

LESEDI LOCAL MUNICIPALITY

SUPPLY CHAIN

MANAGEMENT POLICY



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

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

RESOLUTION NO.: LC.MC-199/05/2010

DATE: 18 MAY 2010

P J VAN DEN HEEVER
MUNICIPAL MANAGER
(ACCOUNTING OFFICER)

DATE

B J MODISAKENG
EXECUTIVE MAYOR

DATE

CHIEF FINANCIAL OFFICER

DATE

TABLE OF CONTENTS	PAGE/S
1.1. Definitions	5 - 7
CHAPTER 1	
ESTABLISHMENT AND IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY	
1.2. Supply Chain Management policy	7
1.3. Adoption and amendment of Supply Chain Management policy	8
1.4. Delegation of Supply Chain Management powers and duties	8-9
1.5. Sub delegations	9
1.6. Oversight role of council	9-10
1.7. Supply Chain Management units	10
1.8. Training of Supply Chain Management officials	10
CHAPTER 2	
FRAMEWORK FOR SUPPLY CHAIN MANAGEMENT	
2.1. Format of supply chain management	10
Part 1: Demand management	
2.2. System of demand management	11
Part 2: Acquisition management	
2.3. System of acquisition management	12
2.4. Range of procurement processes	
2.5. General preconditions for consideration of written quotations or bids	12
2.6. Lists of accredited prospective providers	12
2.7. Petty cash purchases	12
2.8. Written or verbal quotations	13
2.9. Formal written price quotations	13
2.10. Procedures for procuring goods or services through written or verbal quotations and formal written price quotations	13
2.11. Competitive bidding process	14
2.12. Process for competitive bidding	14
2.13. Bid documentation for competitive bids	14-15
2.14. Public invitation for competitive bids	15
2.15. Procedure for handling, opening and recording of bids	16-17
2.16. Negotiations with preferred bidders	17-18
2.17. Two-stage bidding process	18
2.18. Committee system for competitive bids	18-19
2.19. Bid specification committees	19
2.20. Bid evaluation committees	19-26
2.21. Bid adjudication committees	26-27
2.22. Procurement of banking services	27

2.23. Procurement of IT related goods or services	27-28
2.24. Procurement of goods and services under contracts secured by other organs of state	28
2.25. Procurement of goods necessitating special safety arrangements	28
2.26. Proudly SA Campaign	28
2.27. Appointment of consultants	28-29
2.28. Deviation from and ratification of minor breaches of, procurement processes	29-30
2.29. Unsolicited bids	30
2.30. Combating of abuse of Supply Chain Management system	31

Part 3: Logistics, Disposal, Risk and Performance Management

2.31. Logistics management	32
2.32. Disposal management	32
2.33. Risk management	32-33
2.34. Performance management	33

Part 4: Other matters

2.35. Prohibition on awards to persons whose tax matters are not in order	33
2.36. Prohibition on awards to persons in the service of the state	33
2.37. Awards to close family members of persons in the service of the state	33
2.38. Ethical standards	33-34
2.39. Inducements, rewards, gifts and favours	33-35
2.40. Sponsorships	35
2.41. Objections and complaints	35
2.42. Resolution of disputes, objections, complaints and queries	35
2.43. Contracts providing for compensation based on turnover	36
2.44. Commencement	36
2.45. Annexures	36

MUNICIPAL SUPPLY CHAIN

CHAPTER 1

ESTABLISHMENT AND IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICIES

1.1 Definitions

In these regulations, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the act bears to the same meaning, and:-

- 1.1.1) **“Act”** means the Local Government: Municipal Finance Management Act, 2003;
- 1.1.2) **“Agent”** means a person mandated by another person (the principal) to do business for and on behalf of, or to represent in a business transaction, the principal, and thereby acquire rights for the principal against an organ of state and incur obligations binding the principal in favour of an organ of state;
- 1.1.3) **“Bid”** means a written offer or bid in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of services or goods;
- 1.1.4) **“Comparative price”** means the price after the factors of a non-firm price and all unconditional discounts, that can be utilised, have been taken into consideration;
- 1.1.5) **“Competitive bidding process”** means a competitive bidding process referred to in paragraph 12 (1) (d) of this policy;
- 1.1.6) **“Competitive bid”** means a bid in terms of a competitive bidding process;
- 1.1.7) **“Consortium or Joint Venture”** means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract;
- 1.1.8) **“Consultant”**
A consultant means a person, or partners in a firm, or a close corporation who has advanced educational qualification and who can provide expert or specialized skills, but excludes anyone who also carries out the physical work or provides the end product for Lesedi Local Municipality based on his own professional or expert advice. Such consultancy service normally pertains to a specific project and therefore non-repetitive in nature and confined to design work, investigation, or advice on management, financial, business or technical matters.
- 1.1.9) **“Contract”** means the agreement that results from the acceptance of a bid by an organ of state;
- 1.1.10) **“Disability”** means, in respect of a person, a permanent impairment of a physical, intellectual or sensory function, which results in restricted, all lack of, ability to perform an activity in the manner, or within the range, considered normal for a human being;
- 1.1.11) **“Final award”**, in relation to bids or quotations submitted for a contract, means the final decision on which bid or quote to accept;
- 1.1.12) **“Firm price”** is the price of that is only subject to adjustments in accordance with a actual increase or be increased resulting from the change, in position, or abolition of customs or excise duty and any other duty, levy or tax which, in terms of a law or regulation is binding on the contractor and demonstrably has an influence on the price of any supplies or the rendering cost of any service, for the execution of the contract;
- 1.1.13) **“Formal written price quotation”** means quotations referred to in paragraph 12 (1) (c) of this policy;

1.1.14) **“Historically disadvantaged individual (HDI)”** means a South African citizen:-

- a) Who, due to the apartheid policy that has been in place, had no franchise in national elections prior to the introduction of the constitution of the Republic of South Africa, 1983 (Act 110 of 1983) or the Constitution of the Republic of South Africa, 1993 (Act 200 of 1993) (the Interim Constitution); and/or
- b) Who is a female; and/or
- c) Who has a disability: Provided that a person, who obtained South African citizenship on or after the coming into effect of the Interim Constitution, is deemed not to be an HDI;

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

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

1.1.16) **“LLM”** - Lesedi Local Municipality

1.1.17) **“list of accredited prospective providers”** means the list of accredited prospective providers which a municipality or municipal entity must keep in terms of paragraph 14 of this policy;

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

1.1.19) **“Management”** in relation to a business or enterprise, means an activity, inclusive of control and performed on a daily basis, by any person who is a principal executive officer of the company, by whatever name that person may be designated, and whether or not that person is a director;

1.1.20) **“Non firm prices”** means all prices other than firm prices;

1.1.21) **“other applicable legislation”** means any other legislation applicable to municipal Supply Chain Management, including –

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

- 1.1.22) “**Person**” includes reference to a juristic person;
- 1.1.23) “**Rand value** “ means the total estimated value of a contract in Rand denomination, which is calculated at the time of bid invitations and includes all applicable taxes and excise duties;
- 1.1.24) “**Regulation**” means the Local Government: Municipal Supply Chain Management Regulations;
- 1.1.25) “**Small, Medium and Micro Enterprises (SMMEs)**” bears the same meaning assigned to this expression in the National Small Business Act, 1996 (Act 102 of 1996); Preferential Procurement: Page 2 of 10
- 1.1.26) “**Sub contracting**” means the primary contractor’s assigning all leasing or making out work to, or employing, another person to support such primary contractor in the execution of part of a project in terms of the contract;
- 1.1.27) “**Treasury guidelines**” means any guidelines on supply chain management issued by the Minister in terms of section 168 of the Act;
- 1.1.28) “**the Act**” means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);
- 1.1.29) “**Trust**” means the arrangement through which the property of one person is made over, or bequeathed to a trustee, to administer such property for the benefit of another person;
- 1.1.30) “**Trustee**” means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.
- 1.1.31) “**written or verbal quotations**” means quotations referred to in paragraph 12(1)(b) of this policy.

