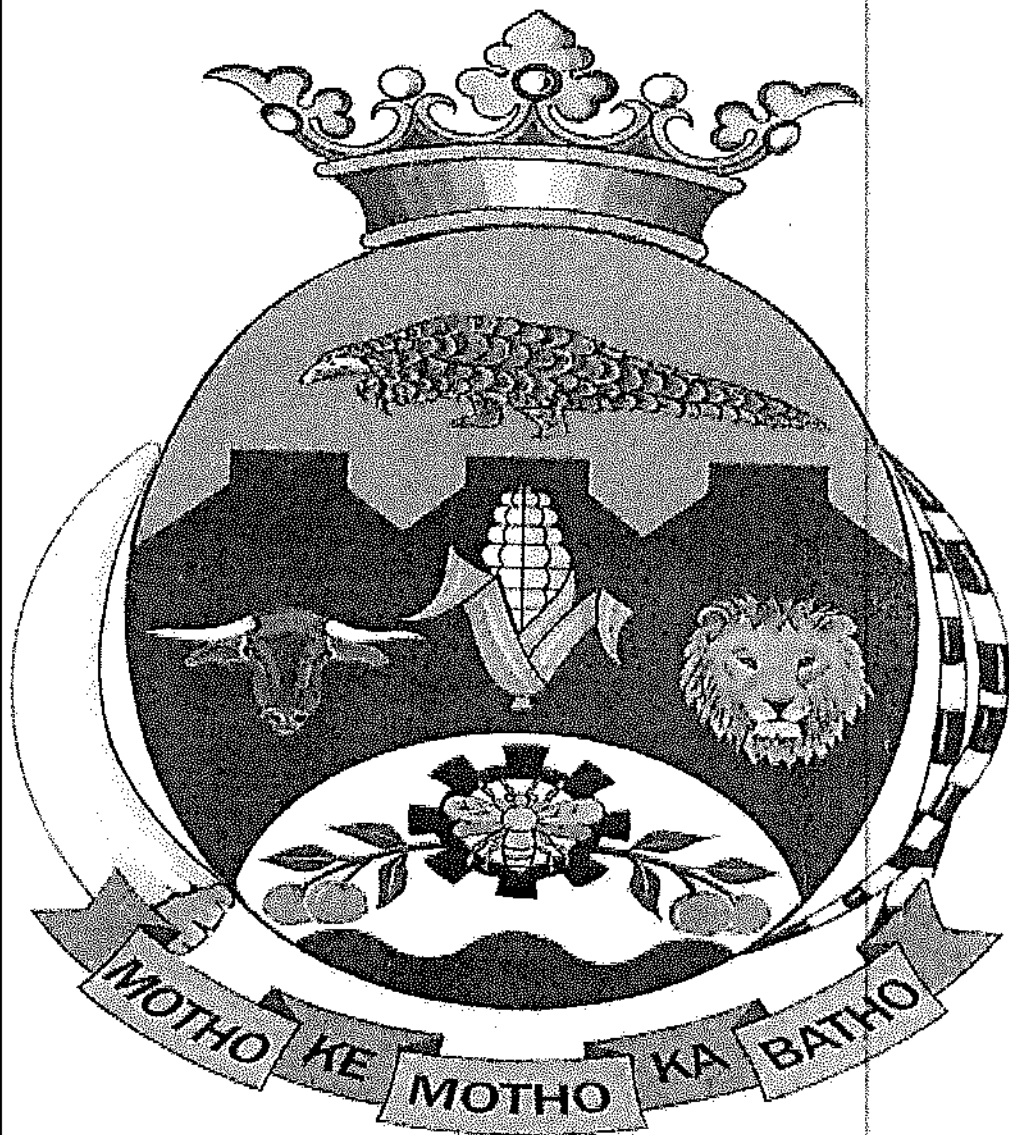


LEPELLE NKUMPI MUNICIPALITY



Reviewed - Supply Chain Management Policy

Incorporating Preferential Procurement Regulations 2022

# Lepele Nkumpi Municipality Supply Chain Policy – 2022/2023

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## TERMS AND DEFINITIONS

TERMS		DEFINITIONS
<b>B-BBEE</b>		Broad-based black economic employment as defined in section 1 of the Broad-Based Black Economic Empowerment Act.
<b>B-BBEE status level of contributor</b>		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.
<b>Black Empowerment Act</b>	<b>Economic</b>	Means the Broad Black Economic Empowerment Act Number 53 of 2003.
<b>Black designated groups</b>		Has the meaning assigned to it in the codes of good practice issued in terms of Section 9 (1) of the Broad Based Black Economic Empowerment Act
<b>Black people</b>		Has the meaning assigned to it in section 1 of the Broad Based Black Economic Empowerment Act
<b>Co-operative</b>		Means a co-operative registered in terms of the section 7 of the Co-operatives Act, 2005 (Act No. 14 of 2005)
<b>Competitive Process</b>	<b>Bidding</b>	a competitive bidding process referred to in Regulation 12 (1) (d) of the SCM Regulations.
<b>Competitive Bid</b>		a bid in terms of a competitive bidding process.
<b>EME</b>		Means an exempted micro enterprise in terms of a code of good practice on black economic empowerment issued in terms of the (9) (1) of the Broad-based black economic empowerment Act
<b>Final award</b>		In relation to bids or quotations submitted for a contract, means the final decision on which a bid or quote to accept
<b>Formal written price quotation</b>		Means quotations referred to in Supply Chain Management Regulation 12 (1) (c)
<b>Functionality</b>		Means the ability of a tenderer to provide goods or service in accordance with specifications as set out in the tender document



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TERMS		DEFINITIONS
<b>Highest acceptable tender</b>		Means a tender that complies with all specifications and conditions of tender and that has the highest price compared to other tenders
<b>Historically Disadvantaged Individual (HDI)"</b>		means a South African Citizen (1) who, due to the apartheid policy that had been in place, had no franchise in national elections prior to the introduction of the Constitution of the Republic of South Africa, 1983 (Act No 110 of 1983) or the Constitution of the Republic of South Africa, 1993 (Act No 200 of 1993) ("the Interim Constitution"); and/or (2) Who is a female; and /or (3) Who has a disability; Provided that a person who obtained South African citizenship on or after the coming to effect of the Interim Constitution, is deemed not to be an HDI;
<b>In the service of the state</b>		<p>(a) Means to be:- any municipal council, any provincial legislature or the National Assembly or the National Council of Provinces;</p> <p>(b) A member of the board of directors of any municipal entity</p> <p>(c) an official of any municipality or municipal entity;</p> <p>(d) an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1 of 1999;</p> <p>(e) a member of the accounting authority of any national or provincial public entity; or</p> <p>(f) an employee of Parliament or a provincial legislature</p>
<b>Long term contract</b>		Means a contract with a duration period exceeding one year
<b>Lowest acceptable tender</b>		Means a tender that complies with all specifications and conditions of tender and that has lowest price compared to other tenders
<b>List of accredited prospective providers</b>		<p>Means the list of accredited prospective providers which Lepelle Nkumpi municipality must keep in terms of regulation 14</p> <p>The municipality uses the Central Supplier Database to select</p>

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TERMS		DEFINITIONS
<b>Military veteran</b>		<p>accredited prospective providers in terms of MFMA Circular 81</p> <p>Has the meaning assigned to it in terms of section 1 of the Military Veterans Act, 2011 (Act No.18 of 2011)</p>
<b>National Treasury</b>		<p>Has the meaning assigned to it in section 1 of the Public Finance Management Act, 1999 (Act No.1 of 1999)</p>
<b>Other legislation</b>	<b>applicable</b>	<p>Means any other legislation applicable to municipal supply chain management, including-</p> <ul style="list-style-type: none"> <li>(a) The Constitution of RSA</li> <li>(b) Supply Chain Management Regulation 2005</li> <li>(c) The Preferential Procurement Policy Framework Act 2000 and the revised Preferential Procurement Regulation 2022</li> <li>(d) The Broad-based black economic empowerment act No. 53 of 2003</li> <li>(e) The Construction Industry Development Board Act No. 38 of 2000</li> <li>(f) Prevention and combating of corruption activities Act no 12 of 2004</li> <li>(g) State information technology act and regulation (act no. 88 of 1998)</li> </ul>
<b>People with disabilities</b>		<p>Has the meaning assigned to it in section 1 of the Employment of Equity Act No. 55 of 1998</p>
<b>Price</b>		<p>Includes all applicable taxes less all unconditional discount</p>
<b>Proof of B-BBEE status level of contributor</b>		<p>Means-</p> <ul style="list-style-type: none"> <li>(a) The B-BBEE status level certificate issued by an authorized body or person</li> <li>(b) A sworn affidavit as prescribed by the B-BBEE Code of Good Practice; or</li> <li>(c) Any other requirement prescribed in terms of the Broad-Based Black Economic Empowerment Act</li> </ul>



