

# **MSUKALIGWA LOCAL MUNICIPALITY**



## **SUPPLY CHAIN MANAGEMENT**

### **POLICY**

**2023-2024**

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## **1 PREAMBLE**

Section 217 of the Republic of South Africa, requires the organ of state in the national, provincial or local sphere of government, or any other institution identified in national legislation, when contracting for goods or services, to do that in accordance with a system which is fair, equitable, transparent, competitive and cost effective;

WHEREAS Section 111 of the Local Government: Municipal Finance Act, 2003 Act 56 of 2003) requires that the municipality adopt, maintain and implement a Municipal Supply Chain Management Policy;

WHEREAS Section 5 of the Preference Procurement Policy Framework Act, Act 5 of 2000 provides clear guidelines on implementation of economic empowerment pertaining black people and other socio economic strategies; and

WHEREAS Municipal Supply Chain Management Regulations made in terms of Section 168 of the Local Government: Municipal Finance Management Act prescribes what such Supply Chain Management Policy must provide for.

In addition, Supply Chain Management forms an integral part of the financial management system of an institution which deals with the supply of goods and services.

Supply Chain Management could be described as a function that ensures that goods and services are delivered to the right place, in the right quantity, with the right quality, at the right cost and at the right time.

Supply Chain Management could also be described as the integration of six key processes that ensures provision of products, services and information in an effective, efficient and economic manner.

Now THEREFORE, the Council of Msukaligwa Local Municipality hereby adopts the Municipal Supply Chain Management Policy as set out in this document.

## **2 DOCUMENT DEFINITION**

### **2.1 Adoption and amendment of the supply chain management policy**

- a. The Mayoral Committee in consultation with the Municipal Manager shall recommend changes to this policy and procedures manual. This manual replaces / supersedes any Procurement Policy and Procedures Manuals, previously in use.
- b. The accounting officer must at least annually review the implementation of this policy; and when the accounting officer considers it necessary, submit proposals for the amendment of this policy to the council.
- c. If the accounting officer submits a draft 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.

*[Municipal SCM Regulations, Section 3 (1)]*

- d. 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.

*[Municipal SCM Regulations, Section 3 (3)]*

- e. The accounting officer of the municipality must in terms of section 62(1)(f)(iv) of the Act, take all reasonable steps to ensure that the municipality has and implements this supply chain management policy.

*[Municipal SCM Regulations, Section 3 (4)]*



### **2.3 Distribution of the Manual**

- a. All changes to the Supply Chain Management policy must be distributed to all the relevant role players of the Msukaligwa Local Municipality, including at least the following:
  - i. Executive Mayor;
  - ii. Municipal Manager;
  - iii. Members of the Mayoral Committee;
  - iv. Accounting Officer;
  - v. Heads of Units;
  - vi. Members of the Bid Specification Committee, Bid Evaluation Committee and Bid Adjudication Committee;
  - vii. All supply chain officials; and
  - viii. All Msukaligwa Local Municipality employees who might be affected by the change.

### **3 TERMINOLOGY**

#### **3.1 Abbreviations**

<b>AG</b>	Auditor-General
<b>AO</b>	Accounting Officer
<b>BBBEE</b>	Broad Based Black Economic Empowerment
<b>BBBEE Act</b>	Broad Based Black Economic Empowerment Act
<b>BEE</b>	Black Economic Empowerment
<b>CFO</b>	Chief Financial Officer
<b>CIDB</b>	Construction Industry Development Board
<b>DTI</b>	Department of Trade and Industry
<b>GCC</b>	General Conditions of Contract
<b>HDI</b>	Historically Disadvantaged Individual
<b>IDP</b>	Integrated Development Plan
<b>IT</b>	Information Technology
<b>ITC</b>	Information to Consultants
<b>LCC</b>	Life Cycle Costing
<b>LOI</b>	Letter of Invitation
<b>MFMA</b>	Local Government: Municipal Finance Management Act (Act No56 of 2003)
<b>MSA</b>	Municipal Systems Act
<b>MTEF</b>	Medium Term Expenditure Framework
<b>PCCAA</b>	Prevention and Combating of Corrupt Activities Act. 2004
<b>PFMA</b>	Public Finance Management Act (Act No 1 of 1999, as amended)

<b>PPP</b>	Public-Private Partnership
<b>PPPFA</b>	Preferential Procurement Policy Framework Act (Act 5 of 2000)
<b>QBS</b>	Quality Based Selection
<b>QCBS</b>	Quality and Cost Based Selection
<b>RDP</b>	Reconstruction and Development Programme
<b>RFI</b>	Request for Information
<b>RFP</b>	Request for Proposal
<b>RFQ</b>	Request for Quotation
<b>SAPS</b>	South African Police Services
<b>SARS</b>	South African Revenue Services
<b>SCM</b>	Supply Chain Management
<b>SCM Unit</b>	Supply Chain Management Unit
<b>SITA</b>	State Information Technology Agency
<b>SLA</b>	Service Level Agreement
<b>SMME</b>	Small Medium and Micro Enterprises
<b>SP</b>	Service Provider
<b>TCO</b>	Total Cost of Ownership
<b>TOR</b>	Terms of Reference
<b>WIP</b>	Work in Process

### 3.2 Definitions

<b>Accountability</b>	The personal responsibility of a person to his senior or higher authority for any act or omission in the execution of his assigned duties (accountability cannot be delegated).
<b>A-class accountable items</b>	A-class accountable items are those items that are not consumable or expendable.
<b>Acquisition management</b>	Acquisition management is the process of procurement of goods, works and services and includes the: <ol style="list-style-type: none"><li>i. Identification of preferential policy objectives;</li><li>ii. Determination of market strategy;</li><li>iii. Application of depreciation rates;</li><li>iv. Application of total cost of ownership principle;</li><li>v. Compilation of bid documentation, including conditions;</li><li>vi. Determination of evaluation criteria;</li><li>vii. Evaluation of bids and tabling of recommendations;</li><li>viii. Compilation and signing of contract documents; and</li><li>ix. Contract administration.</li></ol>
<b>Asset</b>	It is a resource controlled by an entity as a result of past events and from which future economic benefits or service potential is expected to flow to the entity. It has the following characteristics: <ol style="list-style-type: none"><li>i. It possesses service potential or future economic benefit that is expected to flow to the entity;</li><li>ii. It is controlled by the entity; and</li><li>iii. It originates as a result of a past transaction or event.</li></ol>
<b>Authority</b>	Authority is the right or power attached to a rank or appointment permitting the holder thereof to make decisions, to take command or to demand action by others.
<b>Bid</b>	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.
<b>Bidder</b>	In the case of Msukaligwa Local Municipality, a bidder refers to companies, close corporations, partnership, trust, joint ventures and individuals, including shareholders, directors of a company, and

members of the close corporation and trustees of a trust.

**Black empowered enterprise** Is one that is at least 25.1% owned by black people and where there is substantial management control.

**Black enterprise** Is one that's 50.1% owned by black people and where there is substantial management control.

**Black people** Black people are a generic term which means Africans, Coloureds and Indians.

**Black woman-owned enterprise** Is one with at least 25.1% representation of black women within the black equity and management portion.

**Broad Based Black Economic Empowerment** Means the economic empowerment of all black people including women, workers, youth, people with disabilities and people living in rural areas through diverse but integrated socio-economic strategies that include, but are not limited to:

- i. Increasing the number of black people that manage, own and control enterprises and productive assets;
- ii. Facilitating ownership and management of enterprises and productive assets by communities, workers, cooperatives and other collective enterprises;
- iii. Human resource and skills development;
- iv. Achieving equitable representation in all occupational categories and levels in the workforce.
- v. Preferential procurement; and
- vi. Investment in enterprises that are owned or managed by black people.

**Buy out** Pay someone to give up an ownership.

**Chief Financial Officer** An officer designated by the accounting officer of the Municipality, who is accountable to the AO for effective financial management.

**Contract** Means the agreement that results from the acceptance of a tender by an organ of state.

**Community broad-based enterprise or** Has an empowerment shareholder who represents a broad base of members such as a local community or where the benefits support a target group for example black women, people living with disabilities, the youth and workers.

**Close family member** Close family member includes the spouse, child or parent of this member.

<b>Closing time</b>	means the date and time specified in the bid documents for the receipts of bid meaning bid documents must placed at the official bid box before closing time to avoid late bids especially in cases whereby high volume of documents are expected.
<b>Competitive bid</b>	Means a bid in terms of a competitive bidding process.
<b>Competitive bidding process</b>	Means a competitive bidding process referred to in the MFMA Regulation 12(1) (d).
<b>Construction industry</b>	Means the broad conglomeration of industries and sectors which add value in the creation and maintenance of fixed assets within the built environment.
<b>Construction works</b>	Means the provision of a combination of goods and services arranged for the development, extension, installation, repair, maintenance, renewal, removal, renovation, dismantling or demolition of a fixed asset including building and engineering infrastructure.
<b>Current asset (inventory – perishable goods)</b>	An asset that would, in the normal course of operations that could be consumed or converted to cash within 12 months after the last reporting date.
<b>Customer service</b>	It is the process of serving customers in accordance with acceptable, pre-determined standards in such a manner that it increases customer satisfaction and minimises times and costs.
<b>Demand management</b>	Demand management ensures that the resources required to support the strategic objectives are delivered at the correct time, at the right price, location, quantity and quality that will satisfy the needs.
<b>Depreciation</b>	Depreciation refers to the reduction in the value of assets generally from wear and tear. The consumption of capital is recognised as a cost of production and an allowance for this is made before net profit.
<b>Disability</b>	Means, in respect of a person, a permanent impairment of a physical, intellectual, or sensory function, which results in restricted, or lack of ability to perform an activity in the manner, or within the range, considered normal for a human being.
<b>Disposal management</b>	Disposal management is responsible to ensure that all unserviceable, redundant or obsolete assets are subjected to a formal process of doing away with movable assets in a cost-effective, but transparent and responsible manner. It also entails the maintenance of records and documents as prescribed.
<b>E-class accountable</b>	E-class accountable items are consumable and expendable stores that

<b>items</b>	cannot be repaired when it become unusable.
<b>Economic principle</b>	Obtain the highest possible output for the lowest possible use of resources.
<b>Economy of scale</b>	Reductions in the average cost of a product in the long run, resulting from an expanded level of output.
<b>End-user</b>	The end-user is the person who plays a role in the procurement process.
<b>Equipment</b>	A-class accountable stores that are issued and accounted for on an inventory.
<b>Emergency cases</b>	“Emergency cases” are cases where immediate action is necessary in order to avoid a dangerous or risky situation or misery. Other cases which may require exemption from normal procurement procedure will be limited to the following situations: disasters like floods, fire etc.; system failures and liquidation of an existing supplier/contractor.
<b>Final award</b>	In relation to bids or quotations submitted for a contract, means the actual acceptance of the bid or quote.
<b>Formal written price quotation</b>	Means quotations referred to the MFMA Regulation 12(1) (c).
<b>Historically disadvantaged individual</b>	<p>Historically Disadvantaged Individual (HDI) means a South African citizen who:</p> <ol style="list-style-type: none"><li>i. Had no franchise in national elections prior to the introduction of the Constitution of the Republic of South Africa, 1983 (Act No 10 of 1983) or the Constitution of the Republic of South Africa, 1993 (Act No 200 of 1993)(“the Interim Constitution”); and/or</li><li>ii. Is female; and/or</li><li>iii. Has a disability.</li></ol> <p>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.</p>
<b>Immovable assets</b>	All non-produced, non-financial tangible assets, namely land, subsoil assets, water resources and some fixed tangible assets namely fixed structures (bridges, houses and roads).
<b>In the service of the state</b>	Means to be: <ol style="list-style-type: none"><li>i. A member of:</li></ol>

- Any municipal council;
  - Any provincial legislature; or
  - The National Assembly or the National Council of Provinces;
- ii. A member of the Board of directors of any municipal entity;
- iii. An official of any municipality or municipal entity;
- iv. 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);
- v. A member of the accounting authority of any national or provincial public entity; or
- vi. An employee of Parliament or a provincial legislature.

**Intangible assets** Intangible assets are trademarks, licenses and/or the legally enforceable rights associated with copyright and patents.

**Integrated SCM** The foundation of the integrated SCM concept is total cost analysis, which is defined, as minimising the total cost of SCM elements.

**Inventories** Including stock and stores (consumable stores, maintenance materials, spare parts, WIP, education/training course materials, clientservices). Properties/land held for sale. Strategic stocks (fuel supplies, precious stones and metals). Seized or forfeited property.

**Inventory (movable assets) management** It must be possible to determine accountability for all A class-accountable items at all times. Records must therefore be available to describe the full extent of the responsibility of officials for equipment belonging to the institution on personal account or sectional inventories for general usage. Inventory (distribution) ledger accounts must therefore be maintained for all A-class accountable items.

**Items** An individual article or unit.

**Lifecycle costing** Lifecycle costing is a technique developed to identify and quantify all costs, initial and ongoing, associated with a project or installation over a given period. Thus, it is a tool that forecasts the total cost of a purchase throughout its predetermined lifecycle.

**List of accredited prospective providers** Means a list of accredited prospective providers that a municipality or municipal entity must keep in terms of the MFMA Regulation 14.

<b>Long term contract</b>	Means a contract with a duration period exceeding one year.
<b>Management</b>	“Management” in relation to an enterprise or business, 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.
<b>Measurable objectives</b>	Measurable objectives identify very specific things that the municipality intends doing or delivering in order to achieve the strategic objectives and ultimately the strategic goals it has set. There must therefore be a direct causal link running from the measurable objective to one or more of the strategic objectives.
<b>MFMA Regulations</b>	Means the Municipal Supply Chain Management Regulations in terms of the MFMA (Act No 56 of 2003)
<b>Movable assets</b>	Movable assets are assets that can be moved (e.g. machinery, equipment, vehicles, etc). All inventories and valuables and most fixed assets belong to this category.
<b>Municipal functions</b>	Means: <ul style="list-style-type: none"><li>i. A municipal service; and</li><li>ii. Any other activity within the legal competence of a municipality.</li></ul>
<b>Municipal property</b>	In relation to a municipality, includes any movable, immovable or intellectual property, owned by or under the control of: <ul style="list-style-type: none"><li>i. A municipality; or</li><li>ii. A municipality under the sole or shared control of the municipality.</li></ul>
<b>Net present value (NPV)</b>	The sum that results when the discounted value of the expected costs of an investment is deducted from the discounted value of the expected returns. If the NPV is positive the project in question is potentially worth undertaking.
<b>“Non-firm prices”</b>	“Non-firm prices” means all prices other than “firm” prices.
<b>Obsolete</b>	No longer produced or used, out of date, to become obsolete by replacing it with something new.
<b>Official</b>	Official means:

- i. An employee of a municipality;
- ii. A person seconded to a municipality to work as a member of the staff;
- iii. A person contracted to work as a member of the staff other than as an employee.

**Order** “order” means an official order issued for the supply of goods or rendering of a service in accordance of the accepted price quotation.

**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);
- (c) the Construction Industry Development Board Act, 2000 (Act No.38 of 2000); and
- (d) the Prevention and Combating of Corrupt Activities Act, 2004 [Act 12 of 2004].

**Operation and maintenance plan** An operation and maintenance plan to ensure assets remain appropriate to programme requirements, are efficiently utilised, and are maintained in the necessary condition to support programme delivery at the lowest possible long-term cost.

**Over-utilisation** Over-utilisation can have adverse affects in terms of deterioration in asset performance and condition, shortening productive life and increasing recurrent operating and maintenance costs.

**Practitioner** A person who practises a profession or art.

**Procedures** A series of actions conducted in a certain order or manner.

**Process** A series of actions or steps towards achieving a particular end.

**Project management** Project management is the planning, directing and controlling of an organisation’s resources over a short term to ensure that specific objectives are successfully met.

**Provider** A provider is the private person or institution that provides supplies, services or works to Msukaligwa Local Municipality.

**Quittance** The acknowledgement by the recipient of the receipt of issued stores,

	reflecting a signature, receipt voucher number and date of receipt.
<b>Redundant</b>	No longer needed or useful, superfluous (unnecessary).
<b>Regulation</b>	Means the Local Government: Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations.
<b>Renewal</b>	Replace or restore (something broken or worn out).
<b>Repairable</b>	Term applicable to assemblies with detail parts breakdown that are economically repairable, and in the normal course of operation are continually returned to a fully serviceable condition over a period less than the life of the end item to which they are related. These assemblies possess economic value either in a serviceable or unserviceable condition.
<b>Responsibility</b>	The obligation imposed on an individual to properly exercise the authority vested in him/her. This involves the power to command and to demand action in the proper execution of the relevant duties.
<b>Risk</b>	Risk refers to the organisation's decision about those risks that it will take and those it will not take in the pursuit of its goals and objectives.
<b>Risk management</b>	Risk management may be defined as the identification, measurement and economic control of risks that threaten the assets and earnings of a business or other enterprise.
<b>Rules</b>	Rules are statements that a specific action must or must not be taken in a given situation.
<b>Salvage</b>	The Act of saving any goods or property in danger of damage or destruction.
<b>Strategic Managers</b>	Means managers who plan, direct, co-ordinate and control the activities of Msukaligwa Local Municipality.
<b>Small, Medium and Micro Enterprise (SMMEs)</b>	Means a separate and distinct business entity, including cooperative enterprises and non-governmental organisations, managed by one owner or more, including its branches or subsidiaries, if any is predominantly in any sector or subsector of the economy and can be classified as a micro-, a small or a medium enterprise by satisfying the criteria for the smallest relevant size or class.
<b>Sourcing</b>	Where to obtain, an item to procure.
<b>Specification</b>	Terminology generally used to describe the requirement for goods.

<b>Spend analysis</b>	Analysis of expenditure per provider, per commodity, per service and item for a specific timeframe.
<b>Stores/stock</b>	All movable state property/assets that are kept in stock for issue purposes.
<b>Strategic goals</b>	Strategic goals are areas of organisational performance that are critical to the achievement of the mission and are statements that describe the strategic direction of the organisation.
<b>Strategic objectives</b>	Strategic objectives are more concrete and specific than strategic goals. It must give a clear indication of what the municipality intends doing or producing in order to achieve the strategic goals it has set for itself. As such strategic objectives would normally describe high-level outputs or “results” of actions that the municipality intends taking.
<b>Sub-Contracting</b>	Means the primary contractor’s assigning or 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.
<b>Supply chain management</b>	<p>SCM is an integral part of financial management. This function is the collaborative strategy that integrates the planning, procurement and provisioning processes in order to eliminate non-value adding cost infrastructure, time and activities, seeks to introduce international best practices, whilst at the same time addressing Government’s preferential procurement policy objectives and whilst serving the end-users and customers efficiently.</p> <p>Six phases are distinguished in the SCM processes, namely:</p> <ol style="list-style-type: none"><li>i. Demand management;</li><li>ii. Acquisition management;</li><li>iii. Logistics management;</li><li>iv. Disposal management;</li><li>v. Risk management; and</li><li>vi. Performance management.</li></ol>
<b>Terms of Reference</b>	Term used to describe the requirement for professional services.
<b>Total cost of ownership</b>	The sum of direct spend, related spend, process spend and opportunity cost associated within a specific commodity and service to the owner.
<b>Treasury guidelines</b>	Means the guidelines on supply chain management issued by the

Minister in terms of section 168 of the MFMA.

<b>Two - stage bidding</b>	Two - stage bidding” is a procedure under which first unpriced technical proposals on the basis of a conceptual design or performance specifications are invited, subject to technical as well as commercial clarifications and adjustments, to be followed by amended bidding documents and the submission of final technical proposals and priced bids in the second stage.
<b>Under-utilisation</b>	Under-utilisation increase the unit cost of programme delivery and may prompt the purchase of new assets when not required.
<b>Unserviceable</b>	The condition of an item that is no longer suitable for use and cannot be economically repaired.
<b>Value for money</b>	Value for money means the best available outcome when all relevant costs and benefits over the procurement cycle are considered.
<b>Written or verbal quotations</b>	Means quotations referred to in the MFMA Regulation 12(1) (b).

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## 5 **POLICY STATEMENT**

### 5.1 **Introduction**

- a. Msukaligwa Local Municipality has to promote economic and employment growth, social and economic development to amongst others redress inequalities thereby advancing a better life for all. To assist in achieving this objective, a supply chain management policy has been developed.
- b. As the third sphere of government, local government represents the level of democracy closest to the community. Local government is directly involved with the provision of services to those communities and with the allocation of resources directly affecting communities.
- c. The local government should create an environment conducive to emerging contractors and Small, Medium and Macro Enterprise (SMME) development.

### 5.2 **Overall Objectives**

- a. The purpose of this manual is to provide a set of policy guidelines and procedures to regulate the procurement system of Msukaligwa Local Municipality. The Policies and Procedures are designed to establish a standard procurement system that is cost effective, competitive, equitable, transparent and fair. These broad objectives also incorporate the policy guidelines outlined in Preferential Procurement Policy Framework Act No. 5 of 2000, Preferential Procurement Regulations, 2001, the Constitution and Municipal Finance Management Act No. 56 of 2003.

### 5.3 **Objectives of the Supply Chain Management Policy**

- a. The principles of this policy are that it:
  - i. gives effect to:
    - section 217 of the Constitution; and
    - Part 1 of Chapter 11 and other applicable provisions of the MFMA Act;
  - ii. is fair, equitable, transparent, competitive and cost effective;
  - iii. complies with:
    - the regulatory framework prescribed in Chapter 2 of the Regulations; and
    - any minimum norms and standards that may be prescribed in terms of section 168 of the Act;
  - iv. is consistent with other applicable legislation;
  - v. does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and

- vi. is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.

*[Municipal SCM Regulations, Section 2 (1)]*

- b. The municipality may not act otherwise than in accordance with this supply chain management policy when:
  - i. procuring goods or services;
  - ii. disposing of goods no longer needed;
  - iii. 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
  - iv. 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.

*[MFMA, Section 110 (1)]*

## **6 GENERAL PROVISIONS AND APPLICATION OF POLICY**

### **6.1 Compliance with Policies and Procedures**

- a. All Msukaligwa Local Municipality's employees are responsible for the effective, efficient, economical and transparent use of financial and other resources and must take effective and appropriate steps to prevent, within the employee's area of responsibility, any irregular and/or fruitless and wasteful expenditure.

*[MFMA, Section 61 (1)(d)]*

### **6.2 Delegations**

- a. The accounting officer for all procurement shall be the Municipal Manager who may from time to time delegate any procurement responsibility to any other member of staff in terms of this policy.

*[MFMA, Section 60 (a)]*

- b. All SCM activities must be executed in accordance with pre-established levels of authority through delegations to ensure control and division of responsibility.
- c. A delegation of authority shall be in writing and be made to a specific position, and not to a named individual

*[MFMA, Section 79 (3)(a) & (c)]*

*[National Treasury's SCM: A guide for Accounting Officers of Municipalities and Municipal Entities, Section 2.3.2]*

- d. The Accounting Officer is entitled to confirm, vary or revoke any decision taken in consequence of a delegation, provided that no such variation or revocation of a decision should detract from any rights that may have accrued as a result of the decision.
- e. A delegation or sub-delegation of authority may be confirmed, varied, or revoked by the person making the delegation or sub-delegation, but no such variation or revocation of a delegation or sub-delegation may detract from any right that may have accrued as a result of that delegation or sub delegation.

*[MFMA, Section 79 (4)]*

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

- a. The council is hereby required to delegate such additional powers and duties to the accounting officer so as to enable the accounting officer:
  - i. to discharge the supply chain management responsibilities conferred on accounting officers in terms of:
    - Chapter 8 or 10 of the Act; and

- the supply chain management policy;
- ii. to maximise administrative and operational efficiency in the implementation of the supply chain management policy;
- iii. 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
- iv. to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.

*[Municipal SCM Regulations, Section 4 (1)]*

- b. Section 79 of the Act applies to the sub-delegation of powers and duties delegated to the accounting officer in terms of section 6.2.2 of this policy.

*[Municipal SCM Regulations, Section 4 (2)]*

- c. 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;

*[Municipal SCM Regulations, Section 4 (3)(a)]*

- d. 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 section 9.3 of this policy.

*[Municipal SCM Regulations, Section 4 (1)]*

- e. The accounting officer may not delegate or sub-delegate the authority to enter into negotiations.

*[Municipal SCM Regulations, Section 4 (4)]*

### **6.2.2 Sub-delegations**

- a. The accounting officer may in terms of section 79 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 section 6.2 of this policy.

*[Municipal SCM Regulations, Section 5 (1)]*

- b. The power to make a final award –
  - i. above R10 million (VAT included) may not be sub-delegated by the accounting officer;
  - ii. above R2 million (VAT included), but not exceeding R10 million (VAT included), may be sub-delegated but only to –
    - the chief financial officer;
    - a senior manager; or

- a bid adjudication committee of which the chief financial officer or a senior manager is a member; or
- iii. not exceeding R2 million (VAT included) may be sub delegated but only to –
  - the chief financial officer;
  - a senior manager;
  - a manager directly accountable to the chief financial officer or a senior manager; or
  - a bid adjudication committee.

*[Municipal SCM Regulations, Section 5 (2)]*

- c. An official or bid adjudication committee to which the power to make final awards has been sub-delegated in accordance with section 6.2.2 of this policy must within ten (10) working days of the end of each month submit a written report containing particulars of each final award made by such official or committee during that month, including–
  - i. the amount of the award;
  - ii. the name of the person to whom the award was made; and
  - iii. the reason why the award was made to that person.

*[Municipal SCM Regulations, Section 5 (3)]*

- d. A written report referred to in section 6.2.2 (c) of this policy must be submitted:
  - i. to the accounting officer, in the case of an award by:
    - the chief financial officer;
    - a senior manager; or
    - a bid adjudication committee of which the chief financial officer or a senior manager is a member; or
  - ii. to the chief financial officer or the senior manager responsible for the relevant bid, in the case of an award by:
    - a manager referred to in subparagraph (d)(i) of this policy; or
    - a bid adjudication committee of which the chief financial officer or a senior manager is not a member.

*[Municipal SCM Regulations, Section 5 (4)]*

- e. Subparagraphs section 6.2 of this policy do not apply to procurements out of petty cash.

*[Municipal SCM Regulations, Section 5 (5)]*

- f. This paragraph may not be interpreted as permitting an official to whom the power to make final awards has been sub-delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in section 9.3 of this policy.

*[Municipal SCM Regulations, Section 5 (6)]*

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

*[Municipal SCM Regulations, Section 5 (7)]*

### **6.3 Appointment of Consultants**

- a. Specialist consultants may assist in the execution of the SCM function.
- b. 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.

*[Municipal SCM Regulations, Section 35 (1)]*

- c. A contract for the provision of consultancy services must be procured through competitive bids if:
  - i. The value of the contract exceeds R200 000 (VAT included); and
  - ii. The duration period of the contract exceeds one year.

*[Municipal SCM Regulations, Section 35 (2)]*

### **6.4 Communication with the Msukaligwa Local Municipality**

- d. All correspondence with regard to this Policy shall be addressed to the Director : Supply Chain Management.

### **6.5 Availability of Supply Chain Management Policy**

- e. A copy of this Policy and other relevant documentation is available on the Msukaligwa Local municipality's website.

## **7 ESTABLISHMENT AND IMPLEMENTATION OF THE SUPPLY CHAIN MANAGEMENT POLICY**

### **7.1 The SCM System**

a. The Accounting Officer must develop and implement an effective and efficient SCM system for:

- i. The acquisition of goods, services and works; and

*[Municipal SCM Regulations, Section 11 (1)(a)]*

- ii. The disposal and letting of state assets and goods no longer required.

*[Municipal SCM Regulations, Section 40 (1)]*

b. The system must be fair, equitable, transparent, competitive and cost effective.

*[MFMA, Section 112 (2)]*

c. The system must be consistent with the PPPFA and the BBBEE Act.

d. The system must provide for at least the following effective systems:

- i. Demand management;
- ii. Acquisition management;
- iii. Committee system for competitive bids;
- iv. Logistics management;
- v. Disposal management;
- vi. Risk management; and
- vii. Performance management.

*[Municipal SCM Regulations, Section 9 (b)]*

e. No person may interfere with the supply chain management system.

*[MFMA, Section 118 (a)]*

### **7.2 The SCM Unit**

a. The Accounting Officer must establish a supply chain management unit (SCM Unit) to implement the supply chain management policy in line with the Council approved policies and procedures.

*[MFMA, Section 99 (h)]*

- b. The SCM Unit must, operate under the direct supervision of the Chief Financial Officer or a delegated official in terms of section 82 of the MFMA.

### **7.3 Training of SCM Officials**

- a. The Accounting Officer and all other officials of Msukaligwa Local Municipality involved in the implementation of the supply chain management Manual of Msukaligwa Local Municipality must meet the prescribed competency levels.

*[Municipal SCM Regulations, Section 119 (1)]*

- b. Msukaligwa Local Municipality must, for the above purposes, provide resources or opportunities for the training of officials referred, to meet the prescribed competency levels.

*[Municipal SCM Regulations, Section 119 (2)]*

- c. The National Treasury or the Provincial Treasury or any other appropriate accredited body may assist Msukaligwa Local Municipality in the training of officials.

*[Municipal SCM Regulations, Section 119 (3)]*

## **8 LEGISLATIVE FRAMEWORK**

- a. The Local government has the responsibility to perform its duties within the legislative framework, which is applicable to this sphere of government. The following legislation currently regulates procurement:
- i. Constitution of the Republic of South Africa, Act 108 of 1996;
  - ii. Public Finance Management Act, 1 of 1999 (as amended by Act 29 of 1999);
  - iii. Local Government : Municipal Systems Act 32 of 2000;
  - iv. Municipal Finance Management Act No.56 of 2003;
  - v. Preferential Procurement Policy Framework Act, Act No. 5 of 2000;
  - vi. The Construction Industry Development Board Act, 2000 (Act No. 38 of 2000);
  - vii. “Treasury guidelines” issued by the Minister in terms of section 168 of the Act;
  - viii. Local Government: Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations published by Government Notice 868 of 2005; and
  - ix. Section 217(2) of the Constitution provides for “preferential policies in the allocation of contracts” and the Preferential Procurement Policy Framework Act, gives effect to it.

### **8.1 The Constitution**

- a. In establishing a SCM policy document, the organ of state must produce a document that complies with section 217 of the Constitution of the Republic of South Africa, Act No 108 of 1996, as amended, which reads as follows:
- i. “217(1) When an Organ of State in the national, provincial or local sphere of Government, or any other institution identified in national legislation, contracts for goods and services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost-effective.
- b. Subsection (1) does not prevent the organs of state or institutions referred to in the subsection from implementing a procurement policy providing for:
- i. Categories of preference in the allocation of contracts; and
  - ii. The protection or advancement of persons, or categories of persons, disadvantaged by unfair discrimination.
- c. National legislation must prescribe a framework within which the policy referred to in subsection (2) must be implemented.

## **8.2 The Municipal Finance Management Act**

- a. The Municipal Finance Management Act, Act No 56 of 2003, sets out the responsibilities of the municipality's accounting officer and highlights a number of aspects impacting on supply chain management. The main aspects pertaining to supply chain management are as indicated hereunder.
- b. Section 2 stipulates that municipalities must establish norms and standards and other requirements for:
  - i. Ensuring transparency, accountability and appropriate lines of responsibility.
  - ii. The management of their revenues, expenditures, assets and liabilities.
  - iii. Supply chain management.
- c. Section 14 stipulates a municipality may not transfer ownership as a result of a sale or other transaction or otherwise permanently dispose of a capital asset needed to provide the minimum level of basic municipal services.
  - i. Section 63(1) (a) stipulates that the AO of a municipality is responsible for the management of the assets of the municipality, including the safeguarding and the maintenance of those assets.
  - ii. Section 63(2) (c) stipulates that the municipality has and maintains a system of internal control of assets, including an asset register, as may be prescribed.
  - iii. Sections 111 and 112 stipulate that each municipality must have and implement a SCM policy that is fair, equitable, transparent, competitive and cost-effective.
  - iv. Section 114 stipulates that if a bid other than the one recommended in the normal course of implementing the SCM policy, is approved, the AO must, in writing, notify the AG, the provincial and national treasury, of the reasons for deviating from such recommendation.
  - v. Section 115 which stipulates that the AO must:
    - Take all reasonable steps to ensure that proper mechanisms and separation of duties in the SCM system are in place to minimise the likelihood of fraud, corruption, favouritism and unfair and irregular practices.
  - vi. Section 118 stipulates that no person may interfere with the SCM system or amend or tamper with any bids, quotations, contracts or bids after their submission.
  - vii. Section 119 stipulates that the AO and all other officials involved in the implementation of the SCM policy must meet the prescribed competency levels.

## **8.3 Regulations In Terms Of Section 168 of the Municipal Finance Management Act**

- a. The regulations cover investments, supply chain management and public private partnerships. The aspects of SCM are:
  - i. That each municipality must have and implement a SCM policy.
  - ii. The Council must delegate such supply chain management powers and duties to the AO.

- iii. Each municipality must establish its own SCM Unit. The SCM Unit must, where possible operate under the direct supervision of the CFO.
- iv. The training of officials involved in implementing a supply chain management policy must be in accordance with any Treasury guidelines on SCM training.
- v. The SCM system must provide effective systems for the following:
  - Demand management.
  - Acquisition management.
  - Logistics management.
  - Disposal management.
  - Risk management
  - Performance management.
- vi. The bid documentation must take into account the requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure.

#### **8.4 Local Government: Municipal Systems Act**

- a. The purpose of the Local Government: Municipal Systems Act, Act No 32 of 2000 as amended, is:
  - i. To provide for the core principles, mechanisms and processes that is necessary to enable municipalities to move progressively towards the social and economic upliftment of local communities, and ensure universal access to essential services that are affordable to all.

#### **8.5 The Preferential Procurement Policy Framework Act (PPPFA)**

- a. The Preferential Procurement Policy Framework Act (PPPFA), Act No 5 of 2000 and its regulations issued in August 2001, was promulgated to give effect to Section 217(3) of the Constitution by providing a framework for the implementation of the procurement policy contemplated in Section 217(2) of the Constitution.
- b. Msukaligwa Local Municipality must apply the Preferential Procurement Policy Framework Act, (Act No 5 of 2000) and its regulations. The Act provides for the implementation of a preference system in the allocation of contracts for categories of service providers and the promotion of goals to
- c. advance the interest of persons disadvantaged by unfair discrimination.
- d. The Act also regulates that the evaluation processes are conducted in a fair, justifiable and transparent manner.
- e. There is currently a process underway to ensure that the PPPFA and the BBBEE Act is aligned. A revised PPPFA has been published for comment, but it is unclear when this will be promulgated.

### **8.6 The Broad-Based Black Economic Empowerment Act (BBBEE Act)**

- a. The Broad Based Black Economic Empowerment Act (BBBEE Act), Act No 53 of 2003, provides the framework for the promotion of black economic empowerment, the establishment of a balanced scorecard and the publication of transformation charters. A supporting strategy has also been published. Draft codes of good practice have also been issued for comment. These codes could include qualification criteria for preferential procurement and other economic activities.
- b. Msukaligwa Local Municipality must adhere to the directives contained in the BBBEE Act as it affects the procurement process.
- c. Economic transformation must be promoted through preferential procurement in order to promote meaningful participation of black people including women, workers, youth, people with disabilities and people living in rural areas, in the economy.
- d. Transformation will achieve a change in the racial composition of ownership and management structures of existing and new enterprises.

### **8.7 The Prevention and Combating Of Corrupt Activities Act**

- a. Msukaligwa Local Municipality must adhere to the directives contained in the Prevention and Combating of Corrupt Activities Act, Act 12 of 2004 as it affects the supply chain process.
- b. The Act regulates offences in respect of corrupt activities relating to contracts, activities pertaining to acceptance or offering of any gratification and the improper influence of another person as well as offences in respect of corrupt activities relating to procuring and withdrawal of tenders and auctions.
- c. The Act provides for miscellaneous offences relating to possible conflict of interest and other unacceptable conduct such as acquisition of private interest in contract, agreement or investment of a public body.
- d. National Treasury must establish a register for tender defaulters.

### **8.8 The National Small Enterprise Act**

- a. The National Small Enterprise Act, Act No 102 of 1996, as amended, establishes an advisory body and the Small Enterprise Development Agency to provide guidelines for organs of state in order to promote small enterprises in the Republic.

### **8.9 10 The Construction Industry Development Board (CIDB) Act**

- a. The Construction Industry Development Board Act (CIDB Act), Act No 38 of 2000, issued November 2000, was promulgated to provide for the establishment of the Construction Industry Development Board; to implement an integrated strategy for the reconstruction, growth and development of the construction industry and to provide for matters connected therewith.
- b. The construction industry operates in a uniquely project specific and complex environment, combining different investors, clients, contractual arrangements and consulting professions;

combining different site conditions, design, materials and technologies; combining different contractors, specialist subcontractors and the workforce assembled for each project.

- c. Section 18(1) of the CIDB Act states that a contractor may not undertake, carry out or complete any construction works or portion thereof for public sector contracts, awarded in terms of competitive bids or quotation, unless he or she is registered with the Board and holds a valid registration certificate issued by the Board.
- d. The MFMA Regulations determine that Msukaligwa Local Municipality must take into account the requirements of the CIDB in case of bid documentation relating to construction, upgrading or refurbishment of buildings or infrastructure.

### **8.10 State Information Technology Agency (SITA) Act**

- a. The State Information Technology Agency (SITA) Act, Act No 88 of 1998, as amended by Act 38 of 2002, requires that SITA may act as the procurement agency for municipal entities' information technology requirements should the municipality so wish.

### **8.11 Public-Private Partnerships**

- a. Whatever goods, works and/or services are procured by means of public private partnerships, Chapter 11, Part 2 of the MFMA as well as the subsequent Regulations, Schedule 3, must be adhered to.

### **8.12 Policy to Guide Uniformity in Procurement Reform Processes in Government**

- a. The Policy To Guide Uniformity In Procurement Reform Processes In Government was approved by Cabinet 10 September 2003 and promulgated on 05 December 2003, is applicable to the national and provincial spheres of government but must be properly taken into account and may be incorporated into the local government environment for uniformity and best practice. Msukaligwa Local Municipality has decided to consider the incorporation of best practices from the above.
- b. The policy strategy has as a goal the uniform implementation of Government's procurement reform initiatives and the issuing of regulations in terms of Section 76(4) (c) of the PFMA in respect of the Framework for SCM.
- c. In terms of this policy strategy, accounting officers are required to establish and implement a SCM function that promotes sound financial management and uniformity in all spheres of Government.
- d. Regarding insurance organs of State may insure for procurement related physical risks, establish risk management programmes or make advance provision for losses associated with such risks. Suitable arrangements should also be made to ensure that insurance related excesses do not cause the failure of SMME's.

### **8.13 National Treasury Practice Notes**

- a. The practice notes are applicable to the national and provincial spheres of government but must be properly taken into account and may be incorporated into the local government

environment for uniformity and best practice. Msukaligwa Local Municipality has decided to consider the incorporation of best practices from the above.

- b. All documents relevant to SCM are electronically available on National Treasury's website.
- c. Current practice notes that have already been issued pertain to the following:
  - i. General conditions of contract and standardised bidding documents;
  - ii. Appointment of consultants;
  - iii. Code of conduct for SCM practitioners;
  - iv. Tax Clearance Certificates;
  - v. Procurement of motor vehicles;
  - vi. Checklist for the implementation of SCM and monthly reporting of SCM information;
  - vii. Strategic sourcing of motor vehicles: Request for estimates;
  - viii. Training of SCM officials;
  - ix. Replacement of the standard bidding documents-form pertaining to the NIPP; and
  - x. Threshold values for the procurement of goods and services by means of petty cash, verbal/written price quotations and competitive bids.
- d. Letters issued by National Treasury pertaining to the following:
  - i. Letter of 27 October 2004 regarding the implementation of SCM;
  - ii. Letter of 10 May 2005 regarding the evaluation of bids, calculation of points and timely payment of accounts;
  - iii. Irregular expenditure dated 24 October 2005;
  - iv. Inspections, tests and analysis conducted by institutions accredited or recognised by the South African National Accreditation System (SANAS) on bid samples, capability, evaluations and consignments dated 20 October 2005;
  - v. Prohibition of set-asides and the use of cost estimates as benchmarks and measurable attached to specific goals for which preference points are awarded dated 23 January 2006;
  - vi. Tax clearance certificates dated 23 January 2006; and
  - vii. Projects/services funded by grants in accordance with technical agreements and appointment of transaction advisors to assist with public private partnership dated 21 September 2006.

#### **8.14 Other Applicable By-Laws, Ordinance and Legislation**

- a. Cognisance must be taken of the following pieces of legislation that may have an impact on the supply chain environment:
  - i. Promotion of Administrative Justice Act, Act No 3 of 2000;

- ii. Promotion of Access to Information Act, Act No 2 of 2000;
  - iii. Protected Disclosures Act, Act No 26 of 2000; and
  - iv. The Competition Act, Act No 89 of 1998.
- b. All other applicable by-laws, ordinances or legislation impacting on SCM must be taken into account.

## **9 SCM GOVERNANCE STRUCTURES AND ROLES AND RESPONSIBILITIES**

### **9.1 Oversight Role of the Council of Msukaligwa Local Municipality**

- a. The Council of Msukaligwa Local Municipality must maintain oversight over the implementation of its SCM Policy and Procedure Manual to ensure that it is within the ambit of the applicable legislation.

*[Municipal SCM Regulations, Section 6 (1)]*

- b. For the purposes of such oversight the accounting officer must:
- i. Within 30 days of the end of each financial year, submit a report on the implementation of the SCM policy to the Council of Msukaligwa Local Municipality..
  - ii. Whenever there are serious and material problems in the implementation of the SCM Policy, immediately submit a report to the Council.

*[Municipal SCM Regulations, Section 6 (2)]*

- c. Within 10 days after the end of each quarter, submit a report on the implementation of the SCM policy to the Mayor of Msukaligwa Local Municipality.

*[Municipal SCM Regulations, Section 6 (3)]*

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

*[Municipal SCM Regulations, Section 6 (4)]*

### **9.2 Role of the Municipal Manager (Accounting Officer)**

- a. The Municipal Manager as the Accounting Officer must:
- b. Be granted the required delegations in order to discharge his/her duties to implement the SCM policy of Msukaligwa Local Municipality as contained in the SCM Manual;

*[Municipal SCM Regulations, Section 4 (1)(a)]*

- i. Comply with his/her responsibilities in terms of Section 115 of the MFMA and other applicable provisions of the MFMA;

*[Municipal SCM Regulations, Section 4 (1)(d)]*

- ii. Take all reasonable steps to ensure that Msukaligwa Local Municipality has and implements a supply chain management policy as set out in MFMA Regulation 2 and taking into account any treasury guidelines;

*[MFMA, Section 106 (1)&(2)]*

- iii. Maximise administrative and operational efficiency in the implementation of the SCM policy as contained in the SCM Manual; and

*[MFMA, Section 79 (1)(a)]*

- iv. Sub-delegate in writing in terms of the approved policy such SCM powers and duties as necessary for the effective management of the SCM policy and procedures.

*[MFMA, Section 106 (1)&(2)]*

### **9.3 The Committee System**

- a. The committee system for competitive bids must consist of at least:
  - i. A bid specification committee;
  - ii. A bid evaluation committee; and
  - iii. A Bid Adjudication Committee.
- b. In appointing the members of each committee, the Accounting officer must take into account section 117 of the MFMA Act.
- c. The accounting officer is required to 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.

*[Municipal SCM Regulations, Section 26 (1)]*

- d. The committee system must be consistent with:
  - i. MFMA Regulations 27, 28 and 29; and
  - ii. Any other applicable legislation.

*[Municipal SCM Regulations, Section 26 (2)]*

- e. The Accounting Officer may apply the Committee system to formal written price quotations.

*[Municipal SCM Regulations, Section 26 (3)]*

- f. 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.

*[National Treasury's SCM: A guide for Accounting Officers of Municipalities and Municipal Entities, Section 2.3.2)]*

### **9.4 Bid Specification Committee**

#### **9.4.1 Functions of Bid Specification Committees**

- a. Compiling of quotations/bid specifications for each procurement of goods and services.

*[Municipal SCM Regulations, Section 27 (1)]*

- b. Specifications must be drafted in an unbiased manner to allow all potential providers to offer their goods and services.
- c. 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.
- d. Where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design.
- e. May not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labelling of conformity certification.
- f. 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”.
- g. To identify and include each specific goal for which points may be awarded as well as the relevant evaluation criteria in the specification as bids may only be evaluated according to the criteria stipulated in the bid documentation.
- h. Forward the final specification to the SCM Unit to facilitate final approval of the specification prior to advertisement of bids.

*[Municipal SCM Regulations, Section 27 (2)]*

**9.4.2 Establishment of Bid Specification Committees**

- a. The Accounting Officer or delegate must establish and appoint one or more Bid Specification Committees on an ad hoc basis, as necessary.

*[Municipal SCM Regulations, Section 27 (3)]*

**9.4.3 Composition of Bid Specification Committees**

- a. The Committee may, where appropriate, solicit the advice of the external specialists.

*[Municipal SCM Regulations, Section 27 (3)]*

- b. 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.

*[Municipal SCM Regulations, Section 27 (4)]*

- c. The Accounting Officer or delegate must appoint one of the members of the Bid Specification Committee as the chairperson of the Committee. The chairperson must be a senior official.
- d. A Bid Specification Committee must as far as possible be composed of:

**Msukaligwa Local Municipality**  
**Supply Chain Management**  
*Policy*

<b>Amount</b>	<b>Quotation</b>	<b>7 Days Quotation Process</b>	<b>Bid Specification Committee</b>
Less than R 30 000.00	Yes	N/A	N/A
From R 30 000.00 but less than R 200 000.00	N/A	Yes	<u>User Department</u> - Manager (1) (Chairperson) - SCM (1) - Legal (1) - Budget (1) - Officials from the department requiring the goods or services
Quorum			50% plus 1
From R 200 000.00 but less than R 5 Million	N/A	N/A	<u>User Department</u> - Manager (2) (Chairperson) - SCM (2) - Legal (2) - Budget (2) - Officials from the department requiring the goods or services
Quorum			50% plus 1
From R 5 Million but less than R 10Million	N/A	N/A	- Manager (3) (Chairperson) - SCM (3) - Legal (3) - Budget (3) - Officials from the department requiring the

			goods or services
Quorum			50% plus 1
From R 10 Million and above	N/A	N/A	<ul style="list-style-type: none"> <li>- Manager (3) (Chairperson)</li> <li>- SCM (3)</li> <li>- Legal (3)</li> <li>- Budget (3)</li> <li>- Officials from the department requiring the goods or services</li> </ul>
Quorum			50% plus 1

## 9.5 Bid Evaluation Committees

### 9.5.1 Functions of Bid Evaluation Committees

- a. The Bid Evaluation Committee must evaluate all bids received from above the quotation threshold.
- b. Evaluate offers received within the quotation threshold where the requirement is technically complex and/or there are risks involved that warrant this process.
- c. The Bid Evaluation Committee must evaluate bids in accordance with:
  - i. The specifications for a specific procurement;
  - ii. The points system set out in terms of paragraph 27(2)(f) of the Municipal SCM Regulations;
  - iii. Each bidder's ability to execute the contract;
  - iv. Whether the recommended bidder's municipal rates and taxes and municipal service charges are not in arrears; and
  - v. The Bid Evaluation Committee must submit a report and recommendations regarding the award of the bid or any other related matter to the Bid Adjudication Committee for consideration and/or approval after legal comment was given on the evaluation report and included in the information to be presented to the Bid Adjudication Committee.

#### *[Municipal SCM Regulations, Section 28 (1)]*

- a. A compliance officer may attend the meeting to assist the SCM Unit to ensure compliance with the process, policy and procedure.

- b. Members of the Bid Evaluation Committee may present their reports to the Bid Adjudication Committee to clarify uncertainties. Such members shall not have any voting power on the Bid Adjudication Committee.

*[National Treasury's SCM: A guide for Accounting Officers of Municipalities and Municipal Entities, Section 4.5.6.1.2)]*

### **9.5.2 Establishment of Bid Evaluation Committees**

- a. The Accounting Officer or delegate must establish and appoint one or more Bid Evaluation Committees as necessary.
- b. Bid Evaluation Committees must be appointed before the closing date for bids that must be evaluated by the Committee.
- c. Should a member declare a conflict of interest at any stage, the member may not be part of the Bid Evaluation Committee and must be replaced by a member of suitable expertise.
- d. An official may not be a member of the Bid Evaluation Committee and the Adjudication Committee/Award Structure for the same bid.

*[Municipal SCM Regulations, Section 29 (4)]*

- e. No person other than a member of the Bid Evaluation Committee or the official rendering the Secretariat function is allowed to attend the meeting.
- f. The Accounting Officer must appoint the members to the Bid Evaluation Committee from time to time, however a review must be done annually.

### **9.5.3 Composition of Bid Evaluation Committees**

- a. The Bid Evaluation Committee must comprise of at least one supply chain practitioner, and officials from the groups requiring the goods/services consisting of the commodity manager and an end user.

*[Municipal SCM Regulations, Section 28 (2)]*

- b. If considered necessary, additional persons with suitable expertise from other groups/institutions with voting rights.
- c. If considered necessary, additional technical experts with voting rights.
- d. The SCM Unit must fulfil the professional secretariat function.
- e. A compliance officer must attend the meeting, but will have no voting rights.
- f. Always ensure that sufficient technical expertise, financial expertise as well as supply chain expertise is represented on the Bid Evaluation Committee.
- g. The Accounting Officer or delegate must appoint one of the members of the Bid Evaluation Committee as the chairperson of the Committee. The chairperson must be a senior official.
- h. A Bid Evaluation Committee must as far as possible be composed of:

**Msukaligwa Local Municipality**  
**Supply Chain Management**  
**Policy**

<b>Amount</b>	<b>Quotation</b>	<b>7 Days Quotation Process</b>	<b>Bid Evaluation Committee</b>
Less than R 30 000.00	Yes	N/A	N/A
From R 30 000.00 but less than R 200 000.00	N/A	Yes	<u>User Department</u> <ul style="list-style-type: none"> <li>- SCM Manager (1) (Chairperson)</li> <li>- SCM (1)</li> <li>- 2 X Officials from the department requiring the goods or services</li> </ul>
Quorum			Four
From R 200 000.00 but less than R 5 Million			- As appointed by the Municipal Manager
Quorum			50% plus 1
From R 5 Million but less than R 10Million	N/A	N/A	- As appointed by the Municipal Manager
Quorum			50% plus 1
From R 10 Million and above	N/A	N/A	<ul style="list-style-type: none"> <li>- Manager (3) (Chairperson)</li> <li>- SCM (3)</li> <li>- Legal (3)</li> <li>- Budget (3)</li> <li>- Officials from the department requiring the goods or services</li> </ul>
Quorum			50% plus 1

## **9.6 Award Structures**

### **9.6.1 Functions of Bid Adjudication Committees**

- a. The Bid Adjudication Committee considers the report and recommendations made by the Bid Evaluation Committee.

*[Municipal SCM Regulations, Section 29 (1)(a)]*

- b. Assess the process followed in making the recommendation to ensure that the SCM policy has been complied with in full.
- c. Obtain clarity from members of the Bid Evaluation Committee if required.
- d. The Bid Adjudication Committee must approve the recommendation submitted and award the contract if delegated to do so through the minuting of the decision and the signing of the minutes by the Committee members.

*[Municipal SCM Regulations, Section 29 (1)(b)(i)]*

- e. If the Bid Adjudication Committee is not delegated to award a specific bid, they must comment on the recommendations made and forward it together with the report to the Accounting Officer with an alternative recommendation who may finally award the contract.

*[Municipal SCM Regulations, Section 29 (1)(b)(ii)]*

- f. The Bid Adjudication Committee must refer the recommendation back to Bid Evaluation Committee when they do not agree with the recommendation to endeavour to sort out the differences if they are process related.

*[Municipal SCM Regulations, Section 29 (5)]*

- g. Should the Bid Adjudication Committee not agree with the recommendations made by the Bid Evaluation Committee, the Bid Adjudication Committee does not have the power to finalise the award and then only the Accounting Officer may make the final award.

*[Municipal SCM Regulations, Section 29 (5)(a) & (b)]*

- h. If a bid other than the one recommended in the normal course of implementing the supply chain management policy is approved, the accounting officer must within 10 working days, in writing notify the Auditor- General, the Provincial Treasury and the National Treasury of the reasons for deviating from such recommendation.

*[Municipal SCM Regulations, Section 29 (7)]*

- i. The above does not apply if a different bid was approved in order to rectify an irregularity.

### **9.6.2 Establishment of Award Structures**

- a. The Accounting Officer must establish the necessary award structures to perform the award/adjudication of quotations and bids.
- b. The award structures are as follows:

- i. A delegated official for awards up to the quotation threshold or as delegated.
  - ii. At least one standing Bid Adjudication Committee for awards above the quotation threshold and up to R10 million as delegated by the Accounting Officer.
  - iii. The Accounting Officer for awards not formally delegated to the Bid Adjudication Committee (bids above R10m).
- c. The award structure for a specific quotation/bid cannot be:
- i. An official who performed the evaluation or made a recommendation in respect of that quotation/bid.
  - ii. A person who served as member on the Bid Evaluation Committee, who processed that quotation/bid.

*[Municipal SCM Regulations, Section 29 (4)]*

- d. Except for the position of chairperson, the Bid Adjudication Committee should not be established for a period exceeding 2 years should replacement skills be available. Each member's individual appointment for a period not longer than another two years may be considered, should the skills not be available, but must be reviewed annually.
- e. Each member must have a seconds where feasible in the case of a standing committee.

**9.6.3 Composition of a Bid Adjudication Committee**

Amount	Quotation	7 Days Quotation Process	Bid Adjudication Committee	Final Awards
Less than R 30 000.00	Yes	N/A	N/A	SCM
From R 30 000.00 but less than R 200 000.00	N/A	Yes	<u>User Department</u> - Chairperson (Senior Manager) to be appointed by DMM – Manager (1) Presentation - Managers (3)	DMM
Quorum			50% plus 1	
From R 200 000.00 but less than R 5 Million			<u>User Department</u> - DMM – Chairperson	DMM

			Manager (2) Presentation - Managers (3)	
Quorum			50% plus 1	
From R 5 Million but less than R 10 Million	N/A	N/A	- CFO – Chairperson - Manager (3) Presentation - DMM's (4)	CFO
Quorum			50% plus 1	
From R 10 Million and above	N/A	N/A	- CFO – Chairperson - Manager (3) Presentation - DMM's (4) services	Accounting Officer
Quorum			50% plus 1	

#### **9.6.4 Resolution of Disagreements on Award of Contract**

- a. Where the Bid Adjudication Committee disagrees with the recommendation of the relevant Bid Evaluation Committee on the adjudication of a contract, the request with the recommendation of the Bid Evaluation Committee, the commentary and reasons of the Bid Adjudication Committee are to be submitted to the Accounting Officer for a final decision.
- b. The Accounting Officer may obtain advice as deemed necessary.

*[Municipal SCM Regulations, Section 29 (5)(a) & (b)]*

### **9.7 DISPOSAL COMMITTEE**

#### **9.7.1 Functions of a Disposal Committee**

- a. Inspect all items that appear on the disposal certificate.
- b. All members of the Committee must objectively evaluate the items that are submitted for disposal.
- c. Make recommendations on the following issues:
  - i. Whether items should be disposed of.

- ii. The appropriate disposal method.

*[National Treasury's SCM: A guide for Accounting Officers of Municipalities and Municipal Entities, Section 7.1]*

### **9.7.2 Establishment of a Disposal Committee**

- a. The Accounting Officer or delegate must establish and appoint one or more Disposal Committees and a chairperson on an ad hoc basis, as necessary.

### **9.7.3 Composition of a Disposal Committee**

- a. A Disposal Committee should consist of at least three officials.
- b. The following must be represented on the Committee for movable assets. The Accounting Officer must appoint the chairperson:
  - i. The relevant commodity manager.
  - ii. An official proficient in logistics management.
  - iii. The relevant end user of the commodity considered for disposal.
- c. The following must be represented on the Committee for immovable assets:
  - i. CFO as chairperson
  - ii. Manager Finance
  - iii. Manager Legal
  - iv. An official proficient in logistics management.
  - v. The relevant end user/commodity manager of the commodity considered for disposal.
  - vi. Manager Supply Chain Management.
- d. An official who is in direct control of stores/equipment, is to be evaluated may not serve as a member of the Disposal Committee, but can assist the Disposal Committee in the evaluation process.

## **10 ETHICS IN SUPPLY CHAIN MANAGEMENT**

### **10.1 Code of Conduct**

- a. A Supply Chain Management Code of Ethics must be drafted to provide to provide ethical guidance to all officials involved in supply chain management processes. (Annexure A)

### **10.2 Annual Acknowledgement**

- a. All officials involved in supply chain management processes must annually sign a confirmation that they have read and understand the Supply Chain Management Code of Conduct as well as the Supply Chain Management Policy and related Standard Operating Procedures Manual.

### **10.3 Ethical Direction**

- a. Msukaligwa Local Municipality commits itself to a policy of fair dealing and integrity in the conducting of its SCM activities.
- b. All SCM officials and role players in the SCM system are required to promote:
  - i. Mutual trust and respect.
  - ii. An environment where business can be conducted in a fair and reasonable manner and with integrity.

#### *[Municipal SCM Regulations, Section 46 (1)]*

- a. All SCM officials must ensure that they perform their duties efficiently, and effectively, in accordance with the relevant legislation and regulations.
- b. Msukaligwa Local Municipality will abide by the Msukaligwa Local Municipality Code of Ethical Standards and the Code of Conduct for SCM practitioners and other role players as issued by National Treasury in 2005 for municipal entities and will direct all SCM practitioners and role players in their conduct within and with Msukaligwa Local Municipality.
- c. Non-compliance to the Supply Chain Management Code of Conduct and / or this policy and related Standard Operating Procedures Manual is subject to the disciplinary action.

#### *[Municipal SCM Regulations, Section 46 (4)&(5)]*

### **10.4 The Highest Ethical Standards**

- a. An official of the SCM Unit, who becomes aware of a breach of or failure to comply with any aspect of the SCM system, must immediately report the breach or failure to the Accounting Officer in writing.

#### *[Municipal SCM Regulations, Section 46 (2)(i)]*

- b. The Accounting Officer must take all reasonable steps to prevent abuse of the SCM system.

*[Municipal SCM Regulations, section 38 (1)(a)]*

- a. All allegations against a practitioner or any other role player, of corruption, improper conduct or compliance failure with the SCM system must be investigated by the Accounting Officer or the delegate who must, when justified, take steps against such official or other role player.
- b. Report any conduct that may constitute an offence to the SAPS.

*[Municipal SCM Regulations, Section 38 (1)(b)]*

### **10.5 Declaration of Interest**

- a. A SCM practitioner or other role player, 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 Msukaligwa Local Municipality.

*[Municipal SCM Regulations, Section 38 (2)(e)]*

- b. Immediately withdraw from participating in any manner whatsoever in the process relating to the contract.

*[Municipal SCM Regulations, Section 38 (2)(f)]*

- c. A SCM official must recognise and disclose any conflict of interest that may arise.

*[Municipal SCM Regulations, Section 46 (2)(d),(e)&(f)]*

### **10.6 Equal Treatment**

- a. All SCM practitioners and other role players must treat all suppliers and potential suppliers equally.

*[Municipal SCM Regulations, Section 46 (2)(a)]*

### **10.7 Accountability**

- a. A SCM practitioner and other role players must be scrupulous in their use of public/organisational property and funds.

*[National Treasury's SCM Guide for Accounting Officers of Municipalities and Municipal Entities, Section 2.2.3.3.2]*

*[Municipal SCM Regulations, Section 55 (2)]*

*[Municipal SCM Regulations, Section 46 (2)(g)]*

### **10.8 Openness**

- a. Officials must give reasons for their decisions and actions.

*[Municipal SCM Regulations, Section 78 (1) & (2)]*

### **10.9 Confidentiality**

- a. Any information that is the property of Msukaligwa Local Municipality or its suppliers/service providers must be protected at all times.
- b. No information regarding any bid/contract/bidder/contractor may be revealed.

*[National Treasury's SCM Guide for Accounting Officers of Municipalities and Municipal Entities, Section 4.5.4 "Confidentiality"]*

### **10.10 Independence**

- a. All SCM practitioners and role players may not use their position for private gain or to improperly benefit another person.

*[Municipal Systems Act, Schedule 2, Section 4 (1)(a)]*

*[Municipal SCM Regulations, Section 46 (2)(b)]*

### **10.11 Gifts and Hospitality**

- a. No person who is a provider of goods or services or prospective provider of goods or services to Msukaligwa Local Municipality, or a recipient or prospective recipient of goods disposed, or to be disposed of, by Msukaligwa Local Municipality, may either directly or through a representative or intermediary promise, offer or grant any reward, gift, favour or hospitality to:
  - i. Any official of Msukaligwa Local Municipality.
  - ii. Any other role player involved in the implementation of the supply chain management policy of Msukaligwa Local Municipality.
  - iii. Any inducement or reward to Msukaligwa Local Municipality for or in connection with the award of a contract.
- b. All SCM practitioners and role players must ensure that officials do not compromise the credibility or integrity of the SCM system through the acceptance of gifts or hospitality or any other act.
- c. Msukaligwa Local Municipality must maintain a gift and hospitality register.
- d. Gifts above a certain threshold determined by the Council must be approved for acceptance at the level stipulated in the Delegation of Authority document.

*[Municipal SCM Regulations, Section 46 (2)(c)]*

*[Municipal SCM Regulations, Section 47 (1)&(2)]*

### **10.12 Fraud and Corruption**

- a. The Prevention and Combating of Corrupt Activities Act, Act No 12 of 2004 must be adhered to.

- b. Msukaligwa Local Municipality must ensure that all officials, clients and other stakeholders (including providers) are made aware of the implications of The Prevention and Combating of Corrupt Activities Act by way of its bidding processes.
- c. Fraud prevention plans must be instituted.
- d. A SCM practitioner or other role player must assist the Accounting Officer in combating corruption and fraud in the SCM system.
- e. The Accounting Officer or the delegate must reject a proposal for adjudication if he/she determines that the provider recommended for adjudication, has engaged in corrupt or fraudulent activities in competing for the contract in question.

*[Municipal SCM Regulations, Section 38 (1)(e)]*

### **10.13 Combative Practices**

- a. The use of combative practices must not be allowed.

### **10.14 Internal Abuse Of Preferential Procurement System**

- a. The Accounting Officer must ensure that the preferential procurement system is not abused for any purpose, neither for the benefit of Msukaligwa Local Municipality nor for the benefit of any potential provider/contractor or individual.
- b. All conduct, dealings and actions must be bona fide.
- c. Any employee suspected of acting contrary to this policy, must be dealt with in terms of the disciplinary code of Msukaligwa Local Municipality.

### **10.15 External Abuse Of Preferential Procurement System, Inclusive Of Fronting**

- a. Msukaligwa Local Municipality must vigorously pursue all legal remedies available in the event that a provider abused the preferential procurement points system, particularly through, for example, but not limited to the following ways:
  - i. Contravening Regulation 13 of the PPPFA.
  - ii. Has promised, offered or given a bribe during the bidding process and/or after conclusion of the contract.
  - iii. Has acted in a fraudulent manner or in bad faith or in any other improper manner during the bidding process or after conclusion of the contract.
  - iv. That an agreement was entered into with the contractor on the strength of information furnished by him/her, and it became apparent after conclusion of such agreement that the information provided was incorrect.
- b. Msukaligwa Local Municipality will endeavour, where possible, to identify fronting before a contract is awarded.
- c. To protect both parties to an agreement, potential providers, contractors and government officials must be made aware of the implications of any contraventions.

- d. Potential providers must be informed via the conditions of contract of implications of contraventions.
- e. Where Msukaligwa Local Municipality becomes aware of a possible fronting case, the process in accordance with the Constitution, the rules of Administrative Law and the Promotion of Administrative Justice Act, must be followed as a starting point.
- f. Where, after award of a contract, it becomes evident that the award was made based on incorrect information constituting fronting; the appropriate action must be taken in accordance with all legal remedies available.

#### **10.16 Sponsorships**

- a. The accounting officer must promptly disclose to the National Treasury and the Provincial Treasury any sponsorship promised, offered or granted to Msukaligwa Local Municipality, whether directly or through a representative or intermediary, by any person who is:
  - i. A provider of goods or services or prospective provider of goods or services to Msukaligwa Local Municipality.
  - ii. A recipient or prospective recipient of goods disposed, or to be disposed of, by Msukaligwa Local Municipality.

*[Municipal SCM Regulations, Section 48]*

#### **10.17 Conduct Of Members Of Bid Committees**

- a. Conduct of all members and non-members must be in accordance with the relevant legislative environment, the National Treasury's Code of Conduct for SCM practitioners and instructions issued from time to time by National Treasury in this regard.
- b. A member of any Bid Committee, technical advisor or user representative who contravenes or fails to comply with the afore-mentioned must summarily be dismissed from its role and appropriate steps taken against the person.

*[Municipal SCM Regulations, 26 (2) & Section 46(5)]*

#### **10.18 Conduct Of Members Of The Council And Officials**

- a. No Council members or officials exercising a power or performing a function in terms of the MFMA, is liable in respect of any loss or damage resulting from the exercise of that power or the performance of that function in good faith.

*[MFMA, Section 176 (1)]*

b.

## **11 RISK MANAGEMENT**

### **11.1 Responsibility For Risk Management**

- a. The Accounting Officer must ensure that Msukaligwa Local Municipality has and maintains an effective system of risk management for the identification, consideration and avoidance of potential risks in the SCM system.

*[MFMA, Section 62 (1)(c)(i)]*

- b. Aspects of risk management must be allocated to the CFO, the SCM practitioners, the internal audit function and the Audit Committee, each of which shall ultimately be accountable to the Accounting Officer or the Council for the discharge of their responsibilities.

### **11.2 Application Of Risk Management In SCM**

- a. The criteria for the identification, consideration and avoidance of potential risks in the supply chain management system, are as follows:

*[Municipal SCM Regulations, Section 41(1)]*

- i. non compliance by the supplier to deliver within the agreed timeframes;
  - ii. supply of inferior goods or services by the supplier;
  - iii. inability of the supplier to provide goods or services as ordered;
  - iv. non adherence to the municipality policy with regards to utilization of preferred suppliers; and
  - v. procurement of goods or services at prices or of a quality not in the best interest of the municipality.
- b. The Accounting Officer or delegate must determine Msukaligwa Local Municipality's risk aptitude.
- c. Risks must be identified upfront on a case-by-case basis.
- d. Risks must be allocated to the party best suited to manage such risks.
- e. Msukaligwa Local Municipality must accept the cost of risks where the cost of transferring the risk is greater than that of retaining such risk and it must transfer the risk where this is not the case.
- f. Msukaligwa Local Municipality must pro-actively manage risks and provide for adequate cover for residual risks.
- g. The bid and contract documentation must clearly and unambiguously state to whom the risk has been allocated and who should take responsibility for managing it.

*[Municipal SCM Regulations, Section 41(2)]*

## **12 PREFERENTIAL PROCUREMENT**

### **12.1 Preference Point System**

- a. The application of preferential procurement and broad based black economic empowerment must be consistent with:
  - i. The Municipal Finance Management Act and its regulations.
  - ii. The Preferential Procurement Policy Framework Act and its Regulations.
  - iii. The Broad-based Black Economic Empowerment Act and strategy. The general conditions of contract
  - iv. Any Treasury guidelines on bid documentation
  - v. The requirements of the Construction Industry Development Board (CIDB), in case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure; and
  - vi. The Preferential Procurement Regulations 2022
- b. Msukaligwa Local Municipality must set itself a target that it wishes to achieve through preferential procurement i.e Race, Gender, Disability, RDP Objectives and Youth. The tender document must stipulate the preferential procurement preference point system as envisaged in the regulations, including the specific goal to be applied.
  1. 80/20 preference point system for acquisition of goods or services with rand value to or below R50 million and the formula will be used price.
  2. 90/10 preference point system for acquisition of goods or services with Rand value above R50 million and the formula will be used for price

A maximum of 80 points is allocated for price on the following basis:

Where –

Ps= Points scored for price of tender under consideration:

Pt= Price of tender under consideration; and

Pmin= Price of highest acceptable tender

3. A maximum of 20/10 points may be awarded to a specific goal specified for the tender.
4. 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 place.
5. 20/10 specific goals points may be awarded as per below minimum and as per each tender's requirement:
  1. Race
  2. Gender

3. Disability
  4. RDP Objectives
  5. Youth
1. Points shall be awarded in proportion to ownership share and the specific goal point will be allocated according to the nature of the project.
  2. Include evaluation and adjudication criteria, including any criteria required by the applicable legislation.
  - c. Msukaligwa Local Municipality must stipulate the preference point system in bid documents to be applied in adjudication.

*[PPPFA, Section 3 (b)]*

- d. In the acquisitioning of local goods and services or sale of assets, categories of preference must be used in the allocation of contracts and the protection or advancement of persons or categories of persons, disadvantaged by unfair discrimination.

*[PPPFA, Section 3 (c)]*

- e. Bids must include criteria for the evaluation of quotations/bids to identify the quotation/bid that represents the best value for money, taking also into account the total cost of ownership principle.
- f. No system has to be applied in respect of acquisitioning with a Rand value of less than R30 000 per case.
- g. The relevant preference point formula as per the PPPFA must be used to calculate the points for price in respect of acquisitioning with a Rand value equal to, or above R30 000.

*[PPPFA, Section 5 (1)(a)]*

- h. The maximum price score must be allocated to the lowest priced acceptable bid/quote. Any other acceptable quotations/bids, that are higher in price, must score fewer points on a pro rata basis, calculated on their prices in relation to the lowest acceptable quotation/bid in accordance with a prescribed formula.

*[National Treasury's SCM Guide for Accounting Officers of Municipalities and Municipal Entities, Section 5.8.7]*

- i. The contract must be awarded to the bidder who scores the highest points unless objective criteria in addition to that pertaining to specific goals justify the award to another bidder.

*[National Treasury's SCM Guide for Accounting Officers of Municipalities and Municipal Entities, Section 5.8.8 "Contract Award"]*

## **12.2 Equity Ownership**

- a. Equity ownership must be promoted through the bids equal to or above R30 000.

## **12.3 RDP Objectives**

- a. The PPPFA range of specific RDP goals may be pursued.
- b. Any specific goals for which points may be awarded must be clearly specified in the invitation to submit and quotation/bid and must be measurable, quantifiable, and monitored for compliance.

*[National Treasury's SCM Guide for Accounting Officers of Municipalities and Municipal Entities, Section 4.5.2.9 "Using Standard Bidding Documents"]*

## **12.4 Application of the Preferences**

- a. Preference calculations or decisions, made during evaluations, must be clear and documented.
- b. Including when appointing consultants, the point's allocation for price may be replaced with a combination of points for functionality and price that must be clearly stipulated in the TOR.
- c. If all bids received exceed the estimated Rand value linked to the preference point system applied, the bid invitation must be cancelled and re-invited stating the correct preference point system.

## **13 DEMAND MANAGEMENT**

### **13.1 System of Demand Management**

- a. The demand management system must ensure that the resources required supporting the strategic and operational commitments of Msukaligwa Local 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 Msukaligwa Local Municipality.
- b. Demand management must translate the Integrated Development Plan of Msukaligwa Local Municipality into current and future needs and to cost and budget for it.

*[Municipal SCM Regulations, Section 10]*

### **13.2 Establishment of a Cross-Functional Plan**

- a. Demand management or planning must be a cross-functional exercise that brings the supply chain practitioner closer to the end-user and ensures that value for money is achieved.
- b. This exercise must involve finance; SCM representing procurement, logistics and disposal; Human Resources and end-users.
- c. The cross-functional team must at least consist of the following expertise:
  - i. Manager: Supply Chain Management.
  - ii. Relevant end-user.
  - iii. Relevant commodity manager.
  - iv. Human resource specialist.
  - v. Financial specialist.
  - vi. Information technology specialist.
  - vii. SCM specialist(s) covering all areas of SCM.
- d. The SCM Unit must take responsibility for the appointment of the cross functional team.
- e. The SCM official responsible for the demand management function coordinates the liaison with and inclusion in the cross-functional team.

### **13.3 Integrated Development Plan (IDP) Planning Process**

- a. The SCM Unit must participate in the Integrated Development Planning process.
- b. Each user group must perform an annual needs analysis of strategic objectives and programmes involving SCM, Human Resources and Finance to determine strategic sourcing that will ultimately provide best value for money.

#### **13.4 Assessment of Current and Future Needs**

- a. The Integrated Development Plan must be analysed in terms of goods, works and services required over the short and medium term.
- b. The frequency of the needs and the critical delivery dates must be established to support the SCM process and the budgetary process.

#### **13.5 Assessment of Available Assets**

- a. Determine details of available stock, goods in transit, redundant and obsolete assets, and assets to be renewed as well as current support services.

#### **13.6 Analysis of Past Expenditure**

- a. Determine who providers of goods and services and their locations were.
- b. Determine the prices paid.
- c. Confirm the availability of relevant specifications/terms of reference.

#### **13.7 Analysis of Supplying Industry**

- a. Determine names of suppliers/service providers for the commodity.
- b. Determine the available specifications/terms of reference.
- c. Determine the location of goods as well as lead and delivery times.

#### **13.8 Inventory Management Inputs**

- a. Determine minimum and maximum stock levels per item.
- b. Determine safety stock per item.
- c. Determine the reorder point per item.
- d. Determine the fill rate per item.
- e. Determine the economic order quantity per item.

#### **13.9 Sourcing Strategy**

- a. The sourcing strategy must determine where the goods and services may be obtained and the appropriate selection mechanism.
- b. The sourcing strategy must address value for money principles and must be determined per commodity.
- c. Sourcing strategies must be approved by the Council of Msukaligwa Local Municipality.

### **13.10 Formulation of the Budget Inputs**

- a. The budget covers three main elements, namely quantity, price and time, with regard to the Integrated Development Plan and annual budget plan.

### **13.11 Annual Budget Plan**

- a. The SCM Unit must participate in the annual budget planning process.
- b. The first year of the Integrated Development Plan is known as the annual budget plan. It must provide a sufficiently detailed quantification of outputs and resources, together with service delivery indicators. The annual budget plan must not be a wish list, but must be flexible and adjustable while remaining within the MTEF allocation

### **13.12 Business Plan for Acquisition Management**

- a. The SCM Unit must compile a business plan for acquisition management for the next financial year.
- b. The identified requirements in the annual budget plan are drawn from and summarized in a business plan for acquisition management for the next financial year.
- c. The Council must approve the business plan for acquisition management.

### **13.13 Ad Hoc Needs Analysis**

- a. Over and above the planned needs analysis, an ad hoc needs analysis must be done for unplanned activities during the financial year.
- b. The cross-functional team must perform needs analysis on a case-by-case basis as and when required in order to determine a sourcing strategy for the appropriate product or service that will ultimately provide best value for money.

### **13.14 Scoping Through a Request for Information (RFI)**

- a. If sufficient information is not readily available to draft a terms of reference/specifications, a request for information (RFI) process may be followed in order to obtain more market information.
- b. The information collected in this fashion may not be used to lead to sourcing from one supplier only nor may it be used to write the ultimate specification/terms of reference around just one specific product.
- c. It must be clearly stated in the RFI that the result of this process will not lead to an award and does not constitute a commitment.

### **13.15 Determining Specifications/Terms of Reference**

- a. The Bid Specification Committee must draw up clear specifications and terms of reference.

- b. Include clear evaluation criteria prior to the invitation of the quotation/bid as offers may only be evaluated according to the criteria stipulated in the quotation/bid document.

### **13.16 Planning For Publication**

- a. Msukaligwa Local Municipality must ensure that proper planning takes place at the beginning of the year by establishing as far as possible the publishing dates for that year and the first dates of the following year.

### **13.17 Goods Necessitating Special Safety Arrangements**

- a. Msukaligwa Local Municipality should refrain from bulk acquisition and storage of goods, including gasses and fuel, which necessitate special safety arrangements. Where an Accounting Officer or delegate justifies the storage of bulk goods, such justification must be based on sound reasons including the total cost of ownership, cost advantages for Msukaligwa Local Municipality and environmental impact.

*[Municipal SCM Regulations, Section 33]*

### **13.18 Public-Private Partnerships**

- a. The Msukaligwa Local Municipality may enter into a Public-private Partnership agreement, but only if the municipality can demonstrate that the agreement will:
  - i. Provide value for money to the municipality.
  - ii. Be affordable for the municipality.
  - iii. Transfer appropriate technical, operational and financial risk to the private party.
- b. Should Msukaligwa Local Municipality have a requirement for a public-private partnership, their requirement will have to comply with the rules for public private Partnerships set out in the MFMA regulations.
- c. If the Public-private Partnership involves the provision of a municipal Service, Chapter 8 of the Municipal Systems Act must also be complied with.

*[MFMA, Section 120 (1), (2) and (3)]*

## **14 LIST OF ACCREDITED PROSPECTIVE PROVIDERS**

### **14.1 Establishment of the List of Accredited Prospective Providers**

- a. Msukaligwa Local Municipality must establish and maintain a list of accredited prospective providers for goods and services for obtaining written or verbal quotations and formal written price quotations.

*[Municipal SCM Regulations, Section 14, 1(a)(i)]*

- b. The list must be compiled per commodity and per type of service.

*[Municipal SCM Regulations, Section 3]*

- c. Msukaligwa Local Municipality must, at least once a year, through newspapers commonly circulating locally, the website of Msukaligwa Local Municipality and any other appropriate way, invite prospective providers of goods and services to apply for evaluation and listing as accredited prospective providers.

*[Municipal SCM Regulations, Section 14, 1(a)(ii)]*

- d. The list of accredited prospective providers must be used effectively to promote BEE through the participation of black-owned enterprises, black empowered enterprises, and black women-owned enterprises as well as the promotion of businesses owned by other HDIs and SMMEs.
- e. The listing criteria for accredited prospective providers must be specified.

*[Municipal SCM Regulations, Section 14, 1(b)]*

- f. Prospective providers whose names appear on the National Treasury's database as prohibited from doing business with the public sector, or appear on the Register of Tender Defaulters must be disallowed.

*[Municipal SCM Regulations, Section 14, 1(c)]*

### **14.2 Updating Of the List**

- a. The list of accredited prospective providers must be updated at least quarterly to include additional prospective providers and any new commodities or types of services.
- b. Prospective providers must be allowed to submit applications for listing at any time and must provide maximum of five (5) commodities or services that the business specialize in.

*[Municipal SCM Regulations, Section 2]*

### **14.3 Utilisation Procedure**

- a. For the various quotation thresholds, Msukaligwa Local Municipality must invite accredited prospective providers (in the relevant commodity, category and regions/areas), featured on the list of accredited prospective providers, to submit a quote.

- b. The invitation of price quotations from the provider list must be done in such a manner that ongoing competition amongst providers is promoted.

#### **14.4 Removal from the List of Accredited Prospective Providers**

- a. Accredited prospective providers may be removed from the list on request or for non-compliance with relevant legislation, proven non-delivery and proven fraud and/or corruption.

#### **14.5 Establishing and Maintaining a Blacklist**

- a. A blacklist should be created that contain all Msukaligwa Local Municipality's suppliers and other stakeholder's ID numbers, addresses and other available information pertaining to all individuals involved in the management and shareholding of those entities.
- b. This information should be readily available to officials of Msukaligwa Local Municipality and should be consulted before procurements are made from suppliers.
- c. All individuals' that were involved in such activities should be recorded in the database for future reference.
- d. The database should be easily accessible to all managers at all the sites of Msukaligwa Local Municipality for ease of reference.

## **15 ACQUISITION MANAGEMENT: SYSTEM AND PROCESS HIERARCHY**

### **15.1 System of Acquisition Management**

Goods and services must only be procured in accordance with authorised procurement processes.

*[Municipal SCM Regulations, Section 11, 1(a)]*

- a. Procurement of goods and services, either through quotations or through a bidding process, must be within the threshold values as determined by National Treasury.

*[Municipal SCM Regulations, Section 11, 1(c)]*

- b. The Accounting Officer may not increase the different threshold values as determined by National Treasury, but may lower it.

*[Municipal SCM Regulations, Section 12, 2(a)]*

- c. Expenditure on goods and services may only be incurred in terms of an approved budget and within the limits of the amounts appropriated for the different votes in an approved budget.

*[Municipal SCM Regulations, Section 11, 1(b)]*

- d. Msukaligwa Local Municipality must develop general conditions of bid and contract that must at least include the General Conditions of Contracts issued by National Treasury and must apply these conditions uniformly for all bids and contracts not subject to CIDB regulations.

*[Municipal SCM Regulations, Section 11, 1(d)]*

- e. Provision must be made for special conditions to be added to the General Conditions of Bid and Contracts where required by circumstances.

- f. 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:

- i. water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and
- ii. electricity from ESKOM or another public entity, another municipality or a municipal entity.

*[Municipal SCM Regulations, Section 11 (2)]*

- g. 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:

- i. the kind of goods or services; and
- ii. the name of the supplier.

- h. Msukaligwa Local Municipality must develop a uniform set of document templates for utilisation based on at least those issued by the National Treasury.

## **15.2 Hierarchy for Satisfying Requirements**

- a. When a requirement becomes known, the noted hierarchy for satisfying requirements must apply the hierarchy of processes of obtaining stock from internal sources. There after the hierarchy of processes of satisfying requirements from external sources, may be applied.
- b. Requirements may also be satisfied from pre-established sources.

## **15.3 Directives for Specific Types of Requirements**

- a. The rules guiding specific circumstances and products must be taken into account together with the hierarchies in the choice of processes.

### **15.3.1 Procurement of IT Related Goods and Services**

- a. 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.
- b. Municipal SCM Regulations Section 31(1)
- c. Both parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to, SITA.
- d. The accounting officer must notify SITA together with a motivation of the IT needs if –
  - iii. The transaction value of IT related goods or services required in any financial year will exceed R50 million (VAT included); or
  - iv. The transaction value of a contract to be procured whether for one or more years exceeds R50 million (VAT included).
- e. If SITA comments on the submission and the municipality disagree with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the Council, the National Treasury, the relevant Provincial Treasury and the Auditor General.

*[Section 31, 1 of the Municipal SCM Regulations]*

### **15.3.2 Proudly SA Campaign**

- a. 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:
  - i. Firstly –suppliers and businesses within the municipality or district;
  - ii. Secondly – suppliers and businesses within the relevant province;
  - iii. Thirdly – suppliers and businesses within the Republic of South Africa.

*Municipal SCM Regulations Section 34*

### **15.3.3 Public Private Partnerships**

- a. Should Msukaligwa Local Municipality have a requirement for a public-private partnership, the requirement will have to comply with the rules for public private partnerships set out in the MFMA regulations.

*[MFMA, Section 120, 2]*

### **15.3.4 Building, Engineering or Construction Works**

- a. Bid documentation relating to construction, upgrading or refurbishment of buildings or infrastructure must be in accordance with the conditions of the Construction Industry Development Board (CIDB) as approved by National Treasury.

*[Municipal SCM Regulations, Section 21, (a)(iii)]*

### **15.3.5 Procurement of Banking Services**

- a. A contract for the provision of banking services to Msukaligwa Local Municipality:
  - i. Must be procured through competitive bids.
  - ii. Must be consistent with section 7 or 85 of the MFMA.
- b. May not be for a period of more than five years at a time.

*[Municipal SCM Regulations, Section 30, (1)]*

- i. Must be in the name of Msukaligwa Local Municipality.

*[MFMA, Section 7, (1) & Section 85, (1)]*

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

*[Municipal SCM Regulations, Section 30, (2)]*

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

*[Municipal SCM Regulations, Section 30, (3)]*

### **15.3.6 Appointment of Consultants**

- a. Msukaligwa Local Municipality must apply the Treasury Guidelines instructions in respect of the appointment of consultants.

*[Municipal SCM Regulations, Section 35, (1)]*

#### **15.4 Procure Requirements From External Sources**

- b. In order to determine the appropriate procurement process in the range of procurement processes for satisfying the requirement from external sources, it is necessary to first decide the estimated monetary value of the project inclusive of VAT and then to determine the monetary threshold of the activity.
- c. For term contracts, the total value of the contract for the entire period must be calculated to determine the monetary threshold of the contract.
- d. Goods and services may not deliberately be split into parts or items of a lesser value merely to avoid following the requirements of the policy.

*[Municipal SCM Regulations, Section 12, (3)(a)]*

- e. 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.

*[Municipal SCM Regulations, Section 12, (3)(b)]*

#### **15.5 Deviation From Official Procurement Processes**

- a. The accounting officer may dispense with the official procurement processes established by the policy to procure any required goods or services through any convenient process, which may include direct negotiations, but only:
  - i. In an emergency (see section 16, paragraph 8.5 for more detail).
  - ii. If such goods and services are produced or available from a single provider only.
  - iii. For the acquisition of special works of art or historical objectives where specifications are difficult to compile.
  - iv. Acquisition of animals for zoos and/or nature and game reserves.
  - v. In any other exceptional case where it is impractical to follow the official procurement processes.
- b. The Accounting Officer may ratify any minor breaches of the procurement processes by an official or a committee acting in terms of delegated powers or duties which are purely of a technical nature.

*[Municipal SCM Regulations, Section 36, (1)]*

- c. The Accounting Officer must record the reasons for any deviations and report them to be reported to the next meeting of the Council and included as a note to the Annual Financial Statements.

*[Municipal SCM Regulations, Section 36, (2)]*

## **16 ACQUISITION MANAGEMENT: RANGE OF PROCUREMENT PROCESSES AND THRESHOLDS EXCLUDING CONSULTANTS**

### **16.1 Process Detail**

- a. Promote the principles of being fair, equitable, transparent, competitive and cost-effective through all procurement processes.

*[Constitution of the Republic of South Africa, Section 217 (1)]*

### **16.2 Petty Cash Transactions Up To A Value of R2 000 (VAT Included)**

- a. (2) The Chief Financial Officer will authorize an official from his department to keep a petty cash register and to grant refunds for cash purposes or allow cash advances. On the next day after the day of the purchase, receipts, invoices and other supporting documents together with the balance of cash, if any, must be handed to the authorized person in Finance.
- b. Municipal SCM Regulations Section 15 (a)
- c. The petty cash procedure must not be utilised for the following items and under the following circumstances:
- i. Items available on contract.
  - ii. Items available from other pre-established sources.
  - iii. Professional services.
- d. A manager must not delegate duties for petty cash to an official not reporting to the manager.
- e. Cash advances can only be granted for out-of-pocket expenses for delegated representatives of the municipality or upon a written quotation but in all instances should a petty cash voucher be approved by the related departmental head.

Municipal SCM Regulations Section 15 (c)

- f. Officially delegated persons will agree to the deduction from his/her next remuneration any cash advances of which no proof of expenditure is presented on return from the attended event.

Municipal SCM Regulations Section 15 (c)

- g. No road toll fees or entertainment expenses are payable from petty cash.

Municipal SCM Regulations Section 15 (c)

- h. A monthly reconciliation report from holder of a petty cash must be provided to the chief financial officer, including:
- i. The total amount of petty cash purchases for that month; and
  - ii. Receipts and appropriate documents for each purchase.

Municipal SCM Regulations Section 15 (d)

- i. (7) For “urgent matters”, the Chief Financial Officer (CFO) is allowed to prior approve of purchases up to an amount of R 2 000 (VAT included) from petty cash.
- j. The number of petty cash purchases or the maximum amount per month for each manager to spend on petty cash must be restricted as indicated in the Delegation of Authority Document.

*[Municipal SCM Regulations, Section 15]*

### **16.3 Written or Verbal Quotations Above R2 000 Up To R10 000 (Vat Included)**

- a. Requirements may be procured without inviting competitive bids or formal written price quotations.
- b. Obtain at least 3 written or verbal quotations preferably from, but not limited to, providers whose names appear on the list of accredited prospective providers, provided that if quotations are obtained from providers not on the list, such providers must meet the listing criteria required in MFMA Regulation 14(1) (b) and (c).
- c. If it is not possible to obtain at least three quotations, the reason must be recorded and reported quarterly to the Accounting Officer or the delegate.
- d. If the quotation was submitted verbally, the order may be placed only against written confirmation from the selected provider.
- e. The Accounting Officer must take all reasonable steps to ensure that the procurement of goods and services is not abused.

*[Municipal SCM Regulations, Section 16]*

### **16.4 Formal Written Price Quotations Above R10 000 And Less Than R30 000 (VAT Included)**

- a. Requirements may be procured by inviting formal written price quotations from as many as possible providers on the list of accredited prospective providers.
- b. Where no suitable accredited providers are available from the list, quotations may be obtained from other possible providers not on the list, provided that such providers meet the listing criteria.
- c. If it is not possible to receive at least 3 quotations, the reasons must be recorded and approved by the CFO or the delegate.
- d. Msukaligwa Local Municipality may apply the prescripts of the PPPFA for procurement in this category.
- e. The Accounting Officer must take all reasonable steps to ensure that the procurement of goods and services is not abused.
- f. The Accounting Officer must record the names of the potential providers and their written quotations.

*[Municipal SCM Regulations, Section 17, (1)]*

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

*[Municipal SCM Regulations, Section 17, (2)]*

#### **16.5 Formal Written Price Quotations From R30 000 Up To R200 000 (VAT Included)**

- a. Requirements may be procured by inviting formal written price quotations from as many as possible providers on the list of accredited prospective providers.
- b. Where no suitable accredited providers are available from the list, quotations may be obtained from other possible providers not on the list, provided that such providers meet the listing criteria.
- c. If it is not possible to receive at least 3 quotations, the reasons must be recorded and approved by the CFO or the delegate.
- d. Msukaligwa Local Municipality may apply the prescripts of the PPPFA for procurement in this category.
- e. The Accounting Officer must take all reasonable steps to ensure that the procurement of goods and services is not abused.
- f. The Accounting Officer must record the names of the potential providers and their written quotations.

*[Municipal SCM Regulations, Section 17, (1)]*

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

*[Municipal SCM Regulations, Section 17, (2)]*

#### **16.6 General Preconditions For Consideration Of Written Quotations Or Bids**

- a. 5.1 A written quotation or bid may not be considered unless the provider that submitted the quotation or bid:
  - i. Has furnished Msukaligwa Local Municipality with that provider's:
    - Full name
    - Identification number or company or other registration number.
    - Tax reference number and VAT registration number, if any.
  - ii. Has authorised Msukaligwa Local Municipality to obtain a tax clearance from the South African Revenue Services.
  - iii. Has indicated:
    - 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.

- iv. 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.
- v. Whether a spouse, or child or parent of the provider or of a director, manager, shareholder or stakeholder is in the service of the state, or has been in the service of the state in the previous twelve months.

*[Municipal SCM Regulations, Section 13, (a), (b) & (c)]*

### **16.7 Competitive Bidding Process Above R200 000**

- a. A competitive bidding process must be followed as far as possible.
- b. If, in a specific case, it is impracticable to invite competitive bids, Msukaligwa Local Municipality may procure the required goods or services by other means such as through limited bidding, provided that the reasons for deviating from inviting competitive bids must be recorded and approved by the Accounting Officer or delegate.
- c. Msukaligwa Local Municipality may include an open and transparent, competitive pre-qualification bidding process in which only pre-qualified organisations may participate.

*[MFMA, Section 112, (1)(a)]*

- d. The prescripts of the PPPFA must be adhered to.
- e. Subdivision of requirements to circumvent the Accounting Officer's delegated powers will not be tolerated.

### **16.8 Competitive Bidding**

- a. Goods or services above a transaction value of R200 000 (VAT included) and long term contracts may be procured by Msukaligwa Local Municipality only through a competitive bidding process.

*[Municipal SCM Regulations, Section 19, (a)]*

- b. Any invitation to prospective providers to submit bids must be by means of a public advertisement in newspapers commonly circulating locally, the website of Msukaligwa Local Municipality or any other appropriate ways that may include an advertisement in the Government Tender Bulletin.

*[Municipal SCM Regulations, Section 22, (1)(a)]*

- c. 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.

*[Municipal SCM Regulations, Section 19, (b)]*

- d. A two-stage bidding process may be used for:
  - i. Large complex projects.

- ii. Projects where it may be undesirable to prepare complete detailed technical specifications.
- iii. Long term projects with a duration period exceeding 3 years.

*[Municipal SCM Regulations, Section 25, (1)(a), (b) & (c)]*

### **16.9 Dispensing With Officially Established Procurement Processes**

- a. Official procurement processes may be dispensed with and any convenient process used if the necessary approval within the framework of the Delegation document has been obtained such a process may include direct negotiations if justification exists.
- b. Subject to the approval by the Accounting Officer, the Council may engage in procurement by means of two-stage bidding, or request for proposals or competitive negotiation, in the following circumstances:
  - i. If it's not feasible for the procuring entity to formulate detailed specifications for the goods or construction or, in case of services, to identify their characteristics and, in order to obtain the most satisfactory solution to its procurement needs;
  - ii. If it seeks bids, proposals or offers as to various possible means of meeting its needs;
  - iii. Because of the technical character of the goods or construction, or because of the nature of the services, it is necessary for the procuring entity to negotiate with suppliers or contractors;
  - iv. When the procuring entity seeks to enter into a contract for the purpose of research, experiment, study or development, except where the contract includes the production of goods in quantities and
  - v. Sufficient to establish their commercial viability or to recover research and development costs.
- c. Msukaligwa Local Municipality must use limited bidding only in the following circumstances:
  - i. Where Msukaligwa Local Municipality applied the competitive (open) bidding process, but the bids received were all non-responsive, thus the time required to go out on the same process has elapsed.
  - ii. Where Msukaligwa Local Municipality can buy under exceptionally advantageous conditions that only arise in the very short term.
  - iii. In the event that a change of provider would compel Msukaligwa Local Municipality to obtain spare parts or additional equipment or services that are not compatible or interchangeable with existing equipment or services that were obtained from an original provider.
  - iv. The goods, services or works required have to be designed by the provider.

*[National treasury's SCM Guide for Account Officers of Municipalities and Municipal Entities, Section 4.4.5.6.2]*

- v. When goods, services or works are produced or available from only a single provider and no reasonable alternative or substitute exists.

*[Municipal SCM Regulations, Section 36, (1)]*

- vi. For the acquisition of special works of art or historical objects where specifications are difficult to compile.

*[Municipal SCM Regulations, Section 36, (1)]*

- vii. There are legislative, technological or safety reasons to restrict purchases to providers that have proven their capability.

- viii. In cases of urgency.

- ix. In cases of emergency.

*[Section 36, (1) of the Municipal SCM Regulations]*

- x. In any other exceptional circumstances where it is impractical or impossible to follow the official procurement processes.

*Section 36, (1) of the Municipal SCM Regulations]*

d. Limited bidding consist of the following variances may be used:

#### **16.9.1.1 Multiple source bidding**

- a. This process can be used in the case of limited competition where only a few prospective bidders are allowed to make a proposal
- b. Care should be taken that there is no infringement on the rights of other possible suppliers. Thorough analysis of the market should be done to minimize this risk.

#### **16.9.1.2 Single source bidding**

- a. In this case only one amongst a few prospective bidders is requested to make a proposal after a transparent and equitable pre-selection process was followed. Again a thorough analysis of the market is a pre-requisite.

*[MFMA, Section 112 (1)(e)]*

#### **16.9.1.3 Sole source bidding**

- a. This system can be used in the absence of competition and where only one bidder exists.
- b. A sole source bidder normally has patent rights or sole distribution rights.

#### **16.9.2 Direct Negotiation**

- a. Direct negotiations are only permitted after approval by the Accounting Officer or the delegate and must be conducted in such a manner that none of the stakeholders is advantaged or prejudiced. Thus care must be taken to ensure that such a process does not allow the bidder concerned a second (unfair) opportunity and is not to the detriment of any other bidder.

*[Municipal SCM Regulations, Section 24, (1)]*

*[National Treasury's SCM Guide for Accounting Officers of Municipalities and Municipal Entities, Section 2.6.1]*

- b. Direct negotiations may only take place under the following circumstances:
- c. In cases of urgency due to unforeseen circumstances where lack of planning or negligence did not play a role and where following the standard competitive bidding process or the process prescribed for urgency would not be in Msukaligwa Local Municipality's best interest.
- d. Owing to a catastrophic event, there is an urgent need for the goods or services (an emergency), making it impractical to use other methods of procurement because of the time involved in using those methods.
- e. In cases where preferred bidders were identified through a competitive bidding process.

*[National Treasury's SCM Guide for Accounting Officers of Municipalities and Municipal Entities, Section 4.4.5.2]*

- f. In the case of the technical character of the goods or construction, or because of the nature of the services makes, it necessary for the procuring entity to negotiate with suppliers or service providers. Thus the first round of a two-stage bidding process has taken place where inter alia capacity and acceptability was established.
- g. The official that can contractually commit Msukaligwa Local Municipality in this regard must lead the negotiation and must be supported by the user group and the SCM Unit.

### **16.9.3 Urgent Procurement**

- a. Irrespective of monetary value, an urgent procurement process only applies where early delivery is of critical importance and the utilisation of the standard procurement process is either impossible, or impractical.
- b. In urgent cases Msukaligwa Local Municipality may dispense with the invitation of bids and may obtain the requirement by means of quotations, preferably making use of the list of prospective providers per commodity or otherwise in any manner to the best interest of Msukaligwa Local Municipality.
- c. The appropriate course of action for urgency must be justifiable for the circumstances.
- d. The nature of the urgency and the details of the justifiable procurement process followed in the circumstances must be recorded and reported.

*[Municipal SCM Regulations, Section 36, (1)(v)]*

### **16.9.4 Emergency Procurement**

- a. Irrespective of monetary value, an emergency procurement process only applies in serious, unexpected and potentially dangerous circumstances that require immediate rectification:
- b. In the event of a threat or interruption in Msukaligwa Local Municipality's ability to execute its mandate.
- c. In the event of an immediate threat to the environment or human safety.

- d. The standard procurement processes may be bypassed. Msukaligwa Local Municipality may dispense with the invitation of bids and may obtain the requirement by means of quotations by preferably making use of the list of accredited prospective providers or otherwise in any manner to the best interest of Msukaligwa Local Municipality.
- e. The appropriate course of action for emergency must be justifiable for the circumstances.
- f. The nature of the emergency and the details of the justifiable procurement process followed must be recorded and reported.

*[Municipal SCM Regulations, Section 36, (1)]*

#### **16.10 Procurement from Abroad**

- a. Msukaligwa Local Municipality may procure from abroad if it can be certified in writing that:
  - i. The product/service cannot be sourced locally or through local representatives and that no other similar product will serve the purpose.
  - ii. That a local sourcing process has been run without any success.
  - iii. The prices of the locally available supply/service are exorbitant.

*[Municipal SCM Regulations, Section 34]*

- b. For procurement outside the boundaries of South Africa, the same process as for procurement within South Africa must be followed except for the following:
  - i. Determining international advertising mechanisms.
  - ii. Determining the utilisation of conditions applicable to foreign countries, such as Inco terms, if required.
  - iii. Determining whether the price should be indicated in foreign currency, and if so, which currency.
  - iv. The estimated cost Free On Board (FOB) in foreign currency plus conversion factors.
  - v. Certain requirements applicable to local service providers may be waived in the case of overseas service providers.

#### **16.11 Term Contracts**

- a. Msukaligwa Local Municipality may enter into specific term contracts that are arranged for the specific repetitive requirements of the Msukaligwa Local Municipality.

## **17 ACQUISITION MANAGEMENT: RANGE OF PROCUREMENT PROCESSES AND THRESHOLDS: APPOINTMENT OF CONSULTANTS**

### **17.1 Introduction**

- a. The normal policy and procedures apply to the appointment of consultants.
- b. The Accounting Officer may, in terms of MFMA Regulation 35(1), procure consulting services provided that any Treasury Guidelines in respect of consulting services are taken into account when such procurements are made. This Manual is based on the National Treasury Guidelines.

*[Municipal SCM Regulations, Section 35, (1)]*

- c. Consultancy services must be procured through competitive bids if:
  - i. The value of the contract exceeds R200 000 (VAT included)
  - ii. The duration period of the contract exceeds one year.

*[Municipal SCM Regulations, Section 35, (2)]*

- d. In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish particulars of:
  - i. All consultancy services provided to an organ of state in the last five years.
  - ii. Any similar consultancy services provided to an organ of state in the last five years.

*[Municipal SCM Regulations, Section 35, (3)]*

- a. The Accounting Officer or delegate 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 Msukaligwa Local Municipality.

*[Municipal SCM Regulations, Section 35, (4)]*

### **17.2 Primary Reasons for the Appointment of Consultants**

- a. Consultants are engaged principally for the following reasons:
  - i. To provide specialised services for limited periods without any obligation of permanent employment.
  - ii. To benefit from superior knowledge, transfer of skills and upgrading of a knowledge base while executing an assignment.
  - iii. To provide independent advice on the most suitable approaches, methodologies and solutions of projects.

*[National Treasury’s SCM Guide for Accounting Officers of Municipalities and Municipal Entities, Section 5.1.5]*

### **17.3 Minimum Requirements When Appointing Consultants**

- a. When appointing consultants, it is necessary to strive to satisfy the following minimum requirements:
- i. Meeting the highest standards of quality and efficiency.
  - ii. Obtaining advice that is unbiased, that is, being delivered by a consultant acting independently from any affiliation, economic or otherwise, which may cause conflicts between the consultant’s interests and those of government.
  - iii. Ensuring the advice proposed, or assignment executed, meets the ethical principles of the consultancy professions.

*[National Treasury’s SCM Guide for Accounting Officers of Municipalities and Municipal Entities, Section 5.3.1]*

### **17.4 Approaches**

- a. In determining the most appropriate approach, it may be useful to ask: What sort  
b. of Consultancy is required? Is it for:

<b>Type of Consultancy</b>	<b>Approach to Use</b>
An assignment that is not complex or specialised	Use quality and cost based selection (QCBS).
A complex or highly specialised assignment, for which consultants are expected to demonstrate innovation in their proposals (for example, financial sector reforms)	Use quality based selection (QBS).
An assignment that has a high downstream impact and requires the best available experts (for example, management studies)	Use QBS.
An assignment that could be carried out in substantially different ways, hence proposals will not be comparable (for example, sector and policy studies in which the value of the services depends on the quality of the analysis)	Use QBS.

A simple assignment, that is precisely defined and the budget fixed	Use 'Selection under a fixed budget', but evaluate technical proposals first as in QCBS.
A standard or routine assignment (e.g. an audit, engineering design of noncomplex works)	Use 'Least-cost selection'. Potential providers may be obtained from the list of approved service providers.
A very small assignment that does not justify the preparation and evaluation of competitive proposals	Selection based on Consultants' qualifications. Potential suppliers may be obtained from the list of approved service providers.
A task that represents a natural continuation of previous work carried out by the firm	Use 'Single-source selection.
An emergency operation	May use 'Single source selection.'
An assignment where only one firm is qualified or has experience of exceptional worth for the assignment	Use 'Single-source selection'.
Any other situation	Use QCBS, either by requesting a "Bid" or a "Proposal"

*[National Treasury's SCM Guide for Accounting Officers of Municipalities and Municipal Entities, Section 5.8.2.2]*

## **18 ACQUISITION MANAGEMENT: QUOTATION/BID COMPILATION AND ISSUING**

### **18.1 Language of Quotation/Bid Documents**

- a. Msukaligwa Local Municipality must compile all documentation in at least English.
- b. Bidding documents may be compiled in other languages as well, subject to stipulated circumstances.

*[General Conditions of Contract act, Section 29.1]*

*[National Treasury's SCM Guide for Accounting Officers of Municipalities and Municipal Entities, Section 4.5.2.9]*

### **18.2 Calling For Bids**

- a. Bids must be invited by the SCM Unit unless other groups have been delegated to do so.

### **18.3 Advertising of Bids**

- a. All bids must at least be advertised in local newspapers, on the Msukaligwa Local Municipality website or any other appropriate ways that may include the Government Tender Bulletin.
- b. Other means in terms of relevant media must however, be considered to ensure that the target market is reached if the local newspapers and the Msukaligwa Local Municipality website are regarded as not to reach the target market. Cost must be a consideration.

*[Municipal SCM Regulations, Section 22, (1)(a)]*

- c. The information of a public advertisement must contain:
  - i. The closure date for the submission of bids. It 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; and
  - ii. A statement that bids may only be submitted on the bid documentation provided by Msukaligwa Local Municipality.

*[Municipal SCM Regulations, Section 22, (1)(b)]*

- d. The Accounting Officer or delegate may determine a closure date for the submission of bids that is less than the 30 or 14 day 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.

*[Municipal SCM Regulations, Section 22, (2)]*

- e. Bids submitted must be sealed.

*[Municipal SCM Regulations, Section 22, (3)]*

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

*[Municipal SCM Regulations, Section 22, (4)]*

#### **18.4 Closing Time of Bids**

- a. According to the GCC closing time means the latest date and hour specified in the bid documents for the receipt of bids.

*[General Conditions of Contract act, Section 1.1]*

- b. Bids of Msukaligwa Local Municipality normally close at 12:00 on the day indicated in the bid documents or as alternatively indicated in the documentation.
- c. The closing of bids must be strictly observed.

#### **18.5 Determining the Closing Period**

- a. Normal closing period from the date on which the advertisement is placed in the relevant publications, is not less than:
  - i. 30 days in the case of transactions over R10 million (VAT included) or in the case of transactions of a long term nature.
  - ii. 14 days in any other case.
  - iii. As a minimum requirement, where goods are to be imported, bids must close at least 5 weeks from the date of the publication.

*[Municipal SCM Regulations, Section 22, (1)(b)(i)]*

- b. The Accounting Officer or delegate may determine a shorter than specified closing date, but only if such shorted 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.
- c. Approval for the shortening or lengthening of the closing period must be obtained in accordance with the Accounting Officer's delegated powers. Reasons for the deviation must be documented and fully motivated.
- d. The principle of allowing bidders enough time to prepare comprehensive bids must be observed.
- e. Where a shorter period is involved, care must be taken that a reasonable time is allowed for the preparation of the bidder's offer.

## **18.6 Determining the Validity Period**

- a. The validity period must allow Msukaligwa Local Municipality sufficient time to finalise the evaluation and award of the quotation/bid.

*[National Treasury's SCM Guide for Accounting Officers of Municipalities and Municipal Entities, Section 5.8.8]*

- b. Bids must be valid for at least 90 days from the closing date of the bid. Approval is to be obtained within the Accounting Officer's delegated powers for periods other than 90 days.
- c. An extension of validity must be requested in writing from all bidders before the expiry date.

## **18.7 Availability of Bid Documents**

- a. Bid documents must be ready and available before the requirement is advertised.
- b. Bid documents may be collected by or may be e-mailed or posted to prospective bidders.

*[Municipal SCM Regulations, Section 21, (1)(b)(i)]*

*[National Treasury's SCM Guide for Accounting Officers of Municipalities and Municipal Entities, Section 4.5.3]*

## **18.8 Sale of Bid Documents**

- a. Msukaligwa Local Municipality must determine under which circumstances it will sell its bid documents.
- b. All suppliers must in the relevant circumstances, pay a non-refundable predetermined sum of money for all bid documents. This sum must be determined within a predetermined accountable framework.

*[National Treasury's SCM Guide for Accounting Officers of Municipalities and Municipal Entities, Section 4.5.3]*

## **18.9 Responses Received**

- a. Msukaligwa Local Municipality must maintain a register/list of responses to an advertisement or the individuals/organisations targeted in the case of quotations.

*[National Treasury's SCM Guide for Accounting Officers of Municipalities and Municipal Entities, Section 4.5.3]*

- b. The response list must contain the following information:
  - i. Bid number.
  - ii. Name of the bidder to whom documents were issued to.
  - iii. Name of the person/organisation that collected the bid on behalf of the bidder.
  - iv. Name of the person/organisation on whose behalf the document was collected, the phone number, the fax number and contact person of the prospective bidder.

- v. The date and time the document was collected or the date the document was posted/e-mailed.
- vi. The same particulars as mentioned above, where applicable, must also be obtained where bid documents are requested by phone.

### **18.10 Elements for Inclusion in Bid Documents**

- a. Msukaligwa Local Municipality's bid documents must promote uniformity by at least standardising bid documents where possible.

*[National Treasury's SCM Guide for Accounting Officers of Municipalities and Municipal Entities, Section 4.5.3]*

- b. Bid documentation, including the general conditions of bid and contract, must at least be in accordance with the instructions of National Treasury.

*[Municipal SCM Regulations, Section 21, (a)]*

- c. Bidders must receive the same information in the documentation and must be assured of an equal opportunity to obtain additional information on a timely basis to ensure fairness.
- d. Where feasible, large requirements may be divided into smaller more manageable requirements to accommodate SMMEs.
- e. Where feasible, promote subcontracting and joint ventures with SMMEs.
- f. Bid documentation must include evaluation and adjudication criteria, including the criteria prescribed in the PPPFA and the BBBEE Act.

*[Municipal SCM Regulations, Section 21, (b)]*

#### **18.10.1 General Requirements for the Compilation of Written Quotation / Bid Documentation**

- a. All quotation/bid documentation must contain the general preconditions for consideration of written quotations or bids as set out below.
- b. Msukaligwa Local Municipality may not consider a written quotation or bid unless the provider who submitted the quotation or bid:
  - i. Has furnished Msukaligwa Local Municipality with that provider's:
    - Full name
    - Identification number or company or other registration number; the tax reference number and VAT registration number, if any.
    - Has authorised Msukaligwa Local Municipality to obtain a tax clearance from the South African Revenue Services that the provider's tax matters are in order.
  - ii. Has indicated:

- Whether he or she is in the service of the state, or was in the service of the state in the previous twelve months.
- 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.
- Whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder is in the service of the state, or has been in the service of the state in the previous twelve months.

*[Municipal SCM Regulations, Section 13]*

- c. Msukaligwa Local Municipality, in the compilation of documentation for its requirements, must not compromise on quality, price or service levels.

### **18.10.2 Compilation of Bid Documentation for Competitive Bids**

- a. Bid documentation must in addition to the abovementioned requirements for quotations/bids:
- i. Take into account:
    - The general conditions of contract.
    - Any Treasury guidelines on bid documentation.
    - The requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure.
  - ii. Include evaluation and adjudication criteria, including any criteria required by other applicable legislation.
  - iii. Compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted.
  - iv. If the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish:
    - If the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements:
    - For the past three years.
    - 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 Msukaligwa Local Municipality is expected to be transferred out of the Republic.

- v. 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.

*[Municipal SCM Regulations, Section 21, (b)]*

### **18.10.3 Responsibility for Compiling Bid Documents**

- a. The SCM Unit is responsible for compiling the bid documents on receipt of a request by the user group accompanied by specification / terms of reference as compiled by the Bid Specification Committee and the approval received from the Accounting Officer or the delegate.

*[National Treasury's SCM Guide for Accounting Officers of Municipalities and Municipal Entities, Section 3.2.2]*

### **18.10.4 Quotation / Bid Documentation Pack**

- a. The quotation / bid documentation pack must consist of the following:
  - i. Covering letter, which should at least include the bid number, description of the requirement, name of the organisation by which it is required and the closing date and time.
  - ii. Municipal bidding documents (MBD) that include, but are not limited to the following:
    - Invitation to Bid, which is the bidders' consent if signed to enter into a contract under the conditions specified in the bid documents, should the offer be accepted.
    - Tax Clearance requirements.
    - Relevant pricing schedule.
    - Declaration of interest.
    - Declaration for procurement above R10 m (VAT included).
    - Relevant preference points claim form(s).
    - Specification/TOR.
    - General conditions of contract.
    - Special contract conditions.
    - Copy of the formal contract or service level agreement (SLA) where applicable.

*[National Treasury's SCM Guide for Accounting Officers of Municipalities and Municipal Entities, Section 4.6, "Invitation to Bids"]*

### **18.11 Pre-Bid Information Sessions**

- a. Minutes of the meeting must be provided to all prospective bidders. Any additional information, clarification, correction of errors, or modifications of bid documents must be sent to each recipient of the original bid documents in sufficient time before the closing date and time for receipt of bids to enable bidders to take appropriate actions.

*[National Treasury's SCM Guide for Accounting Officers of Municipalities and Municipal Entities, Section 4.5.2.9, "Bid Content"]*

### **18.12 Changing Of Information before Closing Time**

- a. It is preferable to cancel a bidding invitation and to invite fresh bids if conditions or the specification or any other information have to be materially changed before the closing time, or if mistakes are discovered in the documents before the closing time.

### **18.13 Postponement of Closing Date**

- a. Only the AO may allow the postponement of the closing date.
- b. The closing date may be postponed if all prospective bidders can be advised of the postponed date in writing before the original closing date.
- c. In the case of an advertised bid invitation, the closing date may be postponed if the postponed date can be advertised in the Government Tender Bulletin and other media where applicable, before the original closing date.

*[National Treasury's SCM Guide for Accounting Officers of Municipalities and Municipal Entities, Section 4.5.2.9, "Bid Content"]*

## **19 RECEIVING AND OPENING OF RESPONSES**

### **19.1 Receiving and Opening Procedures for Quotations Up to R200 000 (VAT Included)**

- a. A fair and transparent process must be followed for the closing, receiving, opening and processing of quotations.

*[Constitution of the Republic of South Africa, Section 217 (1)]*

- b. No person may interfere or tamper with any bids, quotations, or contracts after their submission.

*[MFMA, Section 118]*

#### **19.1.1 Written or Verbal Quotations Above R2 000 Up To R10 000 (Vat Included)**

- a. Providers must be requested to submit quotations in writing.

*[Municipal SCM Regulations, Section 16, (b)]*

- b. The delegated official must obtain and receive the quotations.
- c. However, the award must be approved by a different delegated official.

#### **19.1.2 Formal Written Price Quotations Above R10 000 Up To R200 000 (Vat Included)**

- a. Quotations must be submitted in writing preferably by hand or per mail, but may also be faxed or e-mailed.

*[Municipal SCM Regulations, Section 16, (b)]*

- b. Bid box procedures may be used where the circumstances so require.

### **19.2 Receiving and Opening Procedures for Bids Above R200 000 (VAT Included)**

- a. A fair and transparent process must be followed for the closing, receiving, opening and processing of bids.

*[Section 217 (1) of the Constitution of the Republic of South Africa]*

- b. Bidders must be allowed to submit bids by mail or by courier or by hand.

*[National Treasury's SCM Guide for Accounting Officers of Municipalities and Municipal Entities, Section 4.5.2.9, "Bid Submission"]*

- c. A bid box must be visible on the premises of Msukaligwa Local Municipality and shall be accessible between 08:00 and 16:00 Mondays to Fridays excluding public holidays.

- d. A bid box must always be locked, unless bids are collected in order to prevent unauthorised removal of bids.
- e. At least two delegated officials must be present during opening of bids on the date and precise time of closing as specified.
- f. At the precise closing time of the bid, the bid box is locked to prevent late submission of bids into the box, hereafter all bids in the box are removed for processing.

*[National Treasury's SCM Guide for Accounting Officers of Municipalities and Municipal Entities, Section 4.5.4 "Late Bids"]*

- g. Bids may be opened only in public.

*[Municipal SCM Regulations, Section 23, (a)(i)]*

- h. Bids must be opened at the same time and immediately after the period for the submission of bids has expired.

*[Municipal SCM Regulations, Section 23, (a)(ii)]*

- i. Any bidder or member of the public has the right to request that the names of the bidders who submitted bids before the closing date and time, must be read out and, if practical, also each bidder's total bidding price.

*[Municipal SCM Regulations, Section 23, (b)]*

- j. The Accounting Officer or delegate must:
  - i. Record in a register all bids received before the closing date and time.
  - ii. Make the register available for public inspection.
  - iii. Publish the entries in the register and the bid results on the website of Msukaligwa Local Municipality.

*[Municipal SCM Regulations, Section 23, (c)]*

- k. Bids must be date stamped to indicate the date and time of receipt of bids.
- l. A lockable facility for the storing of bids must be available.

### **19.2.1 Admission of Quotations**

- a. Written quotations received by facsimile transmitter, telegram, telex, e-mail or similar media may be accepted as valid if received before the closing time.

### **19.2.2 Admission of Bids**

- a. Bids received by facsimile transmitter, telegram, telex, e-mail or similar media do not meet the requirements and must be rejected.
- b. Only original bid documents or photocopies of facsimiles that are submitted in the prescribed manner and where the entire essential forms are originally signed in ink before submission may be accepted as valid.

*[National Treasury's SCM Guide for Accounting Officers of Municipalities and Municipal Entities, Section 4.5.2.5]*

- c. Bidders must be allowed to submit bids by mail, by courier or by hand into the bid box or at the physical address of Msukaligwa Local Municipality (reception, over the counter at the SCM Unit as applicable) before the closing time of the bids.

*[National Treasury's SCM Guide for Accounting Officers of Municipalities and Municipal Entities, Section 4.5.2.9, "Bid Submission"]*

- d. All bids must then be kept unopened in safe custody until the closing date and time of the bids.

### **19.2.3 Confidentiality**

- a. After public opening of bids, information relating to the examination, clarification and evaluation of bids and recommendations concerning awards may not be disclosed to bidders or other persons not officially concerned with the process, until the successful bidder is notified of the award.

*[National Treasury's SCM Guide for Accounting Officers of Municipalities and Municipal Entities, Section 4.5.4 "Confidentiality"]*

### **19.2.4 Bids Received Late**

- a. Bids are late if it is received at the address indicated in the bid documents after closing date and time.
- b. Bids received late may not be considered and must be returned unopened to the bidder.

*[National Treasury's SCM Guide for Accounting Officers of Municipalities and Municipal Entities, Section 4.5.4 "Late Bids"]*

- c. Where no bid or no acceptable bid was received, the bid must be readvertised.
- d. Bids received late must be recorded as such.
- e. All bids duly lodged must be taken into consideration and evaluated.
- f. Msukaligwa Local Municipality must base evaluation solely on an examination of the relevant statutory and/or predetermined evaluation criteria.
- g. Evaluation criteria must promote the areas of finance (commerce), technical compliance/ability and preferential procurement.
- h. Members involved in the evaluation process must be honest, fair, impartial, and transparent.
- i. Bid Evaluation Committees should be familiar with and adhere to prescribed legislation, directives and procedures in respect of SCM.
- j. All evaluators/members of Bid Evaluation Committees should be cleared at the level of "CONFIDENTIAL" and should be required to declare their financial interest annually.
- k. No person may interfere with the SCM system of Msukaligwa Local Municipality; or amend or tamper with any quotation/bid after its receipt.

## **20 EVALUATION PROCESS**

### **20.1 Mandatory Reasons for Rejection**

- a. Msukaligwa Local Municipality must reject a proposal for the award of a contract if the recommended bidder has committed a proven corrupt or fraudulent act in competing for the particular contract.

*[Municipal SCM Regulations, Section 31, (1)(e)]*

- b. Msukaligwa Local Municipality must disregard the bid of any bidder if that bidder, or any of its directors:
- i. Have abused the SCM system of Msukaligwa Local Municipality.
  - ii. Have committed proven fraud or any other improper conduct in relation to such system.
  - iii. Have failed to perform on any previous contract and the proof exists.

*[Municipal SCM Regulations, Section 31, (1)(g)]*

- c. Such actions must be communicated to the National Treasury.

*[Municipal SCM Regulations, Section 31, (2)]*

- d. The accounting officer must ensure that irrespective of the procurement process followed, no award may be given to a person:
- i. Who is in the service of the state
  - ii. 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.
  - iii. A person who is an advisor or consultant contracted with Msukaligwa Local Municipality.

*[Municipal SCM Regulations, Section 44]*

### **20.2 Compliance Check Procedures**

- a. Before actual evaluation the SCM Unit must do a compliance check that the quotation/bid documentation complies with the predetermined conditions and that all required forms and information are submitted, completed in full and legible.

*[National Treasury's SCM Guide for Accounting Officers of Municipalities and Municipal Entities, Section 4.5.4 "Completeness of Documentation"]*

### **20.3 Signing Of Bids**

- a. In order to avoid confusion regarding precisely what must be signed for a valid bid, the “Invitation to Bid” or photocopy thereof, must be signed in ink.
- b. All declarations must also be signed to qualify as valid claims.

*[National Treasury’s SCM Guide for Accounting Officers of Municipalities and Municipal Entities, Section 4.5.4 “Completeness of Documentation”]*

### **20.4 Tax Clearance Certificates**

- c. Msukaligwa Local Municipality must reject any bid from a SA supplier that fails to provide written proof from SARS that the supplier either has no outstanding tax obligations or has made arrangements to meet outstanding tax obligations or whose tax affairs are not confirmed by SARS to be in order.

*[National Treasury’s SCM Guide for Accounting Officers of Municipalities and Municipal Entities, Section 4.5.2.9 “Tax Clearance”]*

- d. As proof that there are no outstanding taxes obligations, a valid Tax Clearance Certificate must be submitted in the original.

*[National Treasury’s SCM Guide for Accounting Officers of Municipalities and Municipal Entities, Section 4.5.2.9 “Tax Clearance”]*

- e. In all cases where the bidder did not submit the Certificate by the closing time, or the certificate is not in the original or not valid, the bidder must be afforded an opportunity and be requested to submit the Certificate within 14 days from the date of the request. Recommendations with regard to such matters must be submitted to the relevant evaluation and award structures.
- f. No contracts may, however, be awarded to SA bidders that failed to submit the original valid Tax Clearance Certificate within the relevant period and this must be reported to SARS.

*[Municipal SCM Regulations, Section 43, (2)]*

*[General Conditions of Contract act, Section 32.3]*

- g. Tax clearance certificate may be waived for overseas bidders.

### **20.5 Submission and Signing Of Declarations or Certificates**

- a. In all cases where the relevant preference claim form must be submitted and a provider had the intention to claim as evidenced by the fact that the preference form was filled in or gave other indications of wishing to claim preference, the bidder must be allowed to complete and/or sign the declaration.
- b. Recommendations with regard to such matters must be submitted to the relevant evaluation authority and award structure.

## **20.6 Declaration of Interest**

- a. A form for the declaration of a provider's position and interest vis-à-vis the evaluating structure, must be included with the quotation/bid documents.

*[National Treasury's SCM Guide for Accounting Officers of Municipalities and Municipal Entities, Section 4.5.2.5 "Compiling Bid Documents"]*

*[MFMA, Section 112 (1)(j)]*

*[Preferential Procurement Regulations, Section 11(1) "Conditions"]*

- b. An official who is involved in the evaluation and recommendation process, or who is in any way involved with the procurement process, must also certify as part of the recommendation that he/she complies with The Prevention and Combating of Corrupt Activities Act.
- c. All officials who can influence the award of a quotation/bid are seen as officials who are involved in the recommendation process.
- d. The register of attendance or disclaimer for the members of the Bid Evaluation Committee and the Bid Adjudication Committee must contain the following:
  - i. "I declare that I did not purposefully unlawfully favour or prejudice anyone in the decision making process in the recommendation and award of the quotation/bid."
- e. All officials who are involved in the decision making process must sign a similar affidavit.

*[National Treasury's SCM Guide for Accounting Officers of Municipalities and Municipal Entities, Section 2.4.1 "Clearance of members of the Bid Adjudication Committee"]*

## **20.7 Provider's Own Conditions**

- a. The conditions as contained in the quotation/bid documents enjoy precedence. All providers must accept these conditions. However, it sometimes happens that providers set their own conditions that might be in conflict with the quotation/bid conditions. Such own conditions set by providers may be recommended for acceptance where it is in the interest of the Msukaligwa Local Municipality to do so and where the interests of other providers are not prejudiced.
- b. Where the providers' own conditions are not in the best interest of the Msukaligwa Local Municipality, the provider must be requested to withdraw the conditions.
- c. If providers are not prepared to withdraw unacceptable or conflicting conditions, reasons why such conditions must be accepted must be submitted to the relevant award structure for approval or alternatively the quotation/bid may be passed over.

*[Municipal SCM Regulations, Section 24(1)]*

## **20.8 Evaluation Less Than R30 000**

- a. For quotations less than R30 000, where the requirement is not technically complex and where there are no major risks involved, formalised Bid Evaluation Committees are not compulsory and the relevant delegated authority may perform the evaluation and submit the recommendation to the relevant award structure.

- b. The evaluation must still be based on an examination of the relevant statutory and/or predetermined evaluation criteria.
- c. Msukaligwa Local Municipality may not make any award above R15 000 to a person whose tax matters have not been declared by SARS to be in order.

*[National Treasury's SCM Guide for Accounting Officers of Municipalities and Municipal Entities, Section 4.5.2.9 "Tax Clearance"]*

*[Municipal Supply Chain regulations, Section 43(1)]*

## **20.9 Evaluation from R30 000 And Up To R200 000**

- a. For quotations from R30 000 and up to R200 000, where the requirement is not technically complex and where there are no major risks involved, formalised Bid Evaluation Committees are not compulsory and the delegated authority must evaluate quotations received and submit a recommendation regarding the award of the quotations to the relevant award structure.
- b. The evaluation and award structures should be composed of different members to ensure that a transparent review of the evaluation is undertaken.
- c. Quotations must be evaluated against the predetermined criteria in the quotation document. The criteria to be taken into account are inter alia:
  - i. Compliance with the specification/TOR and conditions of the quote.
  - ii. Preferential procurement:
    - Price
    - Functionality
    - Goals (equity as well as socio economic)
  - iii. Capability / ability of the bidder to execute the contract.

*[National Treasury's SCM Guide for Accounting Officers of Municipalities and Municipal Entities, Section 4.5.5.2.5, "Evaluation and Comparison of Bids"]*

## **20.10 Bid Evaluation Committee for Procurement Above R200 000**

- a. Above R200 000, a Bid Evaluation Committee must evaluate bids received and submit a recommendation regarding the award of the bids to the Bid Adjudication Committee.
- b. Bids must be evaluated against the predetermined criteria in the bid document. The criteria to be taken into account are inter alia:
  - i. Compliance with the specification/TOR and conditions of the bid.
  - ii. Preferential procurement:
    - Price
    - Functionality
    - Goals (equity as well as socio economic)

- iii. Capability/ability of the bidder to execute the contract.
- iv. Check in respect of the recommended bidder whether its municipal rates and taxes and municipal service charges are not in arrears.
- v. Declaration for procurement above R10m (VAT included).

### **20.11 Format of the Recommendation Report**

- a. The SCM Unit is responsible for the compilation of the recommendation report and therefore the SCM Unit must provide the professional secretariat function for each evaluation. Recommendation/submissions to the Bid Adjudication Committee or other award structures must be clear regarding the content and purpose of the matter for which consideration and approval is desired. The practice of submitting memoranda, reports, contracts, agreements, invoices and the like and requesting general approval is not acceptable. However, such documents may be forwarded as annexure supporting the request. Facts must be set out fully and clearly in the submission and reference must be made only to those portions of the attached documents that are directly related to the approval being requested.

### **20.12 Consideration of Additional Information**

- a. Information received after the closing date, may only be taken into consideration if it would not influence the original recommendation made, which must be based on the original information received from providers.
- b. During the consideration of quotations/bids, communication by Msukaligwa Local Municipality with providers may only take place with the express prior approval of the relevant award structure.

### **20.13 Cancellation of Quotations/Bid**

- a. Should it be determined through the evaluation process that no acceptable quotations/bids were received; a recommendation to cancel the quotation/bid must be submitted for approval as part of the evaluation report.
- b. The reasons why no acceptable quotations/bids were received by the closing date and time must be investigated before a decision is made what alternative process must be followed to satisfy the requirements.
- c. The requirement may now be re-advertised / re-invited or a specific number of pre-identified service providers may be targeted.
- d. The evaluation report must contain the request for cancellation accompanied by the perceived reasons determined through the investigation as well as a recommendation on the alternative process to be followed to satisfy the requirements.
- e. The relevant award structure must approve all cases where quotations/bids:
  - i. Must be cancelled.
  - ii. New quotations/bids must be solicited because of the cancellation.

- iii. Negotiations with the preferred bidder must take place to determine a reduction in the scope and/or a reallocation of risk and responsibility. A substantial reduction in the scope or modification to the bidding documents may require re-bidding.
- f. Where quotations/bids must be cancelled all bidders must be informed in writing of the cancellation or the cancellation must be advertised in the same media as originally advertised.

*[Preferential Procurement Framework Regulations, Section 8(4)]*

#### **20.14 Negotiations**

- a. 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:
  - i. Does not allow any preferred bidder a second or unfair opportunity.
  - ii. Is not to the detriment of any other bidder.
  - iii. Does not lead to a higher price than the bid as submitted.
- b. Minutes of such negotiations must be kept for record purposes.

*[Municipal Supply Chain regulations, Section 43(1)]*

#### **20.15 Confirmation of Prices**

- a. A legal contract cannot be concluded by the acceptance of an offer where it is obvious to any reasonable person that a price is out of line with other market prices and/or previous quoted prices. Confirmation of whether the price is correct or not, must be obtained from the provider in such cases.
- b. Only confirmation of the correctness of the price is involved and not negotiation for a better price.

#### **20.16 Verifying Preferences**

- a. Verification is required whenever it is clear that the claimed preference is incorrect or when reasonable doubt exists that the bidder is entitled to the preference in any way at all.

#### **20.17 Amendment of Prices Prior To Lapse of Validity**

- a. An amendment of a quoted price during the original validity period is not allowed.

#### **20.18 Extension of Validity Period**

- a. Extension of validity must be finalised while the quotations/bids are still valid.
- b. If a bidder should reduce the quoted price as a result hereof, the reduction may be considered only if the provider would have been the successful contractor irrespective of the reduction. In other words the case is evaluated at the original quoted price and if successful, it is accepted at the reduced price.

- c. In cases where the quoted price is increased when the validity period expires and the quotation/bid concerned is either no longer recommended for acceptance or is recommended for acceptance at the higher price, the disadvantageous or incremental costs must be reported to the Council.

#### **20.19 New and Unproven Products**

- a. A bid may not be rejected simply because the bidder or the product offered is unknown.

#### **20.20 Country of Origin**

- a. There is currently no embargo on the purchase of products from any foreign market.

#### **20.21 Deviations From Specifications**

- a. Quotations/bids with acceptable deviations from specification may be recommended for acceptance, provided that the competitiveness of another provider is not adversely affected.

#### **20.22 Alternative Offers**

- a. Regardless of whether the provider also submits offers conforming strictly to specification, alternative offers may be considered and accepted provided that the other providers are not prejudiced. If the alternative offer does not meet the specification requirements, in that it is lower than the specified requirements and the deviations are acceptable, the other providers must be approached in cases where they might possibly be prejudiced, with a view to obtaining offers for the delivery of a product or service with the same or similar acceptable deviations. Such cases must be submitted to the relevant Bid Evaluation Committee for consideration and the relevant award structure for approval.

#### **20.23 Improvement of Specification**

- a. A quotation/bid received which offers an improvement on the specification may be accepted provided that the other providers are not prejudiced.

#### **20.24 Equal Offers**

- a. When offers are equal in all respects on a comparative basis, thus scoring equal total points, the successful provider must be the one scoring the highest number of preference points for HDI/SMME/specified goals as stated in part 3, 12 (8) of the PPPFA Regulations.
- b. Should two or more offers still be equal in all respects, the award must be decided by the drawing of lots in accordance with the delegated powers.
- c. Where bid prices for a portion of a series of sub-items are equal and it is necessary for these items to be obtained from the same bidder, then the lowest overall bid may be recommended for acceptance.

### **20.25 Additional Quantities**

- a. Before an award is made, additional quantities may be accepted up to the maximum percentage provided for in the delegated powers.
- b. All providers concerned must be approached for offers for the larger quantities.
- c. Where the additional quantities are more than the percentage provided for in the delegated powers, a fresh or a supplementary bid must be invited.

### **20.26 Samples**

- a. Notwithstanding the requirement that samples must be submitted not later than the date and time specified in the bidding documents, samples may be received up to the time that it is required for evaluation. The recommendation of a bid must, however, not be delayed because a sample, received late, still has to be evaluated.

### **20.27 Comparison of Quoted Prices**

- a. The quoted prices of all items must be brought to a comparative basis, where applicable, by deducting preferences and other benefits, and adding implied contract price adjustments in the case of non-firm prices and delivery and other costs where applicable.
- b. Where purchases are accompanied by a maintenance contract and the future costs of the maintenance are known, the discounted present value of all the future costs must be added to the purchase cost in order to calculate a comparative price. Where these costs are not known, a typical scenario must be set in the quotation/bid document and priced by each provider in order to obtain comparative prices.
- c. The quoted prices of providers who are not registered in terms of the VAT Act, must for purposes of comparison be accepted as being inclusive of VAT. Msukaligwa Local Municipality must do price comparisons on these quoted prices and any transaction as a result of acceptance of such quoted prices will under no circumstances be subject to the levying of an additional tax.

### **20.28 Comparative Prices: Bids for Contracts With a Duration Of More Than Three Years**

- a. Where bids for contracts with duration of more than three years are received, comparative prices, where necessary, must be calculated on the basis of the discounted net present values of the various offers.
- b. A specific escalation rate determined by the market factors should form part of the bid. This rate will then be used to calculate the tariffs for each of the future years.

### **20.29 Confidentiality**

- a. After public opening of bids, information relating to the evaluation process may not be disclosed to interested parties or other persons not officially concerned with the process, until the successful bidder is notified of the award.

*[National Treasury's SCM: A guide for Accounting Officers of Municipalities and Municipal Entities, Section 4.5.2.9, "Confidentiality"]*

### **20.30 Subcontracting And Joint Ventures**

- a. It is incumbent upon Msukaligwa Local Municipality to take care that:
  - i. Subcontractors and partners in joint ventures are engaged in fair and reasonable conditions of contract.
  - ii. Contractors who contravene the contract conditions may be designated as restricted persons.
  - iii. Secured payment options may only be considered where it can be justified.
  - iv. A minimum of 30% of the construction work will be subcontracted to locally based SMME's, joint venture partners, co-operatives, where the successful bidder is not locally based.

### **20.31 Clearance Of Providers Prior To The Award Of A Contract**

- a. Msukaligwa Local Municipality must check the National Treasury database prior to awarding any contract to ensure that no recommended bidder, nor any of its directors, is listed as companies, directors or persons prohibited from doing business with the public sector.
- b. This list of restricted persons is managed and maintained by the SCM Office within the National Treasury.

*[Municipal CM Regulations, Section 38 (1)(c)]*

### **20.32 Dealing With Unsolicited Bids**

- a. Msukaligwa Local Municipality is in terms of Section 113 of the MFMA not obliged to consider unsolicited bids received outside a normal bidding process. However if Msukaligwa Local Municipality decides to consider unsolicited bids, it may do so, only if:
  - i. The product or service offered in terms of the bids is proven a unique innovative concept that will be exceptionally beneficial to or have exceptional cost advantages for Msukaligwa Local Municipality.
  - ii. The person who made the bid is the sole provider of the product or service.
  - iii. The reasons for not going through the normal biddings processes are found to be sound by the accounting officer.

*[Municipal CM Regulations, Section 37 (2)]*

- a. Should Msukaligwa Local Municipality decide to consider an unsolicited bid that complies with the conditions in the paragraph above, the municipality must make its decision public in accordance with section 21A of the Municipal Systems Act, together with:
  - i. Its reasons as to why the bid should not be open to other competitors;

- ii. An explanation of the potential benefits for the municipality were it to accept the unsolicited bid; and
- iii. An invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.

*[Municipal CM Regulations, Section 37 (3)]*

## **21 AWARD**

### **21.1 Award Structures**

- a. The Bid Evaluation Committee and the Bid Adjudication Committee or equivalent structures for a specific requirement must be composed of different members to ensure that a transparent review of the evaluation is undertaken.

*[National Treasury's SCM: A guide for Accounting Officers of Municipalities and Municipal Entities, Section 4.5.6.1.2]*

### **21.2 Award Structure Up To R200 000**

- a. The official delegated for the adjudication and award function, must finalise the award.
- b. All quotations up to R200 000 not specifically delegated, must be finally adjudicated and awarded by the Bid Adjudication Committee or the Accounting Officer or as delegated.

### **21.3 Powers Of The Award Structure Up To R200 000**

- a. The official acting as the Award Structure assesses if the specific procurement process followed, is in line with the approved policy and procedures, that the evaluation is fair and sound, the deal is acceptable and in Msukaligwa Local Municipality's best interest, and then approves/rejects the recommendation.
- b. The function must be carried out in line with the award functions stipulated under the roles and responsibilities section.
- c. Any decision regarding the adjudication and award of a contract is final.

### **21.4 Award Structure Above R200 000**

- a. The Bid Adjudication Committee is the Award Structure who will finally award bids above the monetary value of R200 000 and up to its delegated authority.
- b. Above the delegated authority of the Bid Adjudication Committee, the Bid Committee endorses the recommendation and the Accounting Officer will finally award the bids as award structure.

### **21.5 Powers Of The Award Structure Above R200 000**

- a. The function must be carried out in line with the award functions stipulated under the roles and responsibilities section.
- b. The Bid Adjudication Committee assesses if the specific procurement process followed, is in line with the approved policy and procedures, that the evaluation is fair and sound, the deal is acceptable and in Msukaligwa Local Municipality's best interest, and then approves/rejects the

recommendation or make a final recommendation to the Accounting Officer for final award where the Bid Adjudication Committee is not delegated to finally award. The Bid Adjudication Committee may make another recommendation to the Accounting Officer how to proceed with the relevant procurement.

- c. Where the Bid Adjudication Committee finds that the recommendation is not correct or not in the Msukaligwa Local Municipality's best interest, the reasons for not supporting the review are submitted to the Accounting Officer for finalisation of the adjudication and award.
- d. Members of the Bid Evaluation Committee may present their reports to the Bid Adjudication Committee and clarify any uncertainties.
- e. The Bid Adjudication Committee and the Accounting Officer has the power to amend or cancel concluded agreements if delivered goods and services do not conform to specifications.
- f. Any decision regarding the adjudication of a contract is final.

*[National Treasury's SCM: A guide for Accounting Officers of Municipalities and Municipal Entities, Section 2.3]*

## **22 CONTRACTUAL COMMITMENTS**

### **22.1 Conclusion of Contracts**

- a. The SCM Unit must finalise the adjudication by issuing the letter of acceptance, the contract form, including the service level agreement and formal contract, where applicable.
- b. The acceptance of a successful bid must be in writing and must be sent by registered/certified mail or as indicated in a special condition; the principle being that there must be a mechanism of proof of delivery.
- c. Up to a predetermined monetary value for quotations, the official with the necessary delegated authority must sign orders or other necessary documentation to commit Msukaligwa Local Municipality.
- d. Up to a predetermined monetary value for quotations, the official with the authority to award may be the official who contractually commits Msukaligwa Local Municipality.
- e. Above the predetermined monetary value, an official with the necessary delegated authority to contractually commit Msukaligwa Local Municipality must sign the letters of acceptance and contract form or other necessary documentation to commit Msukaligwa Local Municipality.

*[Municipal CM Regulations, Section 11 (1)(c)]*

- f. The official with the necessary delegated authority to commit Msukaligwa Local Municipality, must be satisfied that all the necessary contractual conditions have been included prior to signing.
- g. Msukaligwa Local Municipality's contract documents must promote uniformity across the entity.

*[National Treasury's SCM: A guide for Accounting Officers of Municipalities and Municipal Entities, Section 4.5.2.3]*

- h. Both parties to the contract must sign the contract form or formal contract.

*[National Treasury's SCM: A guide for Accounting Officers of Municipalities and Municipal Entities, Section 4.5.6.1.4 "Contract Award"]*

- i. Legal copies must be kept in a safe place for judicial reference.
- j. A copy of the letter of acceptance and a copy of the tax clearance certificate supplied by the contractor must be forwarded to SARS for control purposes.

*[National Treasury's SCM: A guide for Accounting Officers of Municipalities and Municipal Entities, Section 4.5.2.9 "Tax Clearance"]*

### **22.2 Formal Contracts**

- a. A formal contract must form part of the quotation/bid documents, if required to be signed.

- b. Formal contracts are concluded only where this is stated as a requirement in the quotation/bid document.
- c. If a formal contract is concluded, an order must still be placed with the successful provider.

### **22.3 Service Level Agreement**

- a. A service level agreement (SLA) may be compiled and signed if required.

*[National Treasury's SCM: A guide for Accounting Officers of Municipalities and Municipal Entities, Section 4.5.6.1.4 "Contract Award"]*

### **22.4 Contracts Providing For Compensation Based On Turnover**

- a. If a service provider acts on behalf of Msukaligwa Local Municipality to provide any service or act as a collector of fees, service charges or taxes and the compensation payable to the service provider or the amount collected, the contract between the services and Msukaligwa Local Municipality must stipulate:
  - i. A cap on the compensation payable to the service provider; and
  - ii. That such compensation must be performance based.

*[Municipal CM Regulations, Section 51]*

### **22.5 Time of Conclusion**

- a. A contract is concluded at the time that the letter of acceptance is posted even if the contract form and formal contract is only signed at a later date, unless stated otherwise in the quotation/bid documents.

## **23 ACCESS TO BIDDING INFORMATION**

- a. All bidding information remains strictly confidential.
- b. Every bidder must be informed of final bid results.
- c. The information of one bidder may not be disclosed to any other bidder.

### **23.1 Informing the Successful Bidders**

- a. The successful bidder must be notified in writing by registered or certified mail of the acceptance of the bid within the original validity period of the bid.
- b. The information of other bidders may not be disclosed to the successful bidder.

*[National Treasury's SCM: A guide for Accounting Officers of Municipalities and Municipal Entities, Section 5.8.8 "Contract Award"]*

### **23.2 Informing the Unsuccessful Bidders**

- a. On written request, any bidder must be provided with the reasons why the bid was unsuccessful.

*[National Treasury's SCM: A guide for Accounting Officers of Municipalities and Municipal Entities, Section 4.5.6.1.4 "Notification and release of information"]*

### **23.3 Disclosure of Information**

- a. Bids are not available for perusal by the public.
- b. According to sections 36 and 63 of the Promotion of Access to Information Act, Act No 2 of 2000, a public body must refuse a request for access to a record of the body if the record contains:
  - i. Trade secrets of a third party.
  - ii. Financial, commercial, scientific or technical information, other than trade secrets, of a third party, the disclosure of which would be likely to cause harm to the commercial or financial interest of the third party.
  - iii. Information supplied in confidence by a third party, the disclosure of which could reasonably be expected:
    - To put that third party at a disadvantage in contractual or other negotiations.
    - To prejudice that third party in commercial competition.

*[Promotion of Access to Information Act, Section 36 (1)]*

- iv. Personal information about a third party, including a deceased individual.

*[Promotion of Access to Information Act, Section 63 (2)e]*

- c. When divulging information, a balance must be stricken between one party's right to access of information and the right to confidentiality of the other party.
- d. Where no bid has been accepted, particulars of the bids received are not made public.
- e. The Msukaligwa Local Municipality can withhold information if the release or publication of the information:
  - i. Will impede law enforcement; or
  - ii. Will be contrary to the public interest; or
  - iii. Will harm the legitimate interests of the Msukaligwa Local Municipality; or
  - iv. Will hinder fair competition between providers by revealing any proprietary information of any bidder.

#### **23.4 Publishing of Award**

- a. Awards must be published in the media where bids were originally advertised.
- b. Certain information must be made available on the Msukaligwa Local Municipality website.

*[Municipal CM Regulations, Section 23 (c)]*

*[National Treasury's SCM: A guide for Accounting Officers of Municipalities and Municipal Entities, Section 4.5.6.1.4 "Notification and release of information"]*

## **24 SALES OF ASSETS AND GOODS AND LETTING OF ASSETS**

### **24.1 Sale of Assets and Goods**

- a. Any transfer of ownership of a capital asset must be fair, equitable, transparent and competitive and consistent with the SCM Manual

*[MFMA, Section 14 (5)]*

- b. Immovable property may be sold only at market related prices except when the public interest or the plight of the poor demands otherwise.

*[Municipal SCM Regulations, Section 40 (2)(b)(i)]*

- c. Movable assets may be sold either by way of written price quotations, a competitive bidding process, and auction or at market related prices, whichever is the most advantageous to Msukaligwa Local Municipality.

*[Municipal SCM Regulations, Section 40 (2)(b)(ii)]*

- d. Where assets are traded in for other assets, the highest possible trade-in price is negotiated.

*[Municipal CM Regulations, Section 40 (2)(d)]*

### **24.2 Letting Of Assets**

- a. Immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise.

*[Municipal SCM Regulations, Section 40 (2)(c)(i)]*

- b. All fees, charges, rates, tariffs, scales or fees or other charges relating to the letting of immovable property must be reviewed annually

*[Municipal SCM Regulations, Section 40 (2)(c)(ii)]*

## **25 CONTRACT/PROJECT MANAGEMENT**

### **25.1 General Responsibilities**

- a. A contract or agreement procured through the SCM system of Msukaligwa Local Municipality must:
  - i. Be in writing.
  - ii. Stipulate the terms and conditions of the contract or agreement which must include provisions providing for:
    - The termination of the contract or agreement in the case of non- or under-performance.
    - Dispute resolution mechanisms to settle disputes between the parties.
    - A periodic review of the contract or agreement once every three years in the case of a contract or agreement for longer than three years.

*[MFMA, Section 116 (1)]*

- b. The relevant user group takes responsibility for day-to-day management and monitoring of a contract in line with the contractual conditions.
- c. The SCM Unit takes responsibility for maintaining original contract documentation and monitoring contracts in terