedures;
- apply their minds to matters at hand in order to take meaningful and accountable decisions and in the event of doubt or uncertainty, to propose that matters be referred back for clarification;
- in advance, furnish a written apology when unable to attend a meeting;
- strive to be punctual for meetings and to stay for the duration of a meeting;

- prepare properly for each meeting by studying the agenda and submissions/reports;
- be familiar with meeting procedures in order to make a contribution in the correct manner; and
- refrain from repetition and duplication of contributions by other members.

### ***(2.12) Rights of Members***

Members have the right to –

- have advance knowledge of the agenda;
- submit proposals and participate in proceedings;
- vote; and
- have a dissenting voice and have the reasons thereof recorded.

### ***(2.13) Co-opted members/advisors***

Co-opted members/advisors have the same powers and duties as members, excluding the right to vote on any matter under discussion.

Members of the Bid Evaluation Committee may present their recommendations / reports to the Bid Adjudication Committee and clarify any issues but shall not have any voting powers.

### ***(2.14) Observers***

The chairperson may, on request, allow officials to attend a meeting as observers. Observers have no participation in the proceedings, except to advise the representative (member) or the committee if permitted by the chairperson. Observers should be cautioned to maintain the confidentiality of the discussions.

## ***(3) Meeting procedures***

### ***(3.1) Notice of meetings***

The agenda of a meeting serves as the programme of the meeting and unless the committee decides otherwise, the items and sequence may not be changed during the meeting.



In order to afford members the opportunity to prepare for the meeting, the agenda shall be made available to members at least three working days before the actual meeting.

### ***(3.2) Submissions/reports to the Committee***

All submissions/reports to the Committee must be in writing, substantiated and channeled through the Bid Specification Committee or Bid Evaluation Committee.

### ***(3.3) Minutes***

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

Should a member wish to have a specific matter other than a decision recorded, it must be specifically requested. A member's reasons for a dissenting voice must also be recorded.

Proceedings are also recorded (e.g. tape) to enable the secretary to prepare verbatim reports when required by a court of law. Further details on requirements for the recording of meetings can be found in the National Archives of South Africa Act, No. 43 of 1996 and accompanying directives.

### ***(3.4) Attendance register and undertaking of confidentiality and impartiality***

Members will be required to sign a combined *Attendance Register and Undertaking of Confidentiality and Impartiality* declaration at each meeting (see Appendix 1). This must be retained and form part of the committee minutes.

### ***(3.5) Conflict of interest***

Where a member of a Bid Adjudication Committee has a conflict of interest with any item to be considered by the committee, it is imperative that this be recorded in the minutes and the member vacates the meeting room prior to any discussion. An example minute could read as follows:

“[member’s name] declared an interest in the following item and vacated the meeting room at [insert exact time].

Insert minutes of item under discussion showing resolution/decision of the committee accordingly.

At the conclusion of the discussion [member’s name] was invited to return to the meeting room at [insert exact time]”

### **(3.6) Gift register**

The SCM Regulations stipulate that no official or other role player involved in SCM may accept any gift, reward, favour, hospitality or other benefit promised directly or indirectly, including to any close family member, partner or associate. Furthermore, any official or other role player must declare any gift, reward, favour, hospitality or other benefit promised, offered or granted to that member or to a close family member, partner or associate of that member from suppliers or potential suppliers, irrespective of the value of such a gift.

Each declaration from a member of the committee should be recorded in the minutes of the committee and must be reported to the accounting officer for entry into the register which the accounting officer must keep for this purpose.

Further information on conflict of interest, gifts and the register is provided in regulation 46 of the Municipal Supply Chain Management Regulations.

### **(3.7) Chairperson**

Each meeting will be presided over by the chairperson. In the absence of the chairperson, the vice-chairperson will preside as chairperson, in which case he/she will occupy the chair for the duration of the meeting, even if the chairperson should arrive during the course of the meeting.

Every member attending the meeting owes respect to the chairperson and may be removed if that person does not respect the authority of the chair.