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TERMS		DEFINITIONS
QSE		Means a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of Broad-Based Black Economic Empowerment Act
Rand value		Means the total estimated value of a contract in Rand, calculated at the time of the tender invitation
Rural area		<p>(a) A sparsely populated area in which people farm or depend on natural resources, including villages and small towns that are dispersed through the area, or</p> <p>(b) An area including a large settlement which depends on migratory labour and remittances and government social grants for survival, and may have a traditional land tenure system.</p>
Specific goals		Means specific goals as contemplated in section 2(1)(d) of the Act which may include contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender and disability including the implementation of programmes of the Reconstruction and Development Programme as published in Government Gazette No. 16085 dated 23 November 1994
Tender for income-generating contracts		Means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions
The act		(a) Means the local Government: Municipal Finance Management Act No. 56 of 2003
Treasury guidelines		Means any guidelines on supply chain management issued by the Minister in terms of section 168 of the MFMA
Townships		Means an urban living area that any time from the late 19 <sup>th</sup> century until 27 April 1994 was reserved for black people,

# Lepelle Nkumpi Municipality Supply Chain Policy – 2022/2023

TERMS	DEFINITIONS
	including areas developed for historically disadvantaged individuals post 27 April 1994
Youth	Has the meaning assigned to it in section 1 of the National Youth Development Agency Act No. 54 of 2008
Written or verbal quotation	Means quotations referred to in Supply Chain Management regulation 12 (1) (b)

## ACRONYMS AND ABBREVIATIONS

ACRONYMS	ABBREVIATIONS
AG	Auditor General
AO/ AA/MM	Accounting Officer/ Municipal Manager
B-BBEE	Broad-Based Black Economic Empowerment
B-BBEEA	Broad Based Black Economic Empowerment Act
BAC	Bid Adjudication Committee
BEC	Bid Evaluation Committee
BVA	BEE Verification Agency
CFO	Chief Financial Officer
CIDB	The Construction Industry Development Board
EME's	Exempted Micro Enterprises

# Lepelle Nkumpi Municipality Supply Chain Policy – 2022/2023

ACRONYMS	ABBREVIATIONS
EPWP	Expanded Public Works Programme
GCC	General Conditions of Contract
HDI	Historically Disadvantaged Individual that is a South African citizen:  who, due to the apartheid policy that had been in place, had no franchise in National elections prior to the introduction of the Constitution of the Republic of South Africa, 1993 or the Constitution of the Republic of South Africa, 1993; and/or  who is a female; and/or  who has a disability
LNMM/ MUNICIPALITY	Lepelle Nkumpi Municipality
MFMA	Municipal Finance Management Act
MM/AO	Municipal Manager/Accounting Officer
PFMA	Public Finance Management Act
PPP	Public Private Partnership
PPPFA	Preferential Procurement Policy Framework Act
QBS	Quality Based Selection
QCBS	Quality and Cost Based Selection
QSE	Qualifying Small Enterprises
RDP	Reconstruction and Development Program
RFI	Request for Information
RFP	Request for Proposal
RFQ	Request for Quotation
SANAS	South African National Accreditation System

# Lepelle Nkumpi Municipality Supply Chain Policy – 2022/2023

ACRONYMS	ABBREVIATIONS
SAPS	South African Police Service
SARB	South African Reserve Bank
SARS	South Africa Revenue Service
SCM	Supply Chain Management
SLA	Service Level Agreement
SMME	Small Medium and Micro Enterprise
VAT	Value Added Tax

## POLICY STATEMENT

### A. Introduction

Section 111 of the Municipal Finance Management Act requires each municipality and municipal entity to adopt and implement a SCM policy, which gives effect to the requirements of the Act.

In addition, the Preferential Procurement Policy Framework Act requires an Organ of State to

## Lepelle Nkumpi Municipality Supply Chain Policy – 2022/2023

determine its Preferential Procurement Policy and to implement it within the framework prescribed. Effect to this requirement is provided for in this Policy.

In terms of section 111 of the MFMA, Lepelle-Nkumpi shall give effect to:

- a) Section 217 of the Constitution, and
- b) Part 1 of Chapter 11 and other applicable provisions of the MFMA
- c) Be fair, equitable, transparent, competitive and cost effective
- d) Comply with the regulatory framework prescribed in terms of section 168 of the Act.
- e) Not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres of government.
- f) LNM shall not act otherwise than in accordance with this policy when procuring goods or services, disposing of goods no longer needed.

### **B. Goal**

The goal of this Policy is to provide a mechanism to ensure sound, sustainable and accountable SCM within the LEPELLE NKUMPI MUNICIPALITY, whilst promoting black economic empowerment, which includes general principles for achieving the following socio-economic objectives:

- a. to stimulate and promote local economic development in a targeted and focused manner;
- b. to promote resource efficiency and greening;
- c. to facilitate creation of employment and business opportunities;
- d. to promote the competitiveness;
- e. to increase the small business sector access, in general, to procurement business opportunities created by the municipality; and
- f. to increase participation by small, medium and micro enterprises (SMME's)

# Lepelle Nkumpi Municipality Supply Chain Policy – 2022/2023

## **Objectives**

7. The objectives of this Policy are:
  - 7.1 to give effect to section 217 of the Constitution of the Republic of South Africa by implementing a system that is fair, equitable, transparent, competitive and cost effective;
  - 7.2 to comply with all applicable provisions of the Municipal Finance Management Act including the Municipal SCM Regulations published under GN868 in Government Gazette 27636 30 May 2005 and any National Treasury Guidelines issued in terms of the MFMA;
  - 7.3 to ensure consistency with all other applicable legislation and any regulations pertaining thereto
8. This Policy will also strive to ensure that the objectives for uniformity in SCM systems between organs of state, in all spheres are not undermined and that consistency with national economic policy on the promotion of investments and doing business with the public sector is maintained.

## **Oversight**

9. Section 117 of the Municipal Finance Management Act prohibit a municipal councilor from being a member of a bid committee or any other committee evaluating or approving quotations or bids nor may a municipal councilor attend any such meeting as an observer.
10. Council, however, has an oversight role to ensure that the MM implements this SCM Policy.
11. The Mayor must provide general political guidance over the fiscal and financial affairs of the Municipality and may monitor and oversee the exercise of responsibilities assigned to the MM and CFO in terms of the Municipal Finance Management Act.
12. For the purposes of such oversight, the MM shall, within 10 (ten) days of the end of each quarter, submit a report on the implementation of this Policy to the Mayor and, within 30 days of the end of each financial year, shall submit a similar such report to Council.
13. In addition, if any serious problem arises in relation to the implementation of this Policy, the MM shall immediately report to Council accordingly.



14. All such reports shall be made public in accordance with section 21.(1)(a) of the Systems Act.

### **9. Role of the Accounting Officer**

The Municipal Manager is the accounting officer and the administrative authority for the municipality. In the first instance the Municipal Manager is accountable to the mayor for the implementation of specific agreed outputs. In the second instance the Municipal manager is accountable to the Council for the overall administration of the municipality. The Municipal Manager must be fully aware of the reforms required in order to provide the Mayor, Councillors, senior officials and municipal entities with the appropriate guidance and advice on financial and budget issues. Whilst the Municipal Manager may delegate many tasks to the Chief Financial Officer or to other senior officials, this must be done carefully to ensure that all tasks are completed appropriately.

Accounting officer (Municipal Manager) should-

- (a) At least annually review the implementation of the policy and when considers it necessary, submit proposals for the amendment of the policy to council.
- (b) Implement a Supply Chain Management Policy.
- (c) Take account of the need for the uniformity in supply chain practices, particularly to promote accessibility of supply chain management systems for small businesses.
- (d) Ensure strict adherence to the guidelines provided by the National Treasury.
- (e) Develop the internal procedures and processes.
- (f) Report to council regarding implementation of the Supply Chain Management.
- (g) Comply with the highest ethical standards.

### **Role of the Chief Financial Officer**

#### **1. The CFO of a Municipality-**

- a) Is administratively in charge of the Budget and Treasury Office;
- b) Must advise the Accounting Officer on the exercise of powers and duties assigned to the Accounting Officer in terms of this Act;
- c) Is a custodian of SCM Policy and report on its progress regarding the implementation.
- d) Overall management of the quotation and competitive bidding process from soliciting to processing of invoice payment

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- e) Ensure that procurement and disposals are effected through practices that demonstrate compliance to all relevant legislation.
- f) Promotes corporate approach by encouraging standardization of items purchased within the Municipality to realize economic of scale.
- g) Submit regular reports to Budget and Treasury Portfolio Committee reports and other matters of concern regarding supply chain matters.

### ***Compliance with Ethical Standards***

- 15. 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 MM and all representatives of the LEPELLE NKUMPI MUNICIPALITY involved in SCM activities shall act with integrity and in accordance with the highest ethical standards.
- 16. All SCM 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.

# Lepelle Nkumpi Municipality Supply Chain Policy – 2022/2023

## GUIDING PRINCIPLES/PILLARS OF PROCUREMENT

1. The LEPELLE NKUMPI MUNICIPALITY, undertakes all of its procurement and tendering in accordance with a system which is fair, equitable, transparent, competitive and cost-effective. The LEPELLE NKUMPI MUNICIPALITY ensures effective competition and transparency in its procurement processes, in line with the provisions of Section 217 (1) of the Constitution of the Republic of South Africa

<b>Value for Money</b>	The LEPELLE NKUMPI MUNICIPALITY shall strive for procurement effectiveness and shall carry out its procurement processes as cost effectively as possible.
<b>Competitiveness</b>	The LEPELLE NKUMPI MUNICIPALITY shall fulfil its requirements through open and effective competition, unless there are justifiable reasons to act to the contrary.
<b>Accountability</b>	<p>Management shall be accountable for decisions and actions relative to procurement responsibilities, the procurement process, as well as the implementation, management and conclusion of any related contract.</p> <p>Accountability cannot be delegated and accounting officer remains accountable</p>
<b>Transparency</b>	The LEPELLE NKUMPI MUNICIPALITY shall strive to standardize and simplify procedures where appropriate and subscribe to open communication and engagement at all times. Any information reported publicly or otherwise provided to third parties as part of the procurement process, shall at all times be furnished in a responsible manner with the required level of attention to detail, accuracy and completeness, and with due consideration for any reliance that may be placed on any such representations by SCM officials.
<b>Ethics</b>	Vendors shall at all times be dealt with fairly and without any unfair discrimination. SCM officials shall abide by the LEPELLE NKUMPI MUNICIPALITY Code of Conduct, ensuring the highest level of integrity, honesty and fair-dealing in the discharge of all work responsibilities.
<b>Fairness</b>	The procurement process shall be open and fair, and shall afford each and every bidder timely access to the same and accurate information.

CHAPTER 1

IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

**Application of Supply chain management policy**

- (1) All officials and other role players in the supply chain management system of the **Lepelle Nkumpi 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 MFMA ;
  - (b) is fair, equitable, transparent, competitive and cost effective;
  - (c) complies with –
    - (i) the Regulations; and
    - (ii) any circular, minimum norms and standards that may be prescribed in terms of section 168 of the MFMA;
  - (d) is consistent with other applicable legislation;
  - (e) does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and
  - (f) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.
- (2) **Lepelle Nkumpi Municipality may not act otherwise than in accordance with its supply chain management policy when –**
  - (a) procuring goods or services;
  - (b) disposing of goods no longer needed;
  - (c) selecting contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies; or
  - (d) in the case of a municipality, selecting external mechanisms referred to in section 80 (1) (b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in section 83 of that Act.
- (1) Unless specifically stated otherwise , this Policy does not apply if a municipality contracts with another organ of state for :

- (a) The provision of goods and services to the municipality;
- (b) The provision of a municipal services; or
- (c) The procurement of goods and services under a contract by that other organ of state, provided that the relevant supplier has agreed to such procurement.

**Adoption and 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 **LEPELLE NKUMPI MUNICIPALITY** municipal council
- (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. The accounting officer must report any deviation from the guideline standard to the National Treasury and the relevant provincial treasury.

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

4. (1) The **LEPELLE NKUMPI MUNICIPALITY** 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).

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(3) LEPELLE NKUMPI MUNICIPALITY municipal council or accounting officer may not delegate or sub-delegate any supply chain management powers or duties-

(a) to a person who is not an official of **LEPELLE NKUMPI MUNICIPALITY** or

(b) to a committee which is not exclusively composed of officials of the **LEPELLE NKUMPI 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 this policy

DRAFT



**Sub delegations**

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

(2) The power to make a final award-

(a) Above R10 Million(VAT included) may not be sub delegated by an accounting officer

(b) Above R2 Million ( VAT Included), but not exceeding R10Million(VAT included) may be sub delegated but only to –

I. The chief financial officer

II. An Executive manager; or

(c) Not exceeding R2Million(VAT Included) may be sub delegated only to-

I. The chief financial officer

II. An Executive manager

III. A manager directly accountable to the chief financial officer

(3) An official to which the power to make final awards has been subdelegated in 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 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.

(5) 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 this Policy.

- (6) No supply chain management decision-making powers may be delegated to an advisor or consultant.

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## **SUPPLY CHAIN MANAGEMENT UNIT**

LEPELLE NKUMPI MUNICIPALITY must establish a SCM Unit to implement this Policy. The SCM unit must operate under the direct supervision of the chief financial officer or an official to whom this duty has been delegated in terms of section 82 of the MFMA.

- (1) The accounting officer must establish a supply chain management policy.
- (2) The supply chain management unit shall operate under the direct supervision of the chief financial officer or an official to whom this duty has been delegated in terms of section 82 of the Act.
- (3) The Supply Chain Management Unit must give effect to the functions of the supply chain management system.
- (4) The Supply Chain Management Unit shall provide administrative support services and professional secretariat services to the bid committees to be appointed by the Accounting Officer, and other relevant evaluation and award structures as well as the Disposal Committee.

## **TRAINING OF SUPPLY CHAIN MANAGEMENT OFFICIAL**

The training of officials involved in implementing the supply chain management policy should be in accordance with any Treasury guidelines on supply chain management training and aligned with the minimum competency levels as stipulate in section 119 of the MFMA

- (a) The accounting officer shall ensure that all persons involved in the implementation of this policy meet the prescribed competency levels, and where necessary, shall provide relevant training.
- (b) The training of officials involved in implementing this policy shall be in accordance with any National Treasury Regulations guidelines on supply chain management training.
- (c) The Lepelle – Nkumpi municipality shall provide resources or opportunities for the training of least the following officials to meet the prescribed competency levels :
  - (a) Senior Management
  - (b) Supply Chain Management Practitioners who are involved with the day to day operations of supply chain management (senior and operational)
  - (c) New entrants – irrespective of the level at which they are appointed
  - (d) Cross functional team members
  - (e) End users involved in the Supply Chain Management activities.

- (d) The National Treasury could monitor and assess the quality and content of training provided by training providers whose training material has been validated by the Validation Board of the National Treasury.

### **Communication with the Municipality**

All correspondence with regard to this Policy shall be addressed to the Municipal Manager.

### **Availability of SCM Policy**

A copy of the Policy and other relevant documentation should be made available on the Municipality's website.

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## CHAPTER 2 SUPPLY CHAIN MANAGEMENT SYSTEM

2. The Policy provides for the following SCM systems:

- demand management system;
- acquisition management system;
- logistics management system;
- disposal management system;
- risk management system; and
- performance management system.

These systems must be adhered to in all SCM activities undertaken by Lepelle Nkumpi Municipality.

### PART 1: DEMAND MANAGEMENT SYSTEMS

#### Introduction and Major Activities

Demand management provides for an effective system to ensure that the resources required to support the strategic operational commitments of LEPELLE NKUMPI MUNICIPALITY are delivered at the correct time, at the right price and at the right location, and that the quantity and quality satisfy the needs of the Municipality.

The resource required by the municipality supports the strategic goals of the municipality as outlined in the Integrated Development Plan and Service Delivery Budget and Implementation Plan.