1.2 SUPPLY CHAIN MANAGEMENT POLICY

POLICY

Constitution

Section 217(1) of the Constitution requires all organs of state in the national, provincial or local sphere of government to have a procurement system which is:

- Fair
- Equitable
- Transparent
- Competitive
- Cost-effective

A Procurement policy should be built around the Preferential Procurement Policy Framework Act, Act 5 of 2000.

This Act requires that:

- A preference point system must be used
- A number of points must be awarded for price
- A number of points must be awarded for achieving specific goals

The preference point system awards 80 points for price and 20 points for achievement of specific goals for bids not exceeding R500 000. For bids over R500 000; then 90 points are awarded for price and 10 for achievement of specific goals.

Local Government Municipal Finance Management Act, 2003 Municipal Supply Chain Management regulations states that each municipality must in terms of Section 111 of the said Act have and implement a supply chain management policy.

- 1.2.1) This policy shall be known as the “Lesedi Municipality Supply Chain Management Policy”
- 1.2.1.1) The policy shall give to effect to:
- a) Section 217 of the Constitution; and
 - b) Part 1 of Chapter 11 and other applicable provisions of the MFMA (2003) Act;
- 1.2.1.2) is fair, equitable, transparent, competitive and cost effective;
- 1.2.1.3) shall be consistent with other applicable legislation;
- 1.2.1.4) shall not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and
- 1.2.1.5) shall be consistent with national economic policy concerning the promotion of investments and doing business with the public sector.
- 1.2.2) The Lesedi municipality may not act otherwise than in accordance with this supply chain management policy when –
- 1.2.2.1) procuring goods or services;
 - 1.2.2.2) disposing of goods no longer needed;
 - 1.2.2.3) 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
 - 1.2.2.4) 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 MSA.

1.3 ADOPTION AND AMENDMENT OF SUPPLY CHAIN MANAGEMENT POLICY

- 1.3.1) The Accounting Officer must –
- 1.3.1.1) at least annually review the implementation of this policy; and
 - 1.3.1.2) when the Accounting Officer considers it necessary, submit proposals for the amendment of this policy to the council.
- 1.3.2) If the Accounting Officer submits a draft amendment policy to the council that differs from the model policy, the accounting officer must ensure that such draft policy complies with the Regulations. The Accounting Officer must report any deviation from the model policy to the National Treasury and the relevant provincial treasury.
- 1.3.3) 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.
- 1.3.4) The Accounting Officer of a municipality must, take all reasonable steps to ensure the implementation of this Supply Chain Management policy.

1.4 DELEGATION OF SUPPLY CHAIN MANAGEMENT POWERS AND DUTIES

- 1.4.1) The council hereby delegates such additional powers and duties to the Accounting Officer so as to enable him/ her –
- 1.4.1.1) to discharge the Supply Chain Management responsibilities conferred on Accounting Officers in terms of –

- a) Chapter 8 of the Local Government: Municipal Finance Management Act 2003; and
- b) the Supply Chain Management policy;

1.4.1.2) to maximise administrative and operational efficiency in the implementation of the Supply Chain Management policy;

1.4.1.3) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of the Supply Chain Management policy; and

1.4.1.4) to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.

1.4.2) Sections 79 and 106 of the Act apply to the sub delegation of powers and duties delegated to the Accounting Officer in terms of subparagraph (1) of this policy.

1.4.3) The council or Accounting Officer may not delegate or sub delegate any Supply Chain Management powers or duties to a person who is not an official of the municipality or to a committee which is not exclusively composed of officials of the municipality;

1.4.4) 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.

1.5 SUB-DELEGATIONS

1.5.1) 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. **See annexure A**

1.5.2) The power to make a final award –

- The Bid Adjudication Committee makes a final award for all tenders.

1.5.3) further delegations regarding purchasing

- R0 - R1,999.99 Managers;
- R2,000 - R29,999.99 Executive Managers with the Chief Financial Officer;
- R30 000 – R200,000 Relevant Executive Managers, Chief Financial Officer and the Municipal Manager;
- R200 001 and above Bid Adjudication Committee.

See annexure B: 1-4

1.5.4) No Supply Chain Management decision-making powers may be delegated to an advisor or consultant. With the approval of the Accounting Officer, the Executive Managers can delegate further.

1.6 OVERSIGHT ROLE OF COUNCIL OF MUNICIPALITIES OR BOARD OF DIRECTORS OF MUNICIPAL ENTITY

1.6.1) The council must maintain oversight over the implementation of this Supply Chain Management policy.

1.6.2) For the purposes of such oversight the Accounting Officer must –

- Whenever there are serious and material problems in the implementation of the Supply Chain Management policy, immediately submit a report to the Council.

- 1.6.3) The Accounting Officer must, within 10 days of the end of each quarter, submit a report on the implementation of the Supply Chain Management policy to the mayor.
- 1.6.4) The Accounting Officer must, within 30 days of the end of the financial year, submit a report on the implementation of the Supply Chain Management policy to the Council.
- 1.6.5) The reports must be made public in accordance with section 21A of the Municipal Systems Act.
- 1.6.6) Councillors are barred from serving on Bid Committees
 - No Councillor may be a member of a municipal bid committee evaluating or approving bids, quotations, contracts or other bids nor attend any such meeting as an observer.
- 1.6.7) No person may-
 - a) interfere with the Supply Chain Management system of the municipality or
 - b) amend or tamper with any bids, quotations, contracts or bids after their submission.

1.7 SUPPLY CHAIN MANAGEMENT UNITS

- 1.7.1) The Accounting Officer must establish a Supply Chain Management unit to implement this Supply Chain Management policy.
- 1.7.2) The Supply Chain Management unit must, where possible, 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.

1.8 TRAINING OF SUPPLY CHAIN MANAGEMENT OFFICIALS

- Lesedi Local Municipality shall ensure that 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.

CHAPTER 2

FRAMEWORK FOR SUPPLY CHAIN MANAGEMENT POLICIES

2.1 FORMAT OF SUPPLY CHAIN MANAGEMENT POLICY

- ❖ This Supply Chain Management policy provides systems for –
 - demand management;
 - acquisition management;
 - logistics management;
 - disposal management;
 - risk management; and
 - performance management.

2.2 SYSTEM OF DEMAND MANAGEMENT

- The Accounting Officer must establish, through operational procedures, an effective system of demand management in order to ensure that the resources required to support the strategic and operational commitments are delivered at the correct time, at the right price and at the right location, and that the quantity and quality satisfy the needs.

2.3 SYSTEM OF ACQUISITION MANAGEMENT

Part 2: Acquisition management

2.1.2.1) The Accounting Officer must establish, through operational procedures, an effective system of acquisition management in order to ensure –

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

2.1.2.2) This Supply Chain Management policy, except where provided otherwise in the policy, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Act, including –

- a) water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and
- b) electricity from Eskom or another public entity, another municipality or a municipal entity.

2.1.2.3) The following information must be made public wherever goods or services contemplated in section 110(2) of the Act are procured other than through the Supply Chain Management system –

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

2.4 RANGE OF PROCUREMENT PROCESSES

2.4.1) The procurement of goods and services through this policy is provided by way of –

- a) Formal written quotations for procurements above R2, 000 and up to R200, 000(VAT included);
- b) A competitive bidding process for–
 - i) Procurements above a transaction value of R200, 000 (VAT included); and
 - ii) The procurement of long term contracts.

2.4.2) 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.

2.5 GENERAL PRECONDITIONS FOR CONSIDERATION OF WRITTEN QUOTATIONS OR BIDS

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

2.5.1) has furnished that provider's –

- i) full name;
- ii) identification number or company or other registration number; and
- ii) tax reference number and VAT registration number, if any;

2.5.2) has authorised the municipality to obtain a tax clearance from the South African Revenue Services that the provider's tax matters are in order; and

2.5.3) has indicated –

- a) 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;
- b) if the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the state, or has been in the service of the state in the previous twelve months; or
- c) whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in subparagraph
- d) is in the service of the state, or has been in the service of the state in the previous twelve months.

2.6 LIST OF ACCREDITED PROSPECTIVE PROVIDERS / LESEDI DATA BASE

2.6.1) The Accounting Officer must –

- a) keep a list of accredited prospective providers of goods and services that must be used for the procurement requirements of the municipality through formal written price quotations; and
- b) at least once a year through newspapers commonly circulating locally, the website and any other appropriate ways, invite prospective providers of goods or services to apply for evaluation and listing as accredited prospective providers;
- c) specify the listing criteria for accredited prospective providers; and
- d) disallow the listing of any prospective provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector.

2.6.2) The list must be updated at least quarterly to include any additional prospective providers and any new commodities or types of services. Prospective providers must be allowed to submit applications for listing at any time.

2.6.3) The list must be compiled per commodity and per type of service.

2.7 PETTY CASH PURCHASES (Will not be applicable to Lesedi's Supply Chain Management policy up to R2, 000 no quotations)

2.8 WRITTEN QUOTATIONS

- The Accounting Officer must establish the conditions for the procurement of goods or services through written quotations, which must include conditions stating –
 - a) that quotations must be obtained from at least three different providers preferably from, but not limited to, providers whose names appear on the list of accredited prospective providers of the municipality or municipal entity, provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria in the supply chain management policy.
 - b) that if it is not possible to obtain at least three quotations, the reasons must be recorded on the requisition for approval.
 - c) that the Accounting Officer must record the names of the potential providers requested to provide such quotations with their quoted prices; and
 - d) that if a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider.

2.9 FORMAL WRITTEN QUOTATIONS

2.9.1) The Accounting Officer must establish the conditions for the procurement of goods or services through formal written price quotations, which must include conditions stating –

- a) that quotations must be obtained in writing from at least three different providers whose names appear on the list of accredited prospective providers of the municipality or municipal entity;
- b) that quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria in the supply chain management policy required.
- c) that if it is not possible to obtain at least three quotations, the reasons must be recorded on the requisition for approval.
- d) that the Accounting Officer must record the names of the potential providers and their written quotations.

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

2.10 PROCEDURES FOR PROCURING GOODS OR SERVICES THROUGH WRITTEN QUOTATIONS AND FORMAL WRITTEN PRICE QUOTATIONS

The Accounting Officer must determine the operational procedure for the procurement of goods or services through written quotations and formal written price quotations, which must stipulate –

- a) that all requirements above R30, 000 (VAT included) that are to be procured by means of formal written price quotations must, be advertised for at least seven days on the website and an official notice board of the municipality and the Tax clearance certificate is required for all purchases above the threshold value; **See annexure D**
- b) that when using the list of accredited prospective providers the Accounting Officer must promote ongoing competition amongst providers, including by inviting providers to submit quotations on a rotation basis;
- 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 written price quotations is not abused;
- d) that the Accounting Officer or Chief Financial Officer must on a monthly basis be notified of written price quotations accepted by an official acting in terms of a sub delegation, and;
- e) offers below R30, 000 (Vat included) must be awarded based on compliance to specification and conditions of contract, ability and capability to deliver the goods and services and lowest price.
- f) acceptable offers, which are subject to the preference points system (PPPFA and associated regulations), must be awarded to the bidder who scored the highest points:
- g) requirements for proper record keeping.

2.11 COMPETITIVE BIDS

- 2.11.1) 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 and
- 2.11.2) 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.

2.12 PROCESS FOR COMPETITIVE BIDDING

- Procedures for a competitive bidding process for the following stages are:
 - a) the compilation of bidding documentation;
 - b) the public invitation of bids;
 - c) site meetings or briefing sessions, if possible;
 - d) the handling of bids submitted in response to public invitation;
 - e) the evaluation of bids;
 - f) the award of contracts;
 - g) the administration of contracts;
 - h) proper record keeping.

2.13 BID DOCUMENTATION FOR COMPETITIVE BIDS

2.13.1) Bid documentation must take into account –

- a) the general conditions of contract;
- b) any Treasury guidelines on bid documentation; and
- c) the requirements of the Construction Industry Development Board,

2.13.2) In the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;

- a) include evaluation and adjudication criteria, including any criteria required by other applicable legislation;

- b) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;
- c) if the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish–
 - Annual financial statements for auditing, their audited annual financial statements for the past three years; or since their establishment if established during the past three years;
 - 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;
 - Particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
 - A statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality or municipal entity is expected to be transferred out of the Republic; and
 - 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.

2.14 PUBLIC INVITATION FOR COMPETITIVE BIDS

2.14.1) The procedure for the invitation of competitive bids shall be 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 municipal entity or any other appropriate ways (which may include an advertisement in the Government Bid Bulletin); and
- b) the information contained in a public advertisement, must include –
 - i) the closure date for the submission of bids, which may not be less than 30 days in the case of transactions over R10 million (VAT included), or which are of a long term nature, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to subparagraph (2) of this policy; and
 - ii) a statement that bids may only be submitted on the bid documentation provided by the municipality or municipal entity.

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

2.14.3) Bids submitted must be sealed.

2.14.4) Where bids are requested in an electronic format, such bids must be supplemented by sealed hard copies.

2.14.5) Notices inviting bids or quotations and publication thereof

Notices (advertisements) calling for bids shall furnish the bid number plus a brief description of the commodity or service which is required, where the prescribed forms may be obtained, the closing date and time and place where bids must be submitted as well as information pertaining to site

inspections or pre-bid briefing sessions. The contact person's address and telephone/fax numbers should also be reflected in the notice.

The notice shall be duly published on or before the day of the issuing of the bids. Bids may be published in trade magazines, newspapers which are distributed locally or wider, in electronic bid bulletins, other media which specifically targets in on specific markets or on small business enterprises, whichever is best suited to reach the potential bidders. With regard to SMME's, special efforts should be made to advertise through media and publications which will be able to reach the required target area e.g. Daily sun, Citizen or Sowetan, Herald as well as the Lesedi Local Municipality database and register of potential SMME's managed by the tender and relevant Bid Committee.

2.14.6) Valid period

Unless circumstances require a longer or shorter period to be fixed, bid documents must state that the bids or quotations must hold goods for at least 60 days from the closing date thereof. The department calling for the bid shall, if necessary, and subject to the necessary authority to communicate having been obtained, arrange to extend the validity period should be made to avoid delays as bidders may consider any bid condition (including their bid prices) when agreeing to an extension of the validity period (option date).

2.14.7) Raising of a non-refundable charge for bid documents

A non-refundable charge may be raised for bid forms, plans, specifications and samples depending on the nature, magnitude and value of technical information or samples supplied.

2.15 PROCEDURE FOR HANDLING, OPENING AND RECORDING OF BIDS

2.15.1) The procedures for the handling, opening and recording of bids, shall be as follows:

- a) Bids must be –
 - i) opened only in public; and
 - ii) opened at the same time and as soon as possible after the period for the submission of bids has expired;
- 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; and
- c) 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.

2.15.2) All other bids and quotations i.e. those falling within the jurisdiction of the Bid Committee (exceeding the laid-down limit) shall be addressed as follows:-

The Municipal Manager
1 HF Verwoerd Street
HEIDELBERG
1438

2.15.3) Or hand delivered into the Lesedi Local Municipality Bid Box situated at Building Section of the Council's building, 1 HF Verwoerd Street, Heidelberg.

2.15.4) Bids and quotations shall be submitted by the bidder in a sealed envelope. The bid or quotation number, the subject and closing date, time and venue therefore shall be endorsed on the envelope.

2.15.5) Bids and quotations shall be placed, either by the bidder or his agent who delivers it, immediately and unopened in a locked bid box for safekeeping until the closing date and time allowed for the receipt of the relevant bids or quotations has expired.

2.15.6) No bids received by telegram, E-mail or facsimile will be considered.

2.15.7) No quotations received by telegram, E-mail or facsimile will be considered unless the request for quotations specifically provides for it.

2.15.8) Opening of bids and quotations

- At such public bid openings only the names of the bidders are read out as well as the prices.

2.15.9) Stamping of bids and reading out of names

- a) Where prices have not been inserted in all the relevant spaces on the forms and such items have not been deleted by bidders such space shall be stamped "no price" by the employee who opens the bids or quotations.
- b) It should be noted that it is Lesedi Local Municipality's policy to disclose bid prices.
- c) Details on how bidders responded to the relevant evaluation criteria e.g. SMME contribution, community benefits, job creation, environmental impact, etc. should likewise not be disclosed.

2.15.10) Late bids

- a) Bids or quotations arriving after the specified closing time shall not be considered and where practicable shall be returned to the bidder unopened with a letter explaining the circumstances. Bidders must be made aware in bid documents to make sure of the closing venue of each bid, as bids delivered at the wrong bid box will also not be considered if received at the correct closing address after the closing time.
- b) Where it is necessary to open a late bid or quotation to obtain the name and address of the sender, each page of the document shall be stamped "late bid" before the bid is returned. The envelope must be stamped and initialled in like manner and be retained for record purposes.

2.15.11) Amendments before the closing date

- The Lesedi Local Municipality is entitled to amend any bid condition, validity period, specification or plan, or extend the closing date of such bid or quotation before the closing date, provided that such amendments or extension be advertised and/or that all bidders to whom bid documents have been issued, are advised in writing per registered post or per facsimile of such amendment or of the extension clearly reflecting the new closing date and time. For this reason Departments issuing bids shall keep a record of the names and addresses of the persons or enterprises to whom bid documents have been issued.

2.15.12) Dealing with bids and quotations if the closing date thereof has been extended

- Where the closing date of a bid or quotation is extended the notice which makes known such extension shall also mention that bids or quotations already received, will be retained unopened in the bid box and be duly considered after the expiry of the extended period, unless the bidder request that such bid or quotation be returned to the bidder or unless the bidder cancels it by submitting a later dated bid or quotation before the extended closing date.

2.16 COMMUNICATION WITH BIDDERS

- No communication with bidders allowed without authority.
- a) No person may communicate with a bidder or any other party who has an interest in a bid, on the one hand, and any employee of the Lesedi Local Municipality, on the other hand, during the period between the closing date for the receipt of the bid or quotation (or date of receipt of an offer), and the date of notification of the successful bidder of acceptance of his bid, quotation or offer, except as provided for in sub-section (c) thereof. Every such case of unauthorized communication shall forthwith be reported to the Bid and Procurement Office as well as the relevant Chairperson of the Bid and procurement Committee. A bid or quotation, in respect of which unauthorized communication has occurred, may be disqualified.
- b) The Chairperson of the Bid and Procurement Committee, or in the case of matters falling outside its jurisdiction the corporate departmental head, or higher may, subject to the provisions of subsections (d) and (e) hereof, authorize an employee, in writing, to communicate with a bidder during the period mentioned in subsection (a) above for the purpose of-
 - i) explaining and verification of declarations made in bid response;
 - ii) confirmation or technical particulars and the compliance thereof with specifications;
 - iii) determining whether there will be any change in price if only a portion of the work is awarded to a bidder;
 - iv) requesting an explanation for an unreasonable price increase when it is compared with a previous price and the interim movement of a relevant price index;
 - v) clarifying delivery times/quantities;
 - vi) extending the validity period of a bid, quotation or offer;
 - vii) amending and bid condition, validity period, specification etc. after the closing date;
 - viii) clarifying any other commercial aspect.
- ix) In all cases where authority has been granted to communicate with bidders in terms of subsection (b) above, it should be clearly stated in the submission to the Bid Committee the nature of the communication as well as by whom such authority to communicate has been granted.

2.16.1) Negotiations with preferred bidders

2.16.1.1) 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.

2.16.1.2) Minutes of such negotiations must be kept for record purposes.

2.17 TWO-STAGE BIDDING PROCESS

2.17.1) A two-stage bidding process is allowed for –

- a) large complex projects;
- b) projects where it may be undesirable to prepare complete detailed technical specifications; or
- c) long term projects with a duration period exceeding three years.

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

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

2.18 COMMITTEE SYSTEM FOR COMPETITIVE BIDS

2.18.1) The Accounting Officer is required to –

- a) establish a committee system for competitive bids consisting of at least –
 - (i) a bid specification committee;
 - (ii) a bid evaluation committee; and
 - (iii) a bid adjudication committee;
- b) appoint the members of each committee, taking into account section 117 of the Act; and
- c) provide for an attendance or oversight process by a neutral or independent observer, appointed by the Accounting Officer, when this is appropriate for ensuring fairness and promoting transparency.

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

2.18.3) All bid committee documents/agendas will be confidential.

2.19 BID SPECIFICATION COMMITTEES

2.19.1) The bid specification committee must compile the specifications for each procurement of goods or services by the municipality.

2.19.2) 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) 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 words “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 Act 5 of 2000; and
- g) must be approved by the Accounting Officer or any delegated member of the Bid Adjudication Committee prior to publication of the invitation for bids.

2.19.3) The bid specification committee must be composed of one or more officials of the municipality, preferably the manager responsible for the function involved in the department, and may, when appropriate, include external specialist advisors.

2.19.4) 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.

2.20 BID EVALUATION COMMITTEES

2.20.1) The bid evaluation committee must –

- a) evaluate bids in accordance with –
 - i) the specifications for a specific procurement; and
 - ii) the points system.
- 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.

2.20.2) The bid evaluation committee must as far as possible be composed of –

- a) officials from departments requiring the goods or services; and
- b) at least one Supply Chain Management practitioner of the municipality.

PREFERENCE POINTS SYSTEM AND EVALUATION OF BIDS

The 80/20 preference system (See annexure E)

- The following formula must be used to calculate the points for price in respect of Bids/procurement with a value equal to, or above R 30, 000 and up to a Rand value of R 500, 000. Organs of state may, however, apply this formula for procurement with a value less than the R 30, 000, if and when appropriate.

$$Ps = 80 \times (1 - (Pt - Pmin) / (Pmin))$$

Where:-

Ps = points scored for price of bid under consideration

Pt = Rand value of bid under consideration

Pmin = Rand value of the lowest acceptable bid

- A maximum of 20 points may be awarded to a bid for being an HDI and/or sub contracting with an HDI and/or achieving any of the specified goals stipulated in regulation 17 (of the Preferential Procurement Regulation 2001).
- The points scored by a bid in respect of the goal must be added to the points scored for price.
- The bid with the highest number of points scored may be selected.

The 90/10 preference points system (See annexure E)

- The following formula must be used to calculate the points or for price in respect of bids/procurement with a Rand value of 500, 000 Rands and above:

$$Ps = 90 \times (1 - (Pt - Pmin) / (Pmin))$$

Where:-

Ps = Points scored for price of bid under consideration

Pt = Rand value of bid under consideration

Pmin = Rand value of lowest acceptable bid

- A maximum of ten points may be awarded to a bid for being an HDI and/or sub contracting with an HDI and/or achieving any of the specified goals.
- The points scored by a bidder in respect of the goal contemplated in sub regulation (2) must be added to the points scored for price.

- The bid with the highest number of points scored may be selected.

Evaluation of bids on functionality and price (See annexure F)

- The Lesedi Local Municipality must, in the bid documents, indicate if, in respect of a particular bid invitation, bids will be evaluated on functionality and price.
- The total combined points allowed for functionality and price may, in respect of bids with an estimated Rand value equal to, or below R500, 000, not exceed 80 points.
- The total combined points allow for functionality and price may, in respect of bids with an estimated Rand value of R500, 000 and above, not exceed 90 points.
- When evaluating the bids contemplated in this item, the points for functionality must be calculated for each individual bid.
- The conditions of bid may stipulate that a bid must score a specified minimum number of points for functionality to qualify for further adjudication.
- The points for price, in respect of a bid which has scored the specified number of points must, subject to the application of the variation system for functionality and price contemplated in this regulation, be established separately and be calculated in accordance with the provisions of regulation 3 and 4.
- Preferences for being an HDI and/or sub contracting with an HDI and/or achieving specified goal is calculated separately and must be added to the points scored for functionality and price.
- The bid with a highest number of points scored may be selected.

The specific goals may include:

- Contracting with persons historically disadvantaged by unfair discrimination on the basis of
 - Race
 - Gender
 - Disability
- Implementing the programmes of the RDP.

Specific goals to be used must be clearly specified in the invitation to submit a bid. These goals must be measurable and quantifiable, and must be monitored for compliance.

Award of contract to bid not scoring the highest number of points

A contract may, on reasonable and justifiable grounds, be awarded to a bid that did not score the highest number of points.

Cancellation and re-invitation of bids

- In the event that, in the application of the 80/20 preference points system as stipulated in the bid documents, all bids received exceed the estimated Rand value of R500, 000; the bid invitation must be cancelled.
- In the event that, in the application of the 90/10 preference points system as stipulated in the bid documents, all bids received one equal to, or below R500, 000; the bid must be cancelled.
- Lesedi Local Municipality may, prior to the award of a bid, cancel a bid if:-
 - a. Due to change circumstances, there is no longer need for goods or services tendered for; or
 - b. Funds are no longer available to cover the total envisaged expenditure; or
 - c. No acceptable bids are received.

Duty to plan, general conditions, principles, declarations, penalties, tax clearances and bid goals

Lesedi Local Municipality must, prior to making an invitation for bids:-

- a. Properly plan for and, as far as possible, accurately estimate the costs of, the provisions of services or goods for which an invitation for bids is to be made;
- b. Determine the appropriate preference points system to be utilised in the evaluation of the bids; and
- c. Determine that:
 - Only a bidder, who has completed and signed the declaration part of the bid documentation, may be considered for preference points.
 - Lesedi Local Municipality may, before the bid is adjudicated or at any time, require bidders to substantiate claims they have made with regard to preference.
 - Lesedi Local Municipality must, when calculating comparative prices, take into account any discounts that have been offered unconditionally.
 - A discount that has been offered conditionally must, despite not being taken into account for evaluation purposes, be implemented when payment is effected.
 - In the event that different prices are tendered for different periods of a contract, the price for each period must be regarded as a firm price if it conforms to the definition of a "firm price".
 - Points scored must be rounded to 2 decimals.
 - In the event that two or more bids have scored equal total points, the successful bid must be the one scoring the highest number of preference points for specified goals. Should two or more bids be equal in all respects, the award shall be decided by the drawing of lots.

Principles

- Preference points stipulated in respect of a bid must include preference points for equity ownership by HDIs.
- The equity ownership must be equated to the percentage of an enterprise or business owned by individuals or, in respect of a company, the percentage of a company's shares that are owned by individuals, who are actively involved in the management of the enterprise or business and exercise control over the enterprise, commensurate with their degree of ownership at the closing date of the bid.
- In the event that the percentage of ownership contemplated in sub regulation (2) changes after the closing date of the bid, the bidder must notify the relevant organ of state and such bidder will not be eligible for any preference points.
- Preference points may not be claimed in respect of individuals who are not actively involved in the management of an enterprise and who do not exercise control of an enterprise or business commensurate with their degree of ownership.
- All claims made for equity ownership by an HDI must be considered according to the following criteria:-
 - a. Equity within private companies must be based on the percentage of equity ownership;
 - b. Preference points may not be awarded to public companies and tertiary institutions;
 - c. The following formula must be applied to calculate the number of points for equity ownership by an HDI:-
$$NEP = NOP \times (EP / 100)$$
Where:-

NEP = points awarded for equity ownership by an HDI
NOP = the maximum number of points awarded for equity ownership by an HDI
EP = the percentage of equity ownership by an HDI within the enterprise or business,

- Equity claims for a trust may only be allowed in respect of those persons who are both trustees and beneficiaries and who are actively involved in the management of the trust.
- Documentation to substantiate the validity of the credentials of the trustees must be submitted to the Lesedi Local Municipality.
- A consortium or joint venture may, based on the percentage of the contract value managed or executed by their HDI members, be entitled to equity ownership in respect of an HDI.
- The number of points scored for a consortium or joint venture must be added to the number of points scored for achieving specified goals.
- A person awarded a contract as a result of preference for contracting with, or providing equity ownership to, an HDI, may not subcontract more than 25% of the value of the contract to a person, who is not an HDI or does not qualify for such preference.