### **(3.8) *Point of order***

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

### **(3.9) *Conduct of Committee Members***

#### **(3.9)1. *Rights and responsibilities of committee members***

A member's conduct at the meeting must not infringe on the rights of others. The rules of conduct are based on mutual respect for the rights of each other and respect for the purpose of the meeting.

Members must accept that –

- the chairperson must be respected;
- the chairperson has the right to interrupt and ask a member to stop speaking if the address is repetitive or irrelevant to the matter under discussion;
- a member must stop speaking if ruled out of order by the chairperson;
- decisions are taken by general consensus or by a majority show of hands when a matter is decided upon by voting;
- once a decision has been taken it is final and not open for discussion unless additional information which was not available at the time of decision making can be produced;
- information and documentation are confidential;
- a member (including the chairperson or vice-chairperson) shall beforehand declare his/her interest regarding any matter serving before the Committee and the member will then excuse her/himself and vacate the meeting room during the discussion of that matter. No discussion by the member concerned will be allowed prior to the serving of that submission/report and such a member may not retain that specific submission/report. Any personal interest that may infringe, or might reasonably be deemed to infringe on a member's impartiality in any matter relevant to their duties must be recorded;
- outvoted members must abide by the majority decision of the Committee; and
- no communication should be made with a bidder/contractor by any member prior to or after any meeting.

**APPENDIX 1**

**Bid Adjudication Committee  
Dipaleseng Local Municipality**

**Attendance Register and Undertaking of Confidentiality and Impartiality**

**Meeting Number:**

\_\_\_\_\_

**Date:**

\_\_\_\_\_

I, the undersigned, hereby declare:

- that all information, documentation and decisions regarding any matter before the committee are confidential and undertake not to make known anything in this regard
- that I will treat all providers and potential providers equitably and will not purposefully favour or prejudice anybody
- that I will make known details of any private or business interest which I, or any close family member, partner or associate may have in any proposed procurement or disposal process of, or in any award or contract and that I will immediately withdraw from participating in any manner whatsoever

NAME	DEPARTMENT / SECTION	SIGNATURE

## ***Annexure C***



### ***Dipaleseng Local Municipality***

#### ***Committees***

#### **Committees established in terms of the Municipal Supply Chain Management Regulations**

<b>Serial No.</b>	<b>Terms of Reference</b>	<b>Regulation No.</b>
<b>1.</b>	<b>Bid Specification Committee</b>	
<b>1.1</b>	<b><i>Composition</i></b>	
1.1.1	<p>The Committee must be composed of</p> <ul style="list-style-type: none"> <li>(a) an official of the Finance Department nominated by the Chief Financial Officer (CFO);</li> <li>(b) an official of the Internal Audit Unit nominated by the CFO;</li> <li>(c) the Director of the procuring Department;</li> <li>(d) the relevant Unit Manager of the procuring Department;</li> <li>(e) the municipality's legal adviser (if it has one);</li> </ul> <p>The Chairperson will be the Director of the procuring Department</p>	R27(3)
1.1.2	<p>External specialist advisers may be included on the Committee from time to time as and when the need arises</p>	R27(3)

Serial No.	Terms of Reference	Regulation No.
<b>1.2</b>	<b>Prohibition</b>	
1.2.1	No person, adviser or corporate entity involved with the committee, or director of such corporate entity, may bid for any resulting contracts	R27(4)
<b>1.3</b>	<b>Functions</b>	
1.3.1	Compile the specifications for each procurement of goods and services by the municipality	R27(1)
1.3.2	Specifications – <ul style="list-style-type: none"> <li>(a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;</li> <li>(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, material or workmanship should comply</li> <li>(c) where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design</li> <li>(d) may not create trade barriers in contract requirements in forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labeling of conformity certification</li> <li>(e) may not make reference to any particular trade mark, patent, design, type, specific origin or producer, unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the words “equivalent”</li> <li>(f) must indicate each specific goal for which points may be awarded in terms of the points system set out in the supply chain management policy</li> </ul>	R27(2)(a) to (f)
<b>1.4</b>	<b>Quorum</b>	
	A quorum of the Committee shall be 50% of the members of the Committee plus 1.	

<b>Serial No.</b>	<b>Terms of Reference</b>	<b>Regulation No.</b>
<b>1.5</b>	<b>Role of Accounting Officer</b>	
1.5.1	The Accounting Officer must approve specifications prior to publication of the invitation for bids in terms of R22	R27(2)(g)
<b>2.</b>	<b>Bid Evaluation Committee</b>	
<b>2.1</b>	<b>Composition</b>	
2.1.1	The Committee must be composed of:	R28(2)(a) and (b)
	(e) an official of the Finance Department nominated by the Chief Financial Officer (CFO);	
	(f) an official of the Internal Audit Unit nominated by the CFO;	
	(g) the Director of the procuring Department;	
	(h) the relevant Unit Manager of the procuring Department;	
	(e) the municipality's legal adviser (if it has one);	
2.1.2	The Chairperson will be the Director of the procuring Department	
2.1.3	At least one supply chain management practitioner of the municipality	
<b>2.2</b>	<b>Functions</b>	
2.2.1	The Committee must:	R28(1)(a) to (d)
	(a) evaluate bids in accordance with –	
	i. the specifications for a specific procurement; and	
	ii. points system as must be set out in the supply chain management policy of the municipality or municipal entity in terms of regulation 27(2)(f) and as prescribed in terms of the Preferential Procurement Policy Framework Act;	
	(b) evaluate each bidders' ability to execute the contract;	
	(c) check in respect of the recommended bidder whether municipal rates and taxes and service charges are not in arrears; and	

Serial No.	Terms of Reference	Regulation No.
	(d) submit to the Adjudication Committee a report and recommendations regarding the award of the bid or any other related matter.	
<b>2.3</b>	<b>Quorum</b>	
2.3.1	A quorum of the Committee shall be 50% of the members of the Committee plus 1.	
<b>3.</b>	<b>Bid Adjudication Committee</b>	
<b>3.1</b>	<b>Composition and appointment of Chairman</b>	
3.1.1	The Committee must be composed of – <ul style="list-style-type: none"> <li>(a) the Chief Financial Officer (CFO), or if the CFO is not available, another Manager in the Budget and Treasury office reporting directly to the CFO and designated by the CFO;</li> <li>(b) the Directors of all the Municipal Departments;</li> <li>(c) a technical expert in the field who is an official of the municipality, if the municipality has such an expert</li> </ul>	
3.1.2	The Chief financial Officer will be the Chairperson of the Committee	R29(3)
3.1.3	In the absence of the Chairperson, the members of the Committee present at the meeting must elect one of them to preside at the meeting	R29(3)
3.1.4	Neither a member of a Bid Evaluation Committee, nor an adviser or person assisting the Evaluation Committee, may be a member of a Bid Adjudication Committee	R23(4)
<b>3.2</b>	<b>Powers and Functions</b>	
3.2.1	The Committee must consider the report and recommendations of the Bid Evaluation Committee and make a recommendation to <ul style="list-style-type: none"> <li>(a) the Chief Financial Officer if the amount involved falls within the CFO's delegated authority; or</li> <li>(b) the Accounting Officer</li> </ul>	R29(1)(a) and (b)
3.2.2	to make a final award If the Committee decides to award a bid other than the	R29(5)



Serial No.	Terms of Reference	Regulation No.
	<p>one recommended by the Bid Evaluation Committee, it must prior to awarding the bid –</p> <p>(a) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and service charges are not in arrears; and</p> <p>(b) notify the Accounting Officer</p>	
<b>3.3</b>	<b>Quorum</b>	
<b>3.3.1</b>	A quorum of the Committee shall be 50% of the members of the Committee plus 1.	
<b>3.4</b>	<b>Role of the Accounting Officer</b>	
3.4.1	The Accounting Officer may ratify or reject the decision of the Bid Committee referred to in 3.2 above	R29(5)(b)(i)
3.4.2	If the decision is rejected by the Accounting Officer, it must be referred back to the Committee for reconsideration	R29(5)(b)(ii)
3.4.3	The Accounting Officer may at any time during the bidding process refer any recommendation made by either the Evaluation Committee or the Adjudication Committee back to that Committee for reconsideration of the recommendation	R29(6)