In order to achieve effective demand management, the Accounting Officer shall continuously ensure:

That efficient and effective provisioning and procurement systems and practices are implemented to enable the Municipality to deliver the required quantity and quality of goods and services to the communities;

Take into account any benefits of economies of scale that may be derived in the case of acquisitions of a repetitive nature and

Provide for the compilation of the required specifications to ensure that the need are

met,

To undertake appropriate industry analysis and research to ensure that innovation and technological benefits are maximized

Develop Procurement Plans aligned to the IDP, SDBIP AND BUDGET, which includes major activities associated with identifying demand such as:-

- establishing requirements
- Linking the requirement to the budget
- Deciding on appropriate procurement strategies.
- identifying critical delivery dates;
- submit the procurement plan to the provincial treasury aligned to the adopted budget and IDP

Determine the need for pre-qualification criteria for preferential procurement and sub-contracting in terms of PPPFA Regulation 4 and 9

## Part 2: ACQUISITION MANAGEMENT SYSTEM

### General

The accounting officer must implement the system of acquisition management to ensure:

- that goods and services, including construction works and consultant services are procured by the Municipality only in accordance with the authorized processes only;
- that expenditure on goods and services including construction works and consultant services are incurred in terms of an approved budget in terms of section 15 of the Act ;
- that the threshold values of the different procurement procedures are complied with;
- that bid documentation, evaluation and adjudication criteria, and general conditions of contracts are in accordance with the requirements of relevant legislation including, the Preferential Procurement Policy Framework Act, and any conditions of the Construction Industry Development Board Act amongst others; and
- That any treasury guidelines on acquisition management are properly



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taken into account.

## Range of procurement processes

- (1) Goods and services may only be procured by way of –
  - (a) petty cash purchases, up to a transaction value of R2 000 (VAT included);
  - (b) written or verbal 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
    - (ii) the procurement of long term contracts.

Threshold Value (VAT inclusive)	Procurement method	Delegated Authority	Oversight role
0 – R2 000	Petty cash purchases (or only one quote required)	Heads of Departments	Chief Financial Officer
R2 001 to R29 999.99	Three (3) formal written quotations; Quotations must be sourced from the List of accredited service providers.- The 80/20 Preference Point system would apply (Suppliers' Database)	Chief Financial Officer	Municipal Manager

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R30 000 to R199 999.99	to	Formal written quotations be advertised for at seven (7) days on the Notice board and website of the Municipality. The 80/20 Preference Point system would apply. Specification approved by Municipal Manager.	Municipal Manager	Council
Bids above R200 000 to R10 000 000.00	to	<p>A competitive bidding process:</p> <p>(i) Advertise for at least 14 days on eTenders, Lepelle Nkumpi notice boards and websites</p> <p>(ii) 80/20 Preference Point system would apply. Bid Adjudication Committee to make recommendation to the Accounting Officer.</p>	Municipal Manager	Council
Bids above R10 000 000.00	to	A competitive bidding process:	Municipal Manager	Council

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	<p>(i) Advertise for at least 30 days on eTenders, Lepelle Nkumpi notice boards and websites;</p> <p>(ii) 80/20 or 90/10 Preference Point system would apply.</p> <p>Bid Adjudication Committee to make recommendation to the Accounting Officer.</p>			
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(2) The accounting officer may, in writing-

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

(b) direct that –

(i) written or verbal quotations be obtained for any specific procurement of a transaction

value lower than R2 000;

(ii) formal written price quotations be obtained for any specific procurement of a transaction value lower than R10 000; or

(iii) a competitive bidding process be followed for any specific procurement of a transaction value lower than R200 000.

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

## General preconditions for consideration of written quotations or bids

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A written quotation or bid may not be considered unless the provider who submitted the quotation or bid –

- (a) has furnished the municipality with 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 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.

### Implementation of the tax compliance status system (CIRCULAR 90)

In order to comply with the new TCS system and the condition of bids that a successful bidder's tax matters must be in order, Accounting Officers of all municipalities should:

- ☐ Designate officials, preferably from the supply chain management unit, whose function will be to verify the tax compliance status of a taxpayer and to manage the TCS system on the SARS website and have the functionality to verify the tax compliance status of a taxpayer on the SARS' e-Filing system. Guidance to the Tax Compliance functionality on eFiling is available on the SARS website [www.sars.gov.za](http://www.sars.gov.za).
- ☐ Utilise the Municipal Bid Document 1 (MBD1) when inviting bids.
- ☐ As a bid condition, request bidders to register on government's Central Supplier Database (CSD) and include in their quotations or bids, their Master

Registration Number or tax compliance status PIN to enable the municipality to verify the bidder's tax compliance status

Utilise the Master Registration Number or tax compliance status PIN to verify bidders' tax compliance status.

Print the tax compliance status screen view or letter with the result of the bidder's status at the date and time of verification to file with the bidder's bid documents for audit purposes.

Where the recommended bidder is not tax compliant, the bidder should be notified of their non-compliant status and the bidder must be requested to submit to the municipality or municipal entity, within 7 working days, written proof from SARS of their tax compliance status or proof from SARS that they have made an arrangement to meet their outstanding tax obligations. The proof of tax compliance status submitted by the bidder to the municipality or municipal entity must be verified via the CSD or e-Filing. The accounting officer should reject a bid submitted by the bidder if such a bidder fails to provide proof of tax compliance status within the timeframe stated above.

#### **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; LEPELLE NKUMPI MUNICIPALITY will use CSD as the list of accredited prospective providers.
  - (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 on CSD;

## Central Supplier Database

The CSD will automatically validate the following registration documents for the municipality:-

- ☐ Confirmation and status of Business Registration Documents
- ☐ Proof of Bank Account Registration
- ☐ Tax compliance status
- ☐ Employee in the service of state as defined in the Municipal SCM Regulations
- ☐ Identity Documentation
- ☐ Tender defaulters and restrictions status
- ☐ BBBEE Status
- ☐ CIDB

It is the responsibility of the municipality to continue with verification of other listing criteria which are not currently validated by CSD, for instance, proof of municipal account

## Petty cash purchases

The conditions for the procurement of goods by means of petty cash purchases referred to in this Policy, are as follows –

- (a) the municipality must determine the terms on which a manager/senior manager may be delegate responsibility for petty cash purchases, **in terms of the system of delegation and Petty Cash Procedure Manual;**
- (b) Limiting the number of petty cash purchases or the maximum amounts per month for each senior manager; (as per delegation)
- (c) Excluding any types of expenditure from petty cash purchases, where this is considered necessary; and (Break-Down provided below on Procedures for Petty Cash Purchases)
- (d) requiring monthly reconciliation report from each manager/senior manager 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.

### **Procedures for Petty Cash Purchases**

1. The balance of the petty cash on hand is limited to R 18000.00 per month. It shall be replenished once a month, by the 10<sup>th</sup> of every month.
2. In an event whereby the monthly petty cash allowance is exhausted, a purchase requisition shall be submitted to Supply Chain Management unit for normal procurement processes.
3. Petty cash may not be used for payroll payments, inventory, capital goods, entertainment expenses, travel and other personal obligations.
4. Petty cash requisition form must be completed signed by the requesting employee and approved by the head of department or delegated official.
5. Petty cash issued must be registered in the petty cash register on a daily basis and the employee requesting petty cash must sign for the funds upon receipt.
6. Payments from the petty cash must be substantiated by original invoice/proof of purchase. In case of refreshments purchased for meetings, an attendance register must be attached.
7. Substantiating documentation to payments from the petty cash must be marked as "PAID" the moment that cash is paid out or when invoices or receipts are submitted.
8. The Manager - Expenditure or delegated employee must conduct regular surprise cash counts whereby cash on hand is reconciled to substantiating documentation and the petty cash register. The person responsible for the petty cash must pay in surpluses as well as shortages. The person conducting the cash count must sign the register as proof of the functions performed.
9. The petty cash box must at all times be kept in a fireproof lockable safe when not under control of the employee responsible for the petty cash.
10. Petty cash register must be reconciled with the cash on hand and the information must be captured to the financial system on a monthly basis, or as soon as petty cash on hand is exhausted.
11. The petty cash register must be verified for correctness by the Expenditure Manager on a monthly basis. The register will be signed as proof of the verifying function performed.
12. The Manager-Expenditure or the delegated employee must ensure that the balance of the petty cash register reconciles to the petty cash general ledger account at the end of the month and the financial year.



13. The balance of the petty cash on hand must be disclosed in the financial statements according to GRAP or any other accounting policy ruling the accounting functions of the Council.

