

**MUNICIPAL SUPPLY CHAIN MANAGEMENT POLICY  
LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT  
ACT, 2003**

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Emthanjeni Local 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 Emthanjeni Local Municipality.

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## Definitions

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

**“competitive bidding process”** means procurement above a transaction value of R200 000 (including VAT) and long term contracts.

**“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 for procurement of transaction value of over R10 000 up to R200 000

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

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

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

**“list of accredited prospective providers”** means the list of accredited prospective providers which the **municipality must** keep;

**“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);
- (d) Circular issued dated 08 December 2011 by Minister of Trade And Industry

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

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

**“the Regulations”** means the Local Government: Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations published by Government Notice 868 of 2005, and also Circular 1/2/1/2/2 that deals with Insurance and validity of Broad Based Black Economic Empowerment(B-BBEE) Status Level Certificates in respect of Exempted Micro Enterprises (EMEs)

**“the Treasury Circulars”** means the Local Government: Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations published by Government Notice 868 of 2005, Circular1/2/1/2/2 that deals with Issuance and validity of Broad Based Black Economic Empowerment(B-BBEE) Status Level Certificates in respect of Exempted Micro Enterprises (EMEs) and: Local production and content.

**“written”** means quotations of transaction value of R2 000 up to R30 000(VAT included).

**CHAPTER 1**  
**IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY**

**Supply chain management policy**

2. (1) All officials and other role players in the supply chain management system of **Emthanjeni** 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
    - (ii) any minimum norms and standards that may be prescribed in terms of Section 168 of the Act;
  - (d) is consistent with other applicable legislation;
  - (e) does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and
  - (f) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.
- (3) This Policy applies when Emthanjeni Local Municipality–
  - (a) procures goods or services;
  - (b) disposes of 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
- (4) This Policy, except where provided otherwise, does not apply in respect of the procurement of goods and services contracted with another organ of state, including –
  - (a) water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and

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

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

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

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

- 4. (1) The Emthanjeni Council hereby delegates all powers and duties to the Accounting Officer which are necessary to enable the Accounting Officer –
  - (a) to discharge the supply chain management responsibilities conferred on Accounting Officers in terms of –
    - (i) Chapter 8 or 10 of the Act; and
    - (ii) this Policy;
  - (b) to maximise administrative and operational efficiency in the implementation of this Policy;
  - (c) to enforce reasonable, cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of this Policy; and

(d) to comply with his or her responsibilities in terms of Section 115 and other applicable provisions of the Act.

(2) Sections 79 and 106 of the Act apply to the sub-delegation of powers and duties delegated to an Accounting Officer in terms of subparagraph (1).

(3) The Accounting Officer may not sub-delegate any supply chain management powers or duties to a person who is not an official of Emthanjeni Local Municipality or to a committee which is not exclusively composed of officials of Emthanjeni Local 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 28 of this Policy.

### **Sub-delegations**

**The Chief Financial Officer may only appoint supply chain practitioners on the committees with express prior permission from the Accounting Officer [Municipal Manager].**

5. (1) The Accounting Officer may in terms of Section 79 or 106 of the Act sub - delegate any supply chain management powers and duties, including those delegated to the Accounting Officer in terms of this Policy, but any such sub-delegation must be consistent.

(2) The power to make a final award –

(a) Above R10 million (including VAT) **must not** be sub-delegated by the Accounting Officer;

(b) above R2 million ( including VAT), but not exceeding R10 million ( including VAT), may be sub-delegated but only to –

(i) the Chief Financial Officer;

(ii) a Senior Manager; or

- (iii) a Bid Adjudication Committee of which the Chief Financial Officer or a Senior Manager is a member; or
- (c) not exceeding R2 million (including VAT) may be sub-delegated but only to –
  - (i) the Chief Financial Officer;
  - (ii) a Senior Manager;
  - (iii) a Manager directly accountable to the Chief Financial Officer or a Senior Manager; or
  - (iv) a Bid Adjudication Committee.
- (3) An official or Bid Adjudication Committee to which the power to make final awards has been sub-delegated must, within five days of the end of each month, submit to the Accounting Officer 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 must be submitted –
  - (a) to the Accounting Officer, in the case of an award by –
    - (i) the Chief Financial Officer;
    - (ii) a Senior Manager; or
    - (iii) a Bid Adjudication Committee of which the Chief Financial Officer or a Senior Manager is a member; or
  - (b) to the Chief Financial Officer or the Senior Manager responsible for the relevant bid, in the case of an award by –
    - (i) a manager; or
    - (ii) a Bid Adjudication Committee of which the Chief Financial Officer or a Senior Manager is not a member.

- (5) This paragraph may not be interpreted as permitting an official to whom the power to make final awards has been sub-delegated, to make a final award in a competitive bidding process otherwise than through the committee system.
- (6) No supply chain management decision-making powers may be delegated to an advisor or consultant.

### **Oversight role of Council**

6. (1) Emthanjeni Council reserves its right to maintain oversight over the implementation of this Policy.
- (2) For the purposes of such oversight the Accounting Officer must –
  - (i) within 30 days of the end of each financial year, submit a report on the implementation of this Policy and the Supply Chain Management Policy of any municipal entity under the sole or shared control of the municipality, to the Council of the municipality; and
  - (ii) whenever there are serious and material problems in the implementation of this Policy, immediately submit a report to the Council.
- (3) The Accounting Officer must, within 10 days of the end of each quarter, submit a report on the implementation of the Supply Chain Management Policy to the Mayor.
- (4) The reports must be made public in accordance with Section 21A of the Municipal Systems Act.

### **Compliance with Ethical Standards**

In order to create an environment where business can be conducted with integrity and in a fair and reasonable manner, this Policy will strive to ensure that the Municipal Manager and all representatives of Emthanjeni Municipality who are involved in supply chain

management activities shall act with integrity and in accordance with the highest ethical standards.

All supply chain management representatives shall adhere to the code of conduct of municipal staff contained in schedule 2 of the Systems Act, and this Policy's Code of Ethical Standards.

### **Supply chain management unit**

7. A centralised supply chain management system is hereby established to implement this Policy; the supply chain unit operates under the direct supervision of the Chief Financial Officer.

A centralized purchasing structure offer benefits in terms of:

- Greater standardisation, because purchases are made through one office.
- The buying power for each transaction is increased.
- Buyers are afforded the opportunity to become experts.
- Control over all aspects of the purchasing system is improved, and the system tends to be simpler.
- Suppliers may communicate more easily with a centralised purchasing structure than with different departments.

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

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

## **CHAPTER 2 SUPPLY CHAIN MANAGEMENT SYSTEM**

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

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

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

#### **System of demand management**

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

### ***Part 2: Acquisition management***

## **System of acquisition management**

- 11.** (1) The Accounting Officer must implement the system of acquisition management set out in this Part in order to ensure –
- (a) that goods and services are procured by Emthanjeni Local Municipality in accordance with authorised processes only;
  - (b) that expenditure on goods and services is incurred in terms of an approved budget;
  - (c) that the threshold values for the different procurement processes are complied with;
  - (d) that bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation;  
and
  - (e) that any Treasury guidelines on acquisition management are properly taken into account.
- (2) Where the municipality contracts with another organ of state for the provision of goods and services, the Accounting Officer must make public the fact that such goods or services are procured otherwise than through the municipality's supply chain management system, including -
- (a) the kind of goods or services; and
  - (b) the name of the supplier.

## **Range of procurement processes**

### **12. (1)**

AMOUNT [VAT INCL.]	PROCEDURES
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R up to R 1 000	<ul style="list-style-type: none"> <li>• One quotation will be required</li> <li>• The supplier is to be selected and will be appointed on a rotation basis, provided that parts or repairs could be supplied immediately.</li> <li>• Normal stock items: the Buyer will re-order on the agreed minimum stock level.</li> <li>• For the purchasing of non-stock items authorization is required in accordance with delegations.</li> </ul> <p>Approval: Chief Financial Officer</p>
<b>R 1 001 up to R 2 000</b>	<ul style="list-style-type: none"> <li>• Two quotations will be required.</li> <li>• Supplier is to be appointed on a rotation basis, provided that parts of repairs could be supplied immediately.</li> <li>• Normal stock items: The Buyer will re-order on the agreed minimum stock level.</li> <li>• For the purchasing of non-stock items authorization is required in accordance with delegations.</li> </ul> <p>Approval: Chief Financial Officer</p>
<b>R 2 001 up to R 10 000</b>	<ul style="list-style-type: none"> <li>• Three written quotations will be required</li> <li>• Supplier is to be appointed on a rotation basis, provided that parts or repairs could be supplied immediately</li> <li>• Normal stock items: the buyer will re-order on the agreed minimum stock level</li> <li>• For the purchasing of non-stock items authorization is required in accordance with delegations</li> </ul> <p>Approval: Chief Financial Officer</p>
<b>R 10 001 up to R 200 000</b>	<ul style="list-style-type: none"> <li>• Three formal written quotations are required</li> <li>• The CFO will appoint the supplier of on a rotation basis depending on the urgency and delivery period.</li> <li>• All requirements in excess of R30 000 must be advertised for at least 7 days on the website and an official notice board of Emthanjeni Local Municipality;</li> </ul> <p>Purchases above R100 000 CFO will approve</p>
<b>More than R 200 000 &amp; long term contracts</b>	Standard procedures as defined in the Procurement Policy apply

**(2) The Accounting Officer may, in writing-**

**(a) lower, but not increase, the different threshold values specified in table (1); or**

**(b) direct that –**

**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.

**(4) The following types of transactions are excluded from the normal bid process:**

**(i) Where there are only sole suppliers of a product / service e.g.**

- i. Eskom
- ii. Bulk water suppliers
- iii. Postage and telephone
- iv. Rail and road transport
- v. De Aar Printers / Die Echo
- vi. De Aar Stone Crushers
- vii. De Aar Chemist
- viii. De Aar Glassworks
- ix. Lexis Nexis
- x. Lex Patria
- xi. Swift Print
- xii. OVK

**(ii) Where prices are fixed or regulated**

- i. Fuel purchases
- ii. Newspapers and magazines

**(iii) Where services / products are subjected to maintenance contracts e.g.**

- i. Assets under guarantee (Servicing vehicles and machinery)

- ii. Alarm Monitoring
  - iii. Nashua Mobile
- (iv) Where the normal bid process is not feasible e.g:**
  - i. Subsistence and travel
  - ii. Official lunches
  - iii. Annual health examinations for officials
  - iv. Stripped (dismantled) machinery requiring a quote for repairs.
  - v. Annual licence fees. Software & vehicles
- (v) Emerging contractors (Decision by Municipal Manager or designate)**
- (vi) Service Level Agreements**
- (vii) External professional membership institutions within the Local Government sphere: membership fees.**
  - i. IPMSA (Institute of municipal practitioners of SA)
  - ii. ILGM (Institute for Local Government management in SA)
  - iii. IMFO (Institute for municipal financial officers)
  - iv. IMESA (Institute for municipal engineers of SA)
- (5) Please note. The list of transactions will be excluded from the normal bidding processes and may be amended or extended, as and when required**

**General pre-conditions for consideration of written quotations or bids**

**13.** A formal 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 Emthanjeni Local 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 is in the service of the state, or has been in the service of the state in the previous twelve months.

#### **Lists of accredited prospective providers: Database**

#### **Lists of accredited prospective providers: Database**

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

## **Petty cash purchases**

- 15.** The conditions for the procurement of goods by means of petty cash purchases, are as follows –
- (a) a Senior Manager may delegate responsibility for petty cash to an official reporting to the manager if the amount is equal to or less than R2 000;
  - (b) the maximum number of petty cash purchases or the maximum amounts per month for each manager is R2 000;
  - (c) types of excluded expenditure from petty cash purchases include office furniture and equipment; and
  - (d) a monthly reconciliation report from each manager must be provided to the Chief Financial Officer, including –
    - (i) the total amount of petty cash purchases for that month; and
    - (ii) receipts and appropriate documents for each purchase.

## **Written quotations**

***Although the Act makes provision for verbal quotations, Emthanjeni Local Municipality will not apply this condition due to the loopholes it poses and lack of capacity to monitor it. Only written quotations will be applicable as per decision by the Municipal Manager.***

- 16.** The conditions for the procurement of goods or services through written quotations are as follows:
- (a) quotations must be obtained from at least two different providers preferably from, but not limited to, providers whose names appear on the list of accredited prospective providers of Emthanjeni Local Municipality;
  - (b) providers must be requested to submit such quotations in writing;
  - (c) if it is not possible to obtain at least two quotations, the reasons must be recorded and reported to the Chief Financial Officer;
  - (d) the CFO must record the names of the potential providers requested to provide such quotations with their quoted prices; and

- (e) an order may be placed only against written confirmation by the selected provider.

### **Formal written price quotations**

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

- (a) quotations must be obtained in writing from at least three different providers whose names appear on the list of accredited prospective providers of Emthanjeni Local Municipality;
- (b) quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria set out in paragraph 14(1) (b) and (c) of this Policy;
- (c) if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the Chief Financial Officer or an official designated by the Chief Financial Officer, and
- (d) the CFO must record the names of the potential providers and their written quotations.

(2) A designated official referred to in subparagraph (1) (c) must within three days of the end of each month report to the Chief Financial Officer on any approvals given during that month by that official in terms of that sub-paragraph.

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

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

- (a) when using the list of accredited prospective providers the Accounting Officer must promote ongoing competition amongst providers by inviting providers to submit quotations on a rotation basis;
- (b) all requirements in excess of R30 000 that are to be procured by means of formal written price quotations must, in addition to the requirements of paragraph 17, be

advertised for at least 7 days on the website and an official notice board of Emthanjeni Local Municipality;

- (c) offers received must be evaluated on a comparative basis taking into account unconditional discounts;
- (d) the Accounting Officer must on a monthly basis be notified in writing of all written quotations and formal written price quotations accepted by an official acting in terms of a subdelegation;
- (e) offers below R30 000 must be awarded based on compliance to specifications and conditions of contract, ability and capability to deliver the goods and services;
- (e) acceptable offers, which are subject to the preference points system (PPPFA and associated regulations), must be awarded to the bidder who scored the highest points;
- (f) **Original / legal copies of written contracts agreements should be kept in a secure place for reference purposes.**

### **Competitive bidding process**

**19.** (1) Goods or services above a transaction value of R200 000 ( including VAT) and long term contracts may only be procured through a competitive bidding process.

(2) No requirement for goods or services above an estimated transaction value of R200 000 (including VAT), may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.

### **Process for competitive bidding**

**20.** The procedures for the following stages of a competitive bidding process are as follows:

- (a) Compilation of bidding documentation;
- (b) Public invitation of bids;

- (c) Site meetings or briefing sessions;
- (d) Handling of bids submitted in response to public invitation;
- (e) Evaluation of bids;
- (f) Award of contracts;
- (g) Administration of contracts
  - (i) After approval of a bid, the Accounting Officer and the bidder must enter into a written agreement.
- (h) Proper record keeping
  - (i) Original / legal copies of written contracts agreements should be kept in a secure place for reference purposes.

### **Bid documentation for competitive bids**

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

- (a) take into account –
  - (i) the general conditions of contract and any special conditions of contract, if specified;
  - (ii) any Treasury guidelines on bid documentation; and
  - (iii) the requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;
- (b) include the preference points system to be used , 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;  
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.

### **Public invitation for competitive bids**

- 22.** (1) The procedure for the invitation of competitive bids is as follows:
- (a) Any invitation to prospective providers to submit bids must be by means of a public advertisement in newspapers commonly circulating locally, the website of Emthanjeni Local Municipality or any other appropriate ways; 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;
    - (ii) a statement that bids may only be submitted on the bid documentation provided by Emthanjeni Local Municipality; and
    - (iii) date, time and venue of any proposed site meetings or briefing sessions;
- (2) ***The Accounting Officer may determine a closing date for the submission of bids which is less than the 30 or 14 days requirement, 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.***

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

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

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

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

### **Registration of contractor**

- 24.** Contractors/bidders who are compelled to register with controlling authorities regarding their goods/services to be delivered should ensure that their relevant registration is in order prior to the closure of the bids.

### **Negotiations with preferred bidders**

- 25.** (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.

### **Unbundling of tender**

- 26.** When it is considered in Emthanjeni Local Municipality's best interest to divide the total requirement on any one tender between two or more tenderers e.g. in order to draw from the most convenient or nearest sources, or to ensure continued competition or to optimize available resources or to support SMME's, a supply or service may be divided amongst several tenderers, and contracts can be placed accordingly, provided that this was a tender condition

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

- 27.** (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.

### **No obligation to accept lowest or any bid**

28. The lowest of any tender or quotation shall not necessarily be recommended for acceptance, provided that this was a tender condition.

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

29. (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;

**The services of the consultant in the committee system will only be procured with express invitation from Municipal Manager and their participation will explicitly be of advisory nature**

Quorum

The quorum for meetings will be fifty percent of members plus one member.

(2) The Accounting Officer appoints the members of each committee, taking into account that councillors are barred from serving on municipal tender committees; 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 28, 29 and 30 of this Policy; and
- (b) any other applicable legislation.

(4) The Accounting Officer may apply the committee system to formal written price quotations.

### **Bid Specification Committees**

**30.** (1) A Bid Specification Committee must compile the specifications for each procurement of goods or services by Emthanjeni Local Municipality.

(2) Specifications –

- (a) to 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 may be composed of of:

- manager responsible for the function involved
- legal advisor
- when appropriate, include external specialist advisors.

(4) No person, advisor or corporate entity involved with the Bid Specification Committee, or director of such a corporate entity, may bid for any resulting contracts.

### **Bid Evaluation Committees**

**31.** (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 29(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:

- One or two senior managers from departments requiring the goods or services;
- Supply chain practitioner/controller
- Tender secretariat
- Internal Auditor:

**To promote transparency, the Internal Auditor's role in the committee system will be purely to monitor and not to participate in the committee system.**

### **Bid Adjudication Committees**

- 32.** (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.

***For better control and efficiency purposes Directorates who will serve on this committee will be appointed by the Accounting Officer and it will be on a rotational basis***

A Bid Adjudication Committee **may** include –

- Chief Financial Officer ;
- Supply Chain Manager; **[The Chairperson of Committee]**
- Director;
- Internal Auditor;
- Tender Secretariat; and or
- Technical expert in the relevant field who is an official, if such an expert exists.

(3) 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 Aommittee 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

**Extension of Awarded Contract**

(b) The Accounting Officer may –

- (i) award or extend a existing contract when a written submission has been received by the specific Director for the extension due to circumstances unknown.
- (ii) That the extension must not be more than 20% of the original contract price of the tender amount awarded.
- (iii) That all the relevant supporting documentation form the Director, Consulting Engineer and also the Contractor involved.
- (iv) that National Treasury be informed about the extensions.

### **Procurement of banking services**

- 33.** (1) A contract for banking services –
- (a) must be procured through competitive bids;
  - (b) must be consistent with Section 7 or 85 of the Act; and
  - (c) may not be for a period of more than five years at a time.
- (2) The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.
- (3) The closure date for the submission of bids may not be less than 60 days from the date on which the advertisement is placed in a newspaper. Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

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

- 34.** (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 ( including VAT); or
  - (b) the transaction value of a contract to be procured whether for one or more years exceeds R50 million (including VAT).
- (4) If SITA comments on the submission and Emthanjeni Local Municipality disagree with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the Council, the National Treasury, the relevant Provincial treasury and the Auditor General.

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

- 35.** (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) Sub-paragraphs (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.

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

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

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

### **Proudly SA Campaign**

37. Emthanjeni Local Municipality supports the Proudly SA Campaign to the extent that, all things being equal, preference is given to procuring local goods and services and see also Cir 1/2/1/2/2 that deals with the promotion of local production and content

### **Appointment of consultants**

38. (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 Emthanjeni Local Municipality.***

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

- 39.** (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 this policy and report them to the next meeting of the Council and include as a note to the annual financial statements.
- (3) Reasons for any deviation will not apply to the procurement of goods and services contracted with another organ of state.

## **Urgent and emergency cases**

**40.** In urgent and emergency cases, a municipality may dispense with the invitation of bids and may obtain the required goods, works or services by means of quotations by preferably making use of the database of prospective suppliers, or otherwise in any manner to the best interest of the municipality.

Urgent cases are cases where early delivery is of critical importance and the invitation of competitive bids is either impossible or impractical. However, a lack of proper planning should not be constituted as an urgent case.

Emergency cases are cases where immediate action is necessary in order to avoid a dangerous or risky situation or misery.

The reasons for the urgency/emergency and for dispensing of competitive bids should be clearly recorded and approved by the Accounting Officer.

## **Unsolicited bids**

**41.** (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.
- (e) If the municipality will not incur any cost in monetary value.

(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 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 sub-paragraph (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 Emthanjeni Local Municipality to the bid may be entered into or signed within 30 days of the submission.

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

**42.** (1) The Accounting Officer must–

- (a) take all reasonable steps to prevent abuse of the supply chain management system;
- (b) investigate any allegations against an official or other role player of fraud, corruption, favouritism, unfair or irregular practices or failure to comply with this Policy, and when justified –
  - (i) take appropriate steps against such official or other role player; or
  - (ii) report any alleged criminal conduct to the South African Police Service;
- (c) check the National Treasury’s database prior to awarding any contract to ensure that no recommended bidder, or any of its directors, is listed as a person prohibited from doing business with the public sector;
- (d) reject any bid from a bidder–
  - (i) if any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to Emthanjeni Local 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 Emthanjeni Local 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 Emthanjeni Local Municipality or has committed any improper conduct in relation to such system;
  - (ii) has been convicted for fraud or corruption during the past five years;
  - (iii) has willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
  - (iv) has been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).

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

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

#### **Logistics management**

43. The Accounting Officer must establish and implement an effective system of logistics management, which must include -
- (a) the monitoring of spending patterns on types or classes of goods and services incorporating, where practical, the coding of items to ensure that each item has a unique number;

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

### **Disposal management**

44. (1) The criteria for the disposal or letting of capital assets, including unserviceable, redundant or obsolete capital assets are as follows:

#### **Section 14 and 90-Disposal of capital assets**

- 1 A municipality may not transfer ownership as a result of a sale or other transaction or otherwise permanently dispose of a capital asset needed to provide the minimum level of basic municipal services.
- 2 A municipality may transfer ownership or otherwise dispose of a capital asset other than an asset contemplated in subsection 1, but only after the municipal Council, in a meeting open to the public-
  - (a) Has decided on reasonable grounds that the asset is not needed to provide the minimum level of basic municipal service; and
  - (b) Has considered the fair market value of the asset of the asset and the economic and community value to be received in exchange for the asset.

- 3 A decision by a municipal council that a specific capital asset is not needed to provide the minimum level of basic municipal services, may not be reversed by the municipality after that asset has been sold, transferred or otherwise disposed of.
- 4 A municipal council may delegate to the Accounting Officer of the municipality its power to make the determinations referred to in sub-section 2 (a) and (b) in respect of movable capital assets below a value determined by the council.
- 5 Any transfer of ownership of a capital asset in terms of sub-section 2 or 4 must be fair, equitable, transparent, competitive and consistent with the supply chain management policy which the municipality must have and maintain in terms of Section 111.
- 6 This section does not apply to the transfer of a capital asset to another municipality or to a municipal entity or to a national or provincial organ of state in circumstances and in respect of categories of assets approved by the National Treasury, provided that such transfers are in accordance with a prescribed framework

(2) Assets may be disposed of by –

- (i) transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;
- (ii) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
- (iii) selling the asset; or
- (iii) destroying the asset.

(2) The Accounting Officer must ensure that –

- (a) immovable property is sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
- (b) movable assets are sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous;

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

## **Risk management**

**45.** (1) The criteria for the identification, consideration and avoidance of potential risks in the supply chain management system, are as follows:

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

## **Performance management**

46. The Accounting Officer must establish and implement an internal monitoring system in order to determine, on the basis of a retrospective analysis, whether the authorised supply chain management processes were followed and whether the objectives of this Policy were achieved.

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

#### **Safe custody of contracts**

47. Original contracts should be kept by the Corporate Department, with the copies to the relevant department. The Accounting officer together with the Chief Financial Officer will be the only officials who will hold the keys to the safe.

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

48. (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 be presumed to be in order.

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

49. 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 Emthanjeni Municipality.

**Municipalities are exempted from complying with this regulation until 2011 , insofar as this regulation prohibits making awards to a persons in the following circumstances:**

- **where the person receiving the award is a non-executive member of the Board of Directors of a municipality entity; or**
- **where the person receiving the award is not a natural person and any of it's directors, managers, principal shareholders or stakeholders is a non-executive member of the Board of Director of a municipal entity.**

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

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

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

#### **Ethical standards**

**51.** (1) A code of ethical standards is hereby established for officials and other role players in the supply chain management system of Emthanjeni Local 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.

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

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

## **Sponsorships**

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

## **Objections and complaints**

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

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

55. (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 Emthanjeni Local 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.

*A parent municipality and a municipal entity under its sole or shared control may for purposes of subparagraph (1) appoint the same person*

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

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

(4) A dispute, objection, complaint or query may be referred to the relevant provincial treasury if –

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

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

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

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

**56.** If a service provider acts on behalf of Emthanjeni 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 Emthanjeni Local Municipality must stipulate –

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

### **Penalties**

**57.** If the supplier fails to deliver any or all the goods or to perform the services within the period specified in the contract, the Municipality should, without prejudice to its other remedies under the contract, deduct from the contract price, as a penalty, a sum calculated on the delivered price of the delayed goods or unperformed services using the current prime interest rate calculated for each day until actual delivery or performance. The Municipality may also consider termination of the contact

## **CHAPTER 3**

### **CODE OF CONDUCT FOR SUPPLY CHAIN PRACTITIONERS**

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**

Emthanjeni Local 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 layers 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.

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.

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. They should not abuse the power and authority vested in them.

## **2 Conflict of interest**

An official or other role player involved with supply chain management-

- must treat all providers and potential providers equitably;
- May not use his or her position for private gain or to improperly benefit another person;
- 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, a value of more than R350;
- must declare to the Accounting Officer details of any reward ,gift, favour, hospitality or other benefits promised, offered or granted to that person or any other family member, partner or associate of that person;
- 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 Emthanjeni Local Municipality;
- 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 close family member, partner or associate , has any private or business interest;
- must declare any business, commercial and financial interest or activities undertaken for financial gain that may raise possible conflict of interest;
- 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

- should not take improper advantages of their previous office after leaving their official position.

### **3 Accountability**

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

Practitioners should use public property scrupulously.

Only Accounting Officer or their delegates have the authority to commit Emthanjeni Local Municipality to any transaction for the procurement of goods and/ or services.

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

Practitioner must assist the Accounting Officer in combating fraud, corrupt, favouritism and unfair and irregular practices in the supply chain management system

Practitioners must report to the Accounting Officer any alleged irregular conduct in the supply chain management which that person may become aware of, including

1. any alleged fraud, corruption, favouritism or unfair conduct
2. an alleged contravention of the policy on inducements, reward, gifts and favours to municipalities or municipal entities, officials or other role players; and
3. any alleged breach of this code of conduct.

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

### **4. Openness**

Practitioners should be as open as possible about all the decision 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**

Any information that is the property of Emthanjeni Local Municipality or its providers should be protected at all times. No information regarding any

bid/contract/bidder/contractor may be revealed if such an action will infringe on the relevant bidder's/contractor's personal rights.

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

## **6. Bid Committees**

Bid Specification, Evaluation and Adjudication Committees should implement supply chain management on behalf of Emthanjeni Local Municipality in an honest, fair, impartial, transparent, cost-effective and accountable manner.

Bid Evaluation /Adjudication committees should be familiar with and adhere to the prescribed legislation, directives and procedures in respect of supply chain management in order to perform effectively and efficiently.

All members of Bid Adjudication Committees should be cleared by the Accounting Officer at the level of 'CONFIDENTIAL' and should be required to declare their financial interest annually.

No person should-

- interfere with the supply chain management system of Emthanjeni Local Municipality; or
- amend or tamper with any price quotation/bid after its submission.

## **7. Combative Practices**

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

Suggestions of fictitious lower quotations;

Reference to non-existent competition;

Exploiting errors in price quotations/bids

Soliciting price quotations/bids from bidders/contractors whose names appear on the Register for Tender Defaulters

***When adopted, this code of conduct becomes binding on all officials and other role players involved in the implementation of the Supply Chain Management Policy of Emthanjeni Local Municipality.***

- (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 Emthanjeni Local 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.

**The Accounting Officer must review the policy at least annually and, where necessary, submit proposals for amendment to the Council ( Regulation 3).**

## CHAPTER 4

### PURCHASES PROCEDURES

NO.	PROCEDURE	FREQUENCY	RESPONSIBILITY	KPI
1. 1.1 1.2 1.3	<p>Purchase Requisitions:</p> <ul style="list-style-type: none"> <li>• Purchase requisitions (PR) are completed in the various sections of the Municipality.</li> </ul> <p>The CFO should assign the responsibility of maintaining the Purchases Requisition Book to a specific person in each section.</p> <p>The buyer is responsible for maintaining a record of the pre-numbered colour coded purchase requisition books issued to each section.</p>	Ongoing  Ongoing  Ongoing	MM, Directors  CFO  CFO	Yes  Yes  Yes
2.	<p>The Officer authorising the purchase requisition, should ensure that there is sufficient funds available within the nominated vote. Where there are insufficient funds, the Municipal Manager may utilise a saving in the amount appropriated under a main division within a vote, towards the defrayment of excess expenditure under another main division within the same vote.</p>	Ongoing	Municipal Manager CFO	Yes
3. 3.1 3.2	<p>Purchases requisitions should be forwarded to the Supply Chain Clerks.</p> <p>The Supply Chain Clerks check the requisition to ensure the following:</p>	Ongoing  Ongoing	CFO  CFO	Yes  Yes

NO.	PROCEDURE	FREQUENCY	RESPONSIBILITY	KPI
	<ul style="list-style-type: none"> <li>• The correct vote has been inserted;</li> <li>• The description of the goods/services is accurate and the quantity specified;</li> <li>• That all unused lines have been ruled off to prevent unauthorised additions; and</li> <li>• That the requisition has been signed by an authorised Officer designated by the Municipal Manager.</li> </ul>			
4.	It is the SC Clerks' responsibility to source the supplier for the goods requested. The database is to be used, unless these suppliers are unable to fulfill the order on and as required basis.	Ongoing	Supply Chain Manager	Yes
5.	In the instance that quotations are required, the purchase requisitions together with the quotations must be handled according to the Supply Chain Management Policy.	Ongoing	Municipal Manager, Chief Financial Officer, Supply Chain Manager	Yes
6.	Once the requisition has been through the process and has been approved, the requisition and quotations should be returned to the buyer.	Ongoing	Municipal Manager CFO Supply Chain Manager.	Yes
7.	The buyer would then make out the order. Four copies of the order must be produced. The first must be sent to the supplier, the second must be attached to the requisition and forwarded to the creditors department, the third copy must be sent to the receiving section, and the final copy remains in the order book.	Ongoing	CFO	Yes
8.	All goods should be received in a demarcated area by			

NO.	PROCEDURE	FREQUENCY	RESPONSIBILITY	KPI
	the stores. An exception to this would be the delivery of capital works or maintenance projects, as well as goods to be delivered directly to the department for example motor vehicles, plant and equipment.	Ongoing	CFO	Yes
9.	<p>When the delivery of goods is made by the suppliers, the receiver must:</p> <ul style="list-style-type: none"> <li>• Match the supplier delivery note to a properly authorised purchase order;</li> <li>• Check the quantity of goods received against the supplier delivery note and the purchase order;</li> <li>• Reject all incorrect deliveries. In the case of short deliveries, clearly indicate as such on the suppliers delivery note and the purchase order;</li> <li>• Prepare a goods received note (GRN) in duplicate detailing the items and quantities received;</li> <li>• Sign the suppliers delivery note and GRN to indicate receipt of the goods; and</li> <li>• Ensure that the supplier's delivery personnel sign the delivery note to indicate agreement with the delivery and to the adjustments, if any.</li> </ul>	Ongoing	CFO	Yes
10.	Goods should then be sent to the relevant section. The official that authorised the requisition should sign the goods received note to indicate receipt of the goods.	Ongoing	CFO	Yes
11.	<p>The supplier's delivery note and the original goods received note should be forwarded to the creditors section.</p> <p>The duplicate goods received note should be filed.</p>	Ongoing	CFO	Yes

NO.	PROCEDURE	FREQUENCY	RESPONSIBILITY	KPI
12.	If the Chief Financial Officer instructs that a supplier make delivery of goods at a location other than the demarcated area, a person designated by the Chief Financial Officer, shall take delivery thereof and sign the supplier's delivery note to indicate receipt of the goods. This delivery note must then be submitted to the creditors section after being signed by the Chief Financial Officer.	Periodic	CFO	Yes
13.	<p>The creditors section receives the following in batches as the invoices are finalised for payment:</p> <ul style="list-style-type: none"> <li>• Orders with corresponding requisitions from the buying section;</li> <li>• The supplier's delivery note and the internal goods received note (GRN) from the receiving section; and</li> <li>• If the supplier forwards his invoice with the delivery note, the receiving official should date stamp and forward to creditors.</li> </ul>	Weekly	CFO	Yes
14.	Procedures for actual payment of creditor invoices are documented under the creditor payment section.			

**CHAPTER 5**  
**CREDITORS PAYMENT PROCEDURE**

<b>NO.</b>	<b>PROCEDURE</b>	<b>FRE QUENCY</b>	<b>RESPONSIBILITY</b>	<b>KPI</b>
1.	Each supplier invoice must be matched to a properly approved requisition and order form.	Ongoing	CFO (Creditors Section)	Yes
2.	The invoice must then be matched to the delivery note. The description of the goods, the quantity supplied and the signature of the authorised person receiving the goods must be confirmed.	Ongoing	CFO (Creditors Section)	Yes
3.1.	The creditors section is responsible for checking the adequacy and completeness of documents received from the purchasing and stores sections.	Ongoing	CFO (Creditors Section)	Yes
3.2.	If the creditors section is not satisfied with the documents received from the purchasing or stores sections, they must interrogate the relevant purchasing or stores officials.	Ongoing	SC Manager CFO (Head of Creditors Section)	No
4.	If the invoice relates to a service that was supplied, the official that requested the service, should sign the invoice to indicate that the service was received.	Ongoing	CFO (Creditors Section)	Yes
5.	Where a service is rendered regularly in terms of a standing contract, or where a continuing service such as a telephone is provided, order forms are not required. The official receiving the service must approve the invoice before submitting it to the creditors section for checking and payment.	Ongoing	CFO	Yes
6.	All payments:	Ongoing	CFO	Yes

NO.	PROCEDURE	FREQUENCY	RESPONSIBILITY	KPI
	<ul style="list-style-type: none"> <li>Should be effected by cheque or by electronic transfer. Apart from petty cash, no payments should be made in cash; and</li> </ul> Should be made monthly, and, only under exceptional circumstances, as determined by the Chief Financial Officer, should a payment be made outside of these intervals.			
7.	The creditors section must prepare a list of payments to be made, differentiating between electronic and cheque payments.	Monthly	CFO (Creditors section)	Yes
8.	The creditors section must present the payment listing together with supporting documentation to the Chief Financial Officer.	Monthly	CFO (Creditors Section)	Yes
9.	The CFO must critically inspect the supporting documentation to satisfy himself/herself that the requested payments are in order.	Monthly as whenever payments are request	CFO	Yes
10.	Disputed payments will be returned to the creditors section. It is the responsibility of the creditors section to ensure that the supporting documentation is complete.	Monthly	CFO (Creditors Section).	Yes
11.	These cheque requisition forms will be forwarded to an official who has been assigned the responsibility to prepare cheques.	Monthly	Chief Financial Officer	No

NO.	PROCEDURE	FREQUENCY	RESPONSIBILITY	KPI
12.	The cheques and the supporting documentation are forwarded to the Municipal Manager and Chief Financial Officer or to the signatories appointed by them for signing.		Municipal Manager CFO SCM	
13.	The cheques and the supporting documentation are forwarded to the Municipal Manager and Chief Financial Officer or to the signatories appointed by them for signing.	Monthly		
14.	Every signatory must inspect the documentation and satisfy him/ herself as to the validity of the expense before he/she signs the cheque.	Monthly	All designated signatories	Yes
15.1	Two signatories must sign every cheque.	Monthly	All designated signatories	Yes
15.2	The cheque number must appear on the supporting documentation. The documentation should also be stamped as evidence of it being paid.		Chief Financial Officer	
16.	The cheques should then be posted to or collected by the respective creditor.	Monthly	Chief Financial Officer	No