Declarations

A bidder must, in the stipulated manner, declare that:-

- a) The information provided is true and correct;
- b) The signatory to the bid document is duly authorised; and
- c) Documentary proof regarding any bidding issue will, when required, be submitted to the satisfaction of the relevant organ of state.

Penalties

- Lesedi Local Municipality must, upon detecting that the preference in terms of the act and these regulations has been obtained on a fraudulent basis, or any specified goals are not attained in the performance of the contract, act against the person awarded the contract.
- Lesedi Local Municipality may, in addition to any other remedy it may have against the person.
 - a) Recover all costs, losses or damages it has incurred or suffered as a result of the person's conduct;
 - b) Cancel the contract and claim any damages, which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
 - c) Impose a financial penalty more severe than the theoretical financial preference associated with the claim which was made in the bid; and
 - d) Report such as a service provider to the National Treasury department
- Tax clearance certificate

No contract may be awarded to a person who has failed to submit an original Tax Clearance Certificate from the South African Revenue Service (SARS) certifying that the taxes of that person to be in good order or those suitable arrangements have been made with the SARS.

General Recommendations

Compliance with bid/enquiry conditions and certificate

Bids or quotations which do not comply with the bid/enquiry conditions, or which are incomplete, should as a general rule be rejected. Such bids or quotations may only be taken into consideration of the other bids are not prejudiced thereby, and it is regarded to be in the best interest of Lesedi Local Municipality.

The Lesedi Local Municipality is not obliged to accept the lowest or any bid

The lowest or any bid or quotation shall not necessarily be recommended for acceptance. The acceptance of the whole or part of any bid or quotation, or in the event of a number of items being bided for, any item or part thereof may be recommended, provided that this was a bid condition. Suppliers, who in conflict with such bid conditions qualify their bids on the basis that the whole bid/quotation should be accepted, must be advised that the restriction must be withdrawn, before their bid/quotation can be considered.

Price

In view of the fact that Lesedi Local Municipality is operating in a competitive market, price is a very important factor as it ensures optimum value for money and reflects directly onto the Lesedi Local Municipality bottom line (profitability). However, unless the cost of the project will be the determining factor whether such project will go ahead or not, price should not be regarded as the only determining factor. As a general rule any price which is within the approved budget should be acceptable if other selection criteria are of greater significance.

Likewise price should not be regarded as the main or only criteria for selecting the successful bidder. Depending on the circumstances and merits of the case, any one (or more) of the following criteria can have a larger or lesser impact, or may even be the single deciding factor for the award of the business eg.

Total cost of Ownership

In terms of the Lesedi Local Municipality policy of open and fair competition, specifications are, as far as possible, not written around specific products but drawn up to accommodate as many as possible acceptable products or brand names. This inevitably results in a wide variety of products being offered, making comparison based on price only, inappropriate. When different product are compared, other aspects such as guarantee periods, expected lifespan, cost and availability of spare parts or components, after sales service, etc. should also be taken into consideration to ensure that the total cost of ownership of the various products are compared and not merely the bided price in isolation.

Quality

As the Lesedi Local Municipality service levels and reputation is dependent upon the quality of its service, it stands to reason that quality of the goods and products utilized to provide that service cannot be compromised. On the other hand one should also guard against “over specification”, in other words specifying more than the minimum requirement to do the job. The optimum would be to strike a balance between optimal cost and quality.

Quality will be crucial when it cannot compromise without endangering human lives or Lesedi Local Municipality service levels e.g. Train signalling equipment or rolling stock equipment such as wheels, axles and brake components for example.

Local community involvement

Where a project has been identified and set aside specifically as a community upliftment programme where the success of the project is dependent upon the support and recognition of the local community eg. The erection of a child day care centre for employees’ children etc.

Black Economic Empowerment

Shareholding alone will not be the single deciding factor whether a business enterprise qualified in this category or not. The following factors, amongst others, will also count for SMME:-

Dimensions	Beneficiaries	Monitoring Organs
Shareholding <ul style="list-style-type: none"> • Groups (women, disabled persons, youth, trade unions, etc. • Entrepreneurs • ESOPS (Employee’s 	Disadvantaged groups, Individuals, entrepreneurs and employees of groups of disadvantaged employees	Shareholders Certificates Management Agreements Employees Service contracts Joint venture agreements

<ul style="list-style-type: none"> profit sharing) • Joint ventures and sub-contracting 		
Employment Equity <ul style="list-style-type: none"> • Demographics of workforce • Benefits of employees Medical Aid Pension Fund Profit sharing 	PDI's in Management, professionals, technicians and other workers	Management Agreements Employment Equity Act Reports Employees' service contracts
Skills Transfer <ul style="list-style-type: none"> • Training Programs • Bursaries and study loans • Career planning services 	Women, youth and other previously disadvantaged employees	Actual numbers of PDI's trained Training Board Reports
Procurement Practice <ul style="list-style-type: none"> • Support of SMME enterprises for day-to-day requirements • Social support projects • Joint ventures and sub-contracting 	SMME Entrepreneurs and – enterprises as well as previously disadvantaged communities.	Contracts with SMME enterprises Proof of community- or social support project Joint venture agreements

Utilising local labour force

On high-tech, high-value construction contracts where the project in totality cannot likely be awarded to SMME enterprises, there is always some unskilled or labour intensive work that could possibly be outsourced to the local community. The main contractor takes responsibility for the project in totality and is responsible for training and skills transfer to the local community labour force.

Where a project has been identified as falling within this category, the bid documents should stipulate that it is either a pre-condition or a favourable consideration that the successful bidder should make use of the local community workforce for the labour component of the contract eg. Provision of roads and services (water, sewerage and lighting).

Environmental impact

In view of the high media interest in, and public support for environmental conservation at large, the importance of this aspect as an evaluation criteria cannot be over-emphasised. This does not only cover construction type contracts which may have a direct impact on the surrounding environment but also include any other indirectly related matters such as, for example, manufacturing processes where the raw material or used products e.g. plastic or asbestos based products are not environmental friendly.

The Lesedi Local Municipality public image

The Lesedi Local Municipality as a local authority who is considered to be the third sphere of government, should at all times be aware of the image it portrays in the eyes of the public at large. Its bidding processes should therefore always be seen to be fair, open and transparent. Business transactions and dealings with external contractors and service providers who do not share these same goals should be avoided.

Preference to bidders nearest to the place of delivery

Other things being equal, preference shall be given to bidders at the nearest point to the centres at which the goods must be delivered, or if there are also no such bidders, to bidders who deliver goods from centres which are nearest to the centres at which the goods must be delivered. For quotations (local enterprises should get 2.5% preference.

Incorrect information bided – bidders to be disqualified automatically for false information

Experience, equipment, financial standing and previous performance of bidders

A bid or quotation shall not be recommended for acceptance if the bid evaluation required to make the recommendation has any doubt, based on reasonable grounds as to whether the bidder is sufficiently experienced and equipped and is of sufficient sound financial standing to carry out satisfactorily any contract that may be awarded to him pursuant to his bid or quotation.

Bidders for services shall indicate their experience by submitting a schedule of work which they have previously undertaken.

Likewise, a bid or quotation shall not be recommended for acceptance if the bidders' previous performance based on timeous performance, quality, price escalation and service was not satisfactory and he has been informed accordingly.

Checking of bidders or quotations

All bids or quotations received shall be carefully perused for compliance with the Lesedi Local Municipality requirement and specifications. Any deviations from the specifications or prescribed conditions, or new conditions stipulated by the bidder, which are acceptable to Lesedi Local Municipality, and provided other bidders are not prejudiced thereby, should be incorporated in the contract entered into with such bidder.

Perishable goods to be purchased locally

Purchases of goods of a perishable nature shall as far as possible and justifiable, be made at or near the centre where the goods are required.

Samples supplied by bidders

- a) The Lesedi Local Municipality reserves the right to retain samples which the bidders are required to furnish in compliance with the bid conditions.
- b) The Lesedi Local Municipality will not pay for samples submitted by the successful bidders and it may retain the samples for the purpose of determining the quality and workmanship of the goods delivered in execution of the contract.
- c) If the samples of unsuccessful bidders are retained and such bidders require payment for them, the Lesedi Local Municipality will make payment at the bided price of the article. If the Lesedi Local Municipality does not want to retain such samples and the bidders require their return, the Lesedi Local Municipality will accept liability for their return to any place within the Republic of South Africa.
- d) The Lesedi Local Municipality is not liable for samples furnished by bidders on their own initiative. If bidders desire the return of such samples, these will be returned at the bidders risk and cost.
- e) Should prospective suppliers fail to furnish samples when specifically required to do so, such suppliers' bids may be disqualified.

2.21 BID ADJUDICATION COMMITTEES

2.21.1) The bid adjudication committee must –

- a) consider the report and recommendations of the bid evaluation committee; and
- b) make a final award.

- 2.21.2) The Bid Adjudication Committee must consist of at least four executive managers of the municipality which must include –
- a) the Chief Financial Officer or, if the Chief Financial Officer is not available, another manager in the Budget and Treasury office reporting directly to the Chief Financial Officer and designated by the Chief Financial Officer; and
 - b) at least one senior Supply Chain Management practitioner who is an official of the municipality and
 - c) a technical expert in the relevant field who is an official, if such an expert exists.
- 2.21.3) The Accounting officer is 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.
- 2.21.4) 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.
- 2.21.5) If the bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee, the bid adjudication committee must prior to awarding the bid-
- a) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears, and;
- 2.21.6) The Accounting Officer is the Chairperson of the Bid Adjudication Committee and he must comply with section 114 of the Act within 10 working days

2.22 PROCUREMENT OF BANKING SERVICES

2.22.1) Banking services –

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

2.23 PROCUREMENT OF IT RELATED GOODS OR SERVICES

- 2.23.1) 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.
- 2.23.2) Both parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to, SITA.
- 2.23.3) 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).
- 2.23.4) 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.

2.24 PROCUREMENT OF GOODS AND SERVICES UNDER CONTRACTS SECURED BY OTHER ORGANS OF STATE

2.24.1) The Accounting Officer may procure goods or services under a contract secured by another organ of state, but only if –

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

2.25 PROCUREMENT OF GOODS NECESSITATING SPECIAL SAFETY ARRANGEMENT

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

2.25.2) 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.

2.26 PROUDLY SA CAMPAIGN

2.26.1) The Accounting Officer must determine internal operating procedures supporting the Proudly SA Campaign to the extent that, all things being equal, preference is given to procuring local goods and services from:

- a) Firstly –suppliers and businesses within the municipality or district;
- b) Secondly – suppliers and businesses within the relevant province
- c) Thirdly – suppliers and businesses within the Republic of South Africa

2.27 APPOINTMENT OF CONSULTANTS

2.27.1) No person may appoint a consultant or consulting enterprise, regardless of the value of the business, or which procurement mechanism (including the open bid process) is used, without the approval of the Accounting Officer, and in compliance with the delegation of powers.

2.27.2) Roaster should be implemented – less than R200,000 contracts

In short, a consultant does not supply the ultimate end product, but merely gives a recommendation, based on his expertise of the best solution to a specific problem. That proposed solution if acceptable to Lesedi Local Municipality, still has to be acquired, built or erected by another party, preferably by someone who is in no way connected with the consultant.

2.27.3) Fundamental Principles

2.27.3.1) As a broad and all embracing objective, the following fundamental principles will apply with regard to the selection and appointment of consultants.

2.27.3.2) Consultants should have no powers in terms of decision making unless suitably qualified in the terms of the specific Agreement.

- 2.27.3.2) Where applicable there should be skills transfer to Lesedi Local Municipality's own staff. A skills transfer programme should be embodied within the consulting contract as part of the delivery mechanism wherever this is practicable.
- 2.27.4) Appropriate contracts should be negotiated with the consultants and the resulting projects should be managed accordingly. A standard contract document with predefined criteria should be developed and implemented by every corporate department, designed to suit its own unique requirements, but conforming to the general rules of project management.
- 2.27.5) Consultants employed must have the required skills to ensure that Lesedi Local Municipality is not exploited as a training ground. The skills and expertise of consulting personnel to be assigned to the project should be assessed thoroughly before a contract is entered into.
- 2.27.6) The Accounting Officer may procure consulting services provided that any Treasury guidelines in respect of consulting services is taken into account when such procurements are made.
- 2.27.7) 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.
 - c) Where it is not possible to invite open bids for consultancy services, at least three requests for proposals (if possible), should be obtained from potential consultants.
- 2.27.8) 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.
- 2.27.8) 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.

2.28 DEVIATION FROM, AND RATIFICATION OF MINOR BREACHES OF, PROCUREMENT PROCESS

- 2.28.1) 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 (proof should be provided in this case);
 - iii) for the acquisition of special works of art or historical objects where specifications are difficult to compile;
 - iv) in any other exceptional case where it is impractical or impossible to follow the official procurement processes; and
 - b) ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature.
- (2) The Accounting Officer must record the reasons for any deviations from this policy and report them to the next meeting of the council and include as a note to the annual financial statements. **(See annexure G)**

2.29 UNSOLICITED BIDS

- 2.29.1) In accordance with section 113 of the Act, there is no obligation to consider unsolicited bids received outside a normal bidding process.
- 2.29.2) The Accounting Officer may decide in terms of section 113(2) of the Act to consider an unsolicited bid, only if –
- a) the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;
 - b) the product or service will be exceptionally beneficial to, or have exceptional cost advantages;
 - c) the person who made the bid is the sole provider of the product or service; and
 - d) the reasons for not going through the normal bidding processes are found to be sound by the Accounting Officer.
- 2.29.3) If the Accounting Officer decides to consider an unsolicited bid that complies with subparagraph (2.29.2) 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.
- 2.29.4) All written comments received pursuant to subparagraph (2.29.3), including any responses from the unsolicited bidder, must be submitted to the National Treasury and the relevant provincial treasury for comment.
- 2.29.5) 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;
- 2.29.6) A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.
- 2.29.7) 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.
- 2.29.8) 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.
- 2.29.9) 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.

2.30 COMBATING OF ABUSE OF SUPPLY CHAIN MANAGEMENT SYSTEM

- Measures for the combating of abuse of the Supply Chain Management system, shall be as follows:

2.30.1) The Accounting Officer must–

- a) take all reasonable steps to prevent abuse of the Supply Chain Management system;

- b) investigate any allegations against an official or other role player of fraud, corruption, favouritism, unfair or irregular practices or failure to comply with this Supply Chain Management policy, and when justified –
 - i) take appropriate steps against such official or other role player; or
 - ii) report any alleged criminal conduct to the South African Police Service;
- c) check the National Treasury’s database prior to awarding any contract to ensure that no recommended bidder, or any of its directors, is listed as a person prohibited from doing business with the public sector;
- d) reject any bid from a bidder–
 - i) if any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the municipality or to any other municipality or municipal entity, are in arrears for more than three months; or
 - ii) who during the last five years has failed to perform satisfactorily on a previous contract with the municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;
- e) reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;
- f) cancel a contract awarded to a person if –
 - i) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
 - ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and
- g) reject the bid of any bidder if that bidder or any of its directors –
 - i) has abused the supply chain management system of the municipality has committed any improper conduct in relation to such system;
 - ii) has been convicted for fraud or corruption during the past five years;
 - iii) has wilfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
 - iv) has been listed in the Register for Bid Defaulters In terms section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).

2.30.2) The Accounting Officer must inform the National Treasury and relevant provincial treasury in writing of any actions taken in terms of subparagraphs (2.30.1)(b)(ii), (e) or (f) of this policy.

2.31 LOGISTICS MANAGEMENT

- The Accounting Officer must establish an effective system of logistics management in order to provide for the setting of inventory levels, placing of orders, receiving and distribution of goods, stores and warehouse management, expediting orders, transport management, vendor performance, maintenance and contract administration.

2.32 DISPOSAL MANAGEMENT

2.32.1) The Accounting Officer must establish an effective system of disposal management for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the Act, shall be as follows:

2.32.2) The disposal of assets must–

- a) be by one of the following methods –
- b) transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;
- c) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
- d) selling the asset; or
- e) destroying the asset;

- provided that –

- i) immovable property may be sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
- ii) movable assets may be sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous;
- iii) in the case of the free disposal of computer equipment, the provincial department of education must first be approached to indicate within 30 days whether any of the local schools are interested in the equipment; and
- iii) in the case of the disposal of firearms, the National Conventional Arms Control Committee has approved any sale or donation of firearms to any person or institution within or outside the Republic;

- furthermore ensure that –

- i) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise; and
- ii) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed; and

2.32.3) ensure that where assets are traded in for other assets, the highest possible trade-in price is negotiated.

2.33 RISK MANAGEMENT

2.33.1) The Accounting Officer must establish an effective system of risk management for the identification, consideration and avoidance of potential risks in the Supply Chain Management system.

2.33.2) 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.

2.34 PERFORMANCE MANAGEMENT

The Accounting Officer must establish an effective internal monitoring system in order to determine, on the basis of a retrospective analysis, whether the authorised Supply Chain Management processes were followed and whether the desired objectives were achieved.

2.35 PROHIBITION ON AWARDS TO PERSONS WHOSE TAX MATTERS ARE NOT IN ORDER

- 2.35.1) The Accounting Officer must ensure that, irrespective of the procurement process followed, no award above R30, 000 is given to a person whose tax matters have not been declared by the South African Revenue Service to be in order.
- 2.35.2) Before making an award to a person the Accounting Officer must first check with SARS whether that person's tax matters are in order.

2.36 PROHIBITION ON AWARDS TO PERSONS IN THE SERVICE OF THE STATE

The Accounting Officer must ensure that irrespective of the procurement process followed, no award may be given to a person –

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

2.37 AWARDS TO CLOSE FAMILY MEMBERS OF PERSONS IN THE SERVICE OF THE STATE

The notes to the annual financial statements must disclose particulars of any award of more than R2,000 to a person who is a spouse, child or parent of a person in the service of the state, or has been in the service of the state in the previous twelve months, including –

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

2.38 ETHICAL STANDARDS

2.38.1) A code of ethical standards is hereby established, for officials and other role players in the Supply Chain Management system in order to promote –

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

2.38.2) An official or other role player involved in the implementation of the Supply Chain Management policy –

- a) must treat all providers and potential providers equitably;
- b) may not use his or her position for private gain or to improperly benefit another person;
- c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350 per occasion;

- d) notwithstanding subparagraph (2.38.2)(c), must declare to the Accounting Officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;
- e) must declare to the Accounting Officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by, the municipality
- f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;
- g) must be scrupulous in his or her use of property belonging to the municipality
- h) must assist the Accounting Officer in combating fraud, corruption, favouritism and unfair and irregular practices in the Supply Chain Management system; and
- i) must report to the Accounting Officer any alleged irregular conduct in the Supply Chain Management system which that person may become aware of, including –
 - any alleged fraud, corruption, favouritism or unfair conduct;
 - any alleged contravention of paragraph (2.38.1) of this policy; or
 - any alleged breach of this code of ethical standards.

2.38.3) Declarations in terms of subparagraphs (2.38.3) (d) and (e) -

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

2.38.4) 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.

2.38.5) A breach of the code of conduct adopted by the municipality must be dealt with in accordance with schedule 2 of the Systems Act.

2.39 INDUCEMENTS, REWARDS, GIFTS AND FAVOURS TO MUNICIPALITIES, MUNICIPAL ENTITIES, OFFICIALS AND OTHER ROLE PLAYERS

2.39.1) 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 off may either directly or through a representative or intermediary promise, offer or grant –

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

2.39.2) The Accounting Officer must promptly report any alleged contravention of subparagraph (2.39.1) 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.

2.39.3) Subparagraph (2.39.1) does not apply to gifts less than R350 in value per occasion.

2.40 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.

2.41 OBJECTION 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. Register of complaints must be kept.

2.42 RESOLUTION OF DISPUTES, OBJECTIONS, COMPLAINTS AND QUERIES

2.42.1) 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
 - 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.

2.42.2) 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.

2.42.3) 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.

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

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

2.42.5) 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.

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

2.43 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
- b) that such compensation must be performance based.

2.44 COMMENCEMENT

This policy takes effect on the date on which it is adopted by the council.

Date: _____