### Written quotations

The conditions for the procurement of goods or services through written quotations from the value exceeding R2 001.00 to R29 999.99 are as follows:

- (a) Quotations must be obtained from at least three different providers preferably from, providers whose names appear on the Central Supplier Database,
- (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 on purchases from R2 001.00 to R29 999.99, the reasons must be recorded and reported quarterly to the accounting officer or another official designated by the accounting officer;
- (d) the accounting officer must record the names of the potential providers requested to provide such quotations with their quoted prices; and
- (e) if a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider.
- (f) *the accounting officer or CFO 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 sub delegation.*

### Formal written price quotations

- (1) The conditions for the procurement of goods or services through formal written price quotations from R30 000.00 to R199 999.99, are as follows:
- (a) Quotations must be advertised for at least seven days on LNM website and notice boards

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- (b) if it is not possible to advertise for quotations on notice boards, newspaper and website, with a transaction value of R30 000 to R1 99 999.99, the reasons must be forwarded to the Chief Financial Officer for recommendations and approval to the Accounting Officer and such deviations be reported on a quarterly basis to Council.
- (c) The accounting officer or CFO 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 sub delegation must be obtained in writing from at least three different providers whose names appear on the list of accredited prospective providers of the municipality;
- (a) quotations may be obtained from providers who are registered on CSD;
- (b) the accounting officer must record the names of the potential providers and their written quotations.
- (c) the accounting officer or CFO 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 sub delegation.

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

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 CSD 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 the formal written price quotation be advertised for at least seven days on the website and an official notice board of the municipality; offers received must be evaluated on a comparative basis taking into account unconditional discounts;

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- (c) That the Accounting officer must take all reasonable steps to ensure that the procurement of goods and services through written or verbal quotations or formal price quotations is not abused
- (d) the accounting officer or chief financial officer must on a monthly basis be notified in writing of all written or verbal quotations and formal written price quotations accepted by an official acting in terms of a subdelegation;
- (e) offers below R30 000 (VAT included) must be awarded based on compliance to specifications and conditions of contract, ability and capability to deliver the goods and services and lowest price;
- (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) The municipality must implement proper record keeping.
- (g) Quotations below and above R30 000.00 must be deposited in the quotation box and must be opened in public in the presence of SCM officials and risk management /internal audit.

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

### Process for competitive bidding

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 (SLA).
- (h) Proper record keeping
- (i) Original / legal copies of written contracts agreements should be kept in a secure place for future reference purposes.

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

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

- (a) take into account –
  - (i) the general conditions of contract and any special conditions of contract, if specified;
  - (ii) any Treasury guidelines on bid documentation; and
  - (iii) the requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;
- (b) include the preference points system to be used, goals as contemplated in the Preferential Procurement Regulations 2022 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
- (d) 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.
- (e) CSD Number/Summary CSD report/ CSD Report
- (f) Municipal rates and taxes for bidder (Company or director/partner or sole propriety) which is not older than 3 months
- (g) A contract management process and procedures including provision for the accounting officer to cancel the contract on the grounds of unsatisfactory performance.

#### **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 including an advertisement on the E-Tender portal (MFMA CIRCULAR 81), Lepelle Nkumpi Municipality will not advertise on newspapers; 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 the municipality ;and
  - (iii) date, time and venue of any proposed site meetings or briefing sessions.;
  - (iv) indicating whether or not the bid will be evaluated on functionality and stipulate the weighting criteria

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.

Bids submitted must be sealed to ensure confidentiality of the bidder's documents and to avoid situations wherein bids can be tampered with.

Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies, placed in a tender box in accordance with the correct procedure and the latter will be the official tender response.

For a bid to be considered it must comply with all the requirements of the bid documentation and be placed in the official tender box of Lepelle – Nkumpi Municipality.

The municipality may charge a non – refundable deposit of bid documents. This is subject to annual review. Values of the deposits will be determined annually and included in the official lists of tariffs.

The Chief Financial Officer or delegated official will ensure that the tender boxes are sealed until the time of their official opening, and ensure that they are properly secured.

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At the advertised time, the tender box will be unlocked and opened in the presence of a municipal official. This will be done in public, and if possible, in the presence of the bidders or other interested parties. A municipal official will open the bid documents. The tender box can be opened without any members of public being present provided that the appropriate procedure for advertising the time and venue has been followed.

The names of the total bid amounts will be read out and recorded in the tender register, which will be available for public inspection on request. A copy of the record must be kept in the Supply Chain Management's office and the original must be retained in Council's official filing system. In instances of bulk tender amounts that are too time – consuming to read out , only those requested by bidders will be read , and a complete schedule provided as soon as is practical. Bid results will be published on the Municipality's website.

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

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 above, relating to the bid should be disclosed to bidders or other persons until the successful bidder is notified of the award; and
- (d) The accounting officer must –
  - (i) record in a register all bids received in time;
  - (ii) make the register available for public inspection; and
  - (iii) publish the entries in the register and the bid results on the website.

### **Negotiations with preferred bidders**



- (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.

### **Two-stage Bidding process**

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.

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.

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

### **Closed Tender Bidding**

The municipality may use a closed selection process where:

- a) There is only a limited number of potential providers of the services;
- b) A contract with poorly performing contractors have been cancelled/terminated;
- c) There is an emergency
- d) Or any other valid justified reason which is documented and approved by the Accounting officer.

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The Accounting officer will use his/her discretion to determine the service providers to be invited for the closed session. As a minimum at least three best performing service providers registered on the municipal database of service provider must be invited for competitive bidding process.

If there are no available best performing server provider or in situation where it would not be in the best favorable of the municipality to use the service providers registered on the municipal database, a memo should be submitted for approval by the Accounting Officer motivating reasons for use of a another service provider.

### **Sole sourcing bidding**

The system will be used in the absence of competition and where only one bidder exists; A sole source bidder normally has patent rights or sole distribution rights.

### **Public / Private Partnership (PPP)**

Whenever goods, works and/ or services are procured by means of public private partnership or as part thereof, section 120 of the MFMA should be adhered to.

### ***Tenders to be evaluated on functionality***

(1) An organ of state must state in the tender documents if the tender will be evaluated on functionality.

(2) The evaluation criteria for measuring functionality must be objective.

(3) The tender documents must specify-

- (a) the evaluation criteria for measuring functionality;
- (b) the points for each criteria and, if any, each sub-criterion; and
- (c) The minimum qualifying score for functionality.

(4) The minimum qualifying score for functionality for a tender to be considered further-

(a) Must be determined separately for each tender; and (b) may not be so

- (i) Low that it may jeopardize the quality of the required goods or services; or
- (ii) High that it is unreasonably restrictive.

(5) Points scored for functionality must be rounded off to the nearest two decimal places.

(6) A tender that fails to obtain the minimum qualifying score for functionality as indicated in the tender documents is not an acceptable tender.

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(7) Each tender that obtained the minimum qualifying score for functionality must be evaluated further in terms of price and the preference point system and any objective criteria envisaged in PPPFA regulation 11.

## PREFERENTIAL PROCUREMENT REGULATIONS 2022

### 1. Identification of specific goal

Specific goals means specific goals as contemplated in section 2(1)(d) of the Act which may include contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender and disability including the implementation of programmes of the Reconstruction and Development Programme as published in Government Gazette No. 16085 dated 23 November 1994

### 2. Preference points for specific goals as follow

#### 80/20

Preference points for specific goals	Means of verification	Number of Points
People or Businesses residing with Lepelle-Nkumpi Local Municipality	Statement of municipal rates or Letter from Tradition Authority	5
Woman	Identification document	5
People with disability	Medical report indicating disability	5
Youth(18 to 34 years)	Identification document	5

#### 90/10

Preference points for specific goals	Means of verification	Number of Points
People or Businesses residing within Lepelle-Nkumpi Local Municipality	Statement of municipal rates or Letter from Tradition Authority	2.5
Woman	Identification document	2.5
People with disability	Medical report indicating disability	2.5
Youth(18 to 34 years)	Identification document	2.5

### 3 . Identification of preference point system

(1) Municipality must, in the tender documents, stipulate—

(a) the applicable preference point system as envisaged in regulations 4, 5, 6 or 7;

(b) the specific goal in the invitation to submit the tender for which a point may be awarded, and the number of points that will be awarded to each goal, and proof of the claim for such goal.

(2) If it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—

(a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or

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

### 2. 80/20 preference point system for acquisition of goods or services with Rand value equal to or below R50 million

(1) The following formula must be used to calculate the points out of 80 for price in respect of an invitation for a tender with a Rand value equal to or below R50 million, inclusive of all applicable taxes:

$$Ps = 80 \left( 1 - \frac{Pt - P \min}{P \min} \right)$$

Where-

Ps = Points scored for price of tender under consideration;

Pt = Price of tender under consideration; and

Pmin = Price of lowest acceptable tender.



(2) A maximum of 20 points may be awarded to a tenderer for the specific goal specified for the tender.

(3) The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.

(4) Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.

### 3. 90/10 preference point system for acquisition of goods or services with Rand value above R50 million

(1) The following formula must be used to calculate the points out 90 for price in respect of an invitation for tender with a Rand value above R50 million, inclusive of all applicable taxes:

Where-

$$Ps = 90 \left( 1 - \frac{Pt - P \min}{P \min} \right)$$

Ps = Points scored for price of tender under consideration;

Pt = Price of tender under consideration; and

Pmin = Price of lowest acceptable tender.

(2) A maximum of 10 points may be awarded to a tenderer for the specific goal specified for the tender.

(3) The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.

(4) Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.

**4.80/20 preference points system for tenders for income-generating contracts with Rand value equal to or below R50 million**

(1) The following formula must be used to calculate the points for price in respect of an invitation for tender for income-generating contracts, with a Rand value equal to or below R50 million,

$$Ps = 80 \left( 1 - \frac{Pt - Pmax}{Pmax} \right)$$

Where-

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration; and

Pmax = Price of highest acceptable tender.

(2) A maximum of 20 points may be awarded to a tenderer for the specific goal specified for the tender.

(3) The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.

(3) Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.

**5.90/10 preference point system for tenders for income-generating contracts with Rand value above R50 million**

(1) The following formula must be used to calculate the points for price in respect of a tender for income-generating contracts, with a Rand value above R50 million, inclusive of all applicable taxes:

$$Ps = 90 \left( 1 - \frac{Pt - Pmax}{Pmax} \right)$$



Where:

Ps = Points scored for price of tender under consideration;

Pt = Price of tender under consideration; and

Pmax = Price of highest acceptable tender.

(2) A maximum of 10 points may be awarded to a tenderer for the specific goal specified for the tender.

(3) The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.

(4) Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.

## Criteria for breaking deadlock in scoring

(1) If two or more tenderers score an equal total number of points, the contract must be awarded to the tenderer that scored the highest points for specific goals.

(2) If two or more tenderers score equal total points in all respects, Bid adjudication committee must decide the award by the drawing of lots.

## Remedies

(1) If Municipality is of the view that a tenderer submitted false information regarding a specific goal, it must—

(a) inform the tenderer accordingly; and

(b) give the tenderer an opportunity to make representations within 14 days as to why the tender may not be disqualified or, if the tender has already been awarded to the tenderer, the contract should not be terminated in whole or in part.

(2) After considering the representations referred to in subregulation (1)(b), the Municipality may, if it concludes that such information is false—

(a) disqualify the tenderer or terminate the contract in whole or in part; and

(b) if applicable, claim damages from the tenderer



### **Cancellation of tender**

- (1) The municipality may, before the award of a tender, cancel a tender invitation if-
  - (a) Due to changed circumstances, there is no longer a need for the goods or services specified in the invitation;
  - (b) Funds are no longer available to cover the total envisaged expenditure;
  - (c) No acceptable tender is received; or
  - (d) There is a material irregularity in the tender process
- (2) The decision to cancel a tender invitation in terms of subregulation (1) must be published in the same manner in which the original tender invitation was advertised.
- (3) An organ of state may only with the prior approval of the relevant treasury cancel a tender invitation for the second time.

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

- (1) A committee systems for competitive bids are 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 MFMA; and

(3) an attendance or oversight process by a neutral or independent observer appointed by the accounting officer when this is appropriate for ensuring fairness and promoting transparency.

(4) The committee system must be consistent with the policy and any other applicable legislation.

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

### **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 2022; and

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- (g) must be approved by the accounting officer prior to publication of the invitation for bids in terms of this Policy.
- (h) indicating whether or not the bid will be evaluated on functionality and stipulate the weighting criteria

(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.

### **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 PPPFA regulation
  - (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 goods and services; and
  - (b) at least one supply chain management practitioner of the municipality

## **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 LEPELLE NKUMPI MUNICIPALITY which must include –
  - (a) the chief financial officer or, if the chief financial officer is not available, another manager in the budget and treasury office reporting directly to the chief financial officer and designated by the chief financial officer; and
  - (b) at least one senior supply chain management practitioner who is an official of the municipality; and
  - (c) a technical expert in the relevant field who is an official of the municipality, if such an expert exists.
  - d) 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)
- (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 recommend a bid other than the one recommended by the bid evaluation committee, the bid adjudication committee must prior to recommend 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 consider Internal Audit to review bid of R10m (MFMA circular 68)

All bid committee member will sign the municipal code of conduct for Bid Committee and adhere to the ***Guidelines for Municipal Bid Adjudication Committees June 2006 (MFMA Circular 34)***

#### **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 MFMA; 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 in terms of SCM Regulation 22(1). Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

**Procurement of IT related goods or services**

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

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

- (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.

*Competitive bidding processes must be the first option before considering participating in a SCM regulation 32. Delay in implementing the procurement plan should not be a reason for participating in SCM regulation 32 taking into account MFMA Circular no 96*

**Procurement of goods necessitating special safety arrangements**

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

**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.

**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. Accounting Officers must only contract with consultants after a gap analysis report has confirmed that the municipality does not have the requisite skills or resources in its permanent employment to perform the services required. Evidence of acute planning of the project must be visible to all relevant persons including the administration and political oversight mechanisms in place at the municipality.

Accounting officers of municipalities must appoint consultants on a time and cost basis with specific start and end dates. Travel and subsistence costs for the appointment of consultants must be in accordance with the travel policy of government and the contract price specifies all travel & subsistence costs.

### **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.
- (1) 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.

### **Unsolicited bids**

- (1) In accordance with section 113 of the MFMA 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 MFMA 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.

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

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

(a) any comments submitted by the public; and

(b) any written comments and recommendations of the National Treasury or the relevant provincial treasury.

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

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

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

(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–

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- (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.
- (3) Where there are allegation of financial misconduct the municipality must refer the matter to the financial misconduct board in terms of the Municipal Regulation on Financial Misconduct. Allegations of financial offence must be reported to SAPS

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

#### Logistics management

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.

The accounting officer has established and implemented an effective system of logistics management,

which include the following:

#### a) Stock – holding

Stores only hold stock with the following criteria:

- (i) **Essential Goods** – Only items whose immediate availability is considered essential to maintain a municipal service.

- (ii) **Bulk Purchase supplies** – items of sufficient demand in common use which offer a reduction in cost over direct supply taking into account stock – holding costs.

**b) Internal Requisitions**

Stock items must be requisitioned internally from the central store, as the sole source of supply.

**c) Stores Procedure**

To be operated for the regulation of stock levels and movement to provide adequate management information numerically and financially in accordance with any procedural notes which must be issued by the Manager: Supply Chain Management

**d) Stores and Warehouse Management**

**(i) Receiving of stock items**

Stock items received should be verified with the purchase order and inspected for proper quantities to ensure receipt of what was ordered. The delivery note is then signed indicating acceptance of goods received.

**(ii) Issuing of stock items**

Stock items should be issued only on the authority of a properly approved, pre-numbered requisition, signed by the relevant Departmental Manager, which should give the following information:

- Source and date of requisition;
- Account(s) to be charged;
- On each item: quantity, unit stock number, description, unit price, and total rand value.

Processing should be done in the financial system in all times prior to the issuing any stock item.

**(iii) Shelving**

Stores personnel should categorise and organise storage areas for efficient, logical, and safe storage of all supplies.

**(iv) Purchase requisition for stock items**

All purchase requisition for stock items must have the signature of the Manager: Supply Chain Management Unit, prior to acquisitions.

**(v) Expediting of orders**

If the delivery conditions reflected on the purchase order form are not complied with, it should be followed up with the supplier immediately.

**(vi) Access**

Stores should be operated as a closed store, whereby, customers are excluded from the stores area except on a specially approved or escorted basis.

**(vii) Damaged goods**

Damaged goods from suppliers must be returned to the supplier for credit or replacement.

**e) Stock Reviews**

In order to manage the stores operations effectively, the Manager : Supply Chain Manager should continually review their stock holding based on information such as number of issues, levels of service achieved, total value of stock held and stock turnover.

Redundant and absolute stock should be identified by the Manager : Supply Chain Manager and reported to the Chief Financial Officer on a quarterly basis to be cleared off.

**f) Stock Levels**

The following should be determined to maintain the stock optimum stock levels:

- Minimum, maximum and re-order level;
- Slow moving or obsolete stock.

**g) Annual Stock taking Procedures**

- (i) The last two working days of the financial year the Stores closes for year-end inventory. No requisitions are filled, and no stock items are received.
- (ii) After the computer system has been updated a queue batch is run providing Central Stores with updated printouts for actual inventory. A separate sheet is provided for each stores section. The sheet will contain stock number – complete description, quantity on hand and a column for actual count and column for any discrepancy.
- (iii) The person conducting the inventory counts all items and makes appropriate notations on the inventory sheet. At the conclusion of each section, person dates and signs the inventory sheet.
- (iv) At the conclusion of all inventory sections, all discrepancies will be double-checked. The Manager: Supply Chain Management Unit will make appropriate adjustments to correct inventory records to actual count.



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- (v) All printouts, original documents, work papers, adjustments and corrected inventory printouts are placed on file in Central Stores Office.

### h) Reporting

Stores should provide a monthly report, which must include information relating to:

- a) Total value of monthly issues;
- b) Total value of stock remaining ;
- c) Average stock holding;
- d) Price structure;
- e) Expenditure by suppliers

### Disposal management

- (1) The criteria for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the MFMA, are as follows:
- (2) municipal council must specify the ways in which 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.
- (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;

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- (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.
  - (h) 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 minimum basic services.
  - (i) a municipality may transfer ownership or otherwise dispose of a capital asset other than one contemplated in subsection 3 but only after the municipal council, in a meeting open to the public
    - has decided on reasonable grounds that the asset is not needed to provide the minimum level of basic services.
- (1) Where assets are traded in for other assets, the highest possible trade – in price should be negotiated.
- (2) The 80/20 or 90/10 point system will apply to competitive bidding, which relate to the sale or letting of assets respectively, depending on the value of the asset.

### Risk management

- (1) The municipality must have criteria for the identification, consideration and avoidance of potential risks in the supply chain management system.

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

#### **Elements of Risk**

1. The element of risk management therefore are:

- (a) Assessing the nature and extent of the risk associated with the Lepelle – Nkumpi operations.
- (b) Deciding on an acceptable level of loss or degree of failure.
- (c) Deciding how to manage/minimize/mitigate the risk.
- (d) Monitoring, reporting and from time to time re-assessing the level and implications of risk exposure.

#### **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.

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

#### **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. The municipality use CSD and the implementation of MFMA Circular 90 refers.

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

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 Lepelle Nkumpi Municipality.

Should it come to light that a false declaration was made by the bidder after the municipality had awarded the bid, the contract must be immediately suspended and payments made, recovered. False declarations by bidders can be viewed as a criminal offence and charges must be laid by the municipality with the South African Police Services for further investigation. Details will be reported to Council at its next meeting and information contained in the Annual Report of the municipality.

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In the event that the Auditor-General detects irregular expenditure during the audit process as a result of possible false declarations and subsequent awards based on those declarations, the municipality will be informed of such irregular expenditure. The municipality will be required to rectify this matter by instituting the necessary remedial measures, by investigating the matter, recovering the funds spent, instituting disciplinary proceedings against those liable for such actions and possible criminal prosecution as may be appropriate. The accounting officer must also apply the remedial measures contained under "Termination for Default" in the General Conditions of Contract.

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

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.

### **Contracts Having Budgetary Implications beyond three Financial Years**

The Municipality may not enter into any contract that will impose financial obligations beyond the three years covered in the annual budget for that financial year, unless the requirements of section 33 of the Municipal Finance Management Act have been fully complied with.

### **Public-Private Partnerships**

Part 2 of chapter 11 of the MFMA applies to the procurement of public-private partnership agreements. Section 33 also applies if the agreement will have multi-year budgetary implications for the Municipality within the meaning of that section.

### Validity periods

Bids must be valid for a period of 90 days, the municipality may request extension of validity period in case where there are delays in the SCM processes.

Bidders should be required to submit bids valid for a period specified in the bidding documents.

This period should be sufficient to enable the institution to complete the comparison and evaluation of bids, review the recommendation and award the contract.

The extension of validity period must be approved by the Accounting Officer

An extension of bid validity, if justified in exceptional circumstances, should be requested in writing from all bidders before the expiration date.

The extension should be for the period required to complete the evaluation, obtain the necessary approvals and award the contract.

Bidders should have the right to refuse to grant such an extension, but those who are willing to extend the validity of their bid should do so in writing. The bidder should indicate whether the extension will have an effect on the pricing.

### Ethical standards

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

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

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

- (a) must treat all providers and potential providers equitably;
- (b) may not use his or her position for private gain or to improperly benefit another person;

## Lepelle Nkumpi Municipality Supply Chain Policy – 2022/2023

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

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

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

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

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



## Lepelle Nkumpi Municipality Supply Chain Policy – 2022/2023

- (a) in the case of an employee, in terms of the disciplinary procedures of the Lepelle Nkumpi 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 MFMA.

### **Inducements, rewards, gifts and favours to [municipalities / municipal entities], 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.

### **Sponsorships**

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

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

(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

## Lepelle Nkumpi Municipality Supply Chain Policy – 2022/2023

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.

### Remedies according to the PPPFA regulation number 14

(1) Upon detecting that a tenderer submitted false information regarding its BBBEE status level of contributor, local production and content, or any other matter required in terms of these Regulations which will affect or has affected the evaluation of a tender, or where a tenderer has failed to declare any subcontracting arrangements, the organ of state must

(a) inform the tenderer accordingly;

(b) give the tenderer an opportunity to make representations within 14 days as to why

(i) the tender submitted should not be disqualified or, if the tender has already been awarded to the tenderer, the contract should not be terminated in whole or in part;

(ii) if the successful tenderer subcontracted a portion of the tender to another person without disclosing it, the tenderer should not be penalised up to 10 percent of the value of the contract; and

(iii) the tenderer should not be restricted by the National Treasury from conducting any business for a period not exceeding 10 years with any organ of state; and

(c) if it concludes, after considering the representations referred to in subregulation

(1)(b), that

(i) such false information was submitted by the tenderer

(aa) disqualify the tenderer or terminate the contract in whole or in part; and

(bb) if applicable, claim damages from the tenderer; or

(ii) the successful tenderer subcontracted a portion of the tender to another person without disclosing, penalise the tenderer up to 10 percent of the value of the contract.

(2)(a) An organ of state must

(i) inform the National Treasury, in writing, of any actions taken in terms of subregulation (1);

(ii) provide written submissions as to whether the tenderer should be restricted from conducting business with any organ of state; and

(iii) submit written representations from the tenderer as to why that tenderer should not be restricted from conducting business with any organ of state.

(b) The National Treasury may request an organ of state to submit further information pertaining to subregulation (1) within a specified period.

(3) The National Treasury must

(a) after considering the representations of the tenderer and any other relevant information, decide whether to restrict the tenderer from doing business with any organ of state for a period not exceeding 10 years; and

(b) maintain and publish on its official website a list of restricted suppliers.

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

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

(a) a cap on the compensation payable to the service provider; and

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

### **Release of retention amounts in line with General Conditions of Contract**

The contractors and consultants shall be afforded six (06) months grace period after lapse of retention release terms as per conditions of contract.

Technical Services Department shall in writing inform contractors and consultant to submit claims within thirty (30) working days, failure which the retention held shall be forfeited

### **Deed of Cession**

The Municipality will allow cession arrangement in good faith where the Municipality will undertake to pay the emerging supplier directly from the contractors' certificate before paying the Contractor.

## **MINUTES, RECORDS AND THRESHOLDS**

### **Non-attendance**

Non-attendance of meeting will be noted "with" or "without apology." Repeated failure to attend meetings without valid reasons for three consecutive meetings shall result in the matter being reported to the Accounting Officer for action.

### **Quorum**

A quorum for the SCM committee meetings shall be more than 50% plus one of the members appointed by the accounting officer.

### **Minutes keeping**

- a) The Accounting Officer will appoint the secretary for the committees. The SCM unit shall be responsible to ensure that the secretarial work performed is adequate, including minute taking. The SCM section together with the secretary shall further be responsible for safe keeping of all correspondence generated by or received on behalf of the Committee.

## Lepelle Nkumpi Municipality Supply Chain Policy – 2022/2023

- b) The secretary of the Bid Committees shall be responsible for safe keeping of the minutes signed by the relevant Chairperson as accuracy and validity of proceedings.

### Decision making

- a) Normally decisions will be reached by consensus. Should there be sharp differences between members over any specific matter, a decision may be arrived at by voting by a show of hands (chairperson will have a casting vote).
- b) Should the BAC, after the recommendation has been referred back, not obtain a consensus with the BEC on the final award of the bid, the final recommendation must be submitted to the Accounting Officer for a final decision.
- c) Thus, if a quote/bid other than the one recommended by the BEC is approved by the BAC, the Accounting Officer must first be notified.
- d) If the BAC/AO decides to approve a bid other than the one recommended by the BEC, the Auditor-General, Provincial Treasury and National Treasury must be notified in writing within 10 days of the reasons for deviating from such recommendation.

### Restriction of non performing service provider(s)

Procedures followed in order to restrict a contractor from obtaining business from any organ of state are given in National Treasury's Practice Note Number SCM 5 of October 2006 and MFMA Circular No. 43 of May 2007, namely:

- a) Inform the contractor or person(s) by email or by delivery of the notice by hand of the intention to impose the restriction, provide the reasons for such decision and the envisaged period of restriction;
- b) Allow the contractor and/or person(s) fourteen (14) calendar days to provide reasons why the envisaged restriction should not be imposed;
- c) If requested, allow the contractor and/or person(s) the right to present evidence in person;
- d) Consider any reasons submitted by the contractor and/or person(s);
- e) Impose the restriction or amended restriction;
- f) Inform the contractor and/ or person(s) of the decision; and

## Lepelle Nkumpi Municipality Supply Chain Policy – 2022/2023

g) Inform the National Treasury within five working days of such restriction, particulars of the person(s) to be restricted, (including, where applicable, names of the restricted persons, identity numbers, trade name of enterprises, company registration numbers, income tax reference numbers and vat registration numbers), the reason(s) for the restriction, the period of restriction and the date of commencement of the restriction.

**The above should be read together with Construction Industry Development Board (CIBD) Practice Note 30 for construction projects.**

### **Commencement**

This policy takes effect on:

**The effect of the 2022 SCM Policy will be effective from the date of the Council resolution.**

### **Council Approval**

<b>DATE</b>		
<b>RESOLUTION NUMBER</b>		
<b>SIGNATURE</b>		





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## GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

## NATIONAL TREASURY

NO. 2721

4 November 2022

**PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000:  
PREFERENTIAL PROCUREMENT REGULATIONS**

The Minister of Finance has, in terms of section 5, read with section 2(1)(b)(i) and (ii) and 2(1)(c), of the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000), and with effect from 16 January 2023, made the regulations set out in the Schedule.

**SCHEDULE****PREFERENTIAL PROCUREMENT REGULATIONS, 2022****Contents**

1. Definitions
2. Application
3. Identification of preference point system
4. 80/20 preference point system for acquisition of goods or services with Rand value equal to or below R50 million
5. 90/10 preference point system for acquisition of goods or services with Rand value above R50 million
6. 80/20 preference points system for tenders to generate income or to dispose of or lease assets with Rand value equal to or below R50 million
7. 90/10 preference point system for tenders to generate income or to dispose of or lease assets with Rand value above R50 million
8. Criteria for breaking deadlock in scoring
9. Remedies
10. Repeal of regulations
11. Short title and commencement

**Definitions**

1. In these Regulations, unless the context indicates otherwise, any word or expression to which a meaning has been assigned in the Act must bear the meaning so assigned—

**"highest acceptable tender"** means a tender that complies with all specifications and conditions of tender and that has the highest price compared to other tenders;

**"lowest acceptable tender"** means a tender that complies with all specifications and conditions of tender and that has lowest price compared to other tenders;

**"price"** means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;

**"Rand value"** means the total estimated value of a contract in Rand, calculated at the time of the tender invitation;

**"specific goals"** means specific goals as contemplated in section 2(1)(d) of the Act which may include contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender and disability including the implementation of programmes of the Reconstruction and Development Programme as published in *Government Gazette* No. 16085 dated 23 November 1994;

**"tender"** means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;

**"tender for income-generating contracts"** means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions; and

**"the Act"** means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

### Application

2. These Regulations apply to organs of state as defined in section 1<sup>1</sup> of the Act.

### Identification of preference point system

3.(1) An organ of state must, in the tender documents, stipulate—

- (a) the applicable preference point system as envisaged in regulations 4, 5, 6 or 7;
- (b) the specific goal in the invitation to submit the tender for which a point may be awarded, and the number of points that will be awarded to each goal, and proof of the claim for such goal.

(2) If it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—

- (a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or
- (b) any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system.

### 80/20 preference point system for acquisition of goods or services with Rand value equal to or below R50 million

4.(1) The following formula must be used to calculate the points out of 80 for price in respect of an invitation for a tender with a Rand value equal to or below R50 million, inclusive of all applicable taxes:

<sup>1</sup> Paragraph (d) of the definition of organ of state in section 1 of the Act includes any other institution or category of institutions included in the definition of "organ of state" in section 239 of the Constitution as recognised by the Minister by notice in the *Government Gazette* as an institution or category of institutions to which the Act applies. Government Notices—

(a) R. 501 of 8 June 2011 recognises, with effect from 7 December 2011, all public entities listed in Schedules 2 and 3 to the Public Finance Management Act, 1999; and

(b) R. 571 of 15 June 2017 recognises, with effect from 17 June 2017, national and provincial government components listed in Schedule 3 to the Public Service Act, 1994 and municipal entities as defined in section 1 of the Local Government Municipal Systems Act, 2000, as institutions to which the Act applies.

Note should be taken of notices issued from time to time in terms of paragraph (f) of this definition. The application of these Regulations is also subject to applicable exemptions approved in terms of section 3 of the Act.

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

Where-

$P_s$  = Points scored for price of tender under consideration;

$P_t$  = Price of tender under consideration; and

$P_{\min}$  = Price of lowest acceptable tender.

(2) A maximum of 20 points may be awarded to a tenderer for the specific goal specified for the tender.

(3) The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.

(4) Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.

**90/10 preference point system for acquisition of goods or services with Rand value above R50 million**

5.(1) The following formula must be used to calculate the points out 90 for price in respect of an invitation for tender with a Rand value above R50 million, inclusive of all applicable taxes:

$$P_s = 90 \left( 1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

Where-

$P_s$  = Points scored for price of tender under consideration;

$P_t$  = Price of tender under consideration; and

$P_{\min}$  = Price of lowest acceptable tender.

(2) A maximum of 10 points may be awarded to a tenderer for the specific goal specified for the tender.

(3) The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.

(4) Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.

**80/20 preference points system for tenders for income-generating contracts with Rand value equal to or below R50 million**

6.(1) The following formula must be used to calculate the points for price in respect of an invitation for tender for income-generating contracts, with a Rand value equal to or below R50 million, inclusive of all applicable taxes:

$$Ps = 80 \left( 1 + \frac{Pt - Pmax}{Pmax} \right)$$

Where-

- Ps = Points scored for price of tender under consideration;  
 Pt = Price of tender under consideration; and  
 Pmax = Price of highest acceptable tender.

(2) A maximum of 20 points may be awarded to a tenderer for the specific goal specified for the tender.

(3) The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.

(4) Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.

#### **90/10 preference point system for tenders for income-generating contracts with Rand value above R50 million**

7.(1) The following formula must be used to calculate the points for price in respect of a tender for income-generating contracts, with a Rand value above R50 million, inclusive of all applicable taxes:

$$Ps = 90 \left( 1 + \frac{Pt - Pmax}{Pmax} \right)$$

Where-

- Ps = Points scored for price of tender under consideration;  
 Pt = Price of tender under consideration; and  
 Pmax = Price of highest acceptable tender.

(2) A maximum of 10 points may be awarded to a tenderer for the specific goal specified for the tender.

(3) The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.

(4) Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.

#### **Criteria for breaking deadlock in scoring**

8.(1) If two or more tenderers score an equal total number of points, the contract must be awarded to the tenderer that scored the highest points for specific goals.

(2) If two or more tenderers score equal total points in all respects, the award must be decided by the drawing of lots.

#### **Remedies**

9.(1) If an organ of state is of the view that a tenderer submitted false information regarding a specific goal, it must—

- (a) inform the tenderer accordingly; and
- (b) give the tenderer an opportunity to make representations within 14 days as to why the tender may not be disqualified or, if the tender has already been awarded to the tenderer, the contract should not be terminated in whole or in part.

(2) After considering the representations referred to in subregulation (1)(b), the organ of state may, if it concludes that such information is false—

- (a) disqualify the tenderer or terminate the contract in whole or in part; and
- (b) if applicable, claim damages from the tenderer.

#### **Repeal of regulations**

10.(1) Subject to this regulation, the Preferential Procurement Regulations, 2017 published in Government No. 40553 of 20 January 2017, are hereby repealed with effect from the date referred to in regulation 11.

(2) Any tender advertised before the date referred to in regulation 11 must be dealt with in terms of the Preferential Procurement Regulations, 2017.

#### **Short title and commencement**

11. These Regulations are called the Preferential Procurement Regulations, 2022 and take effect on 16 January 2023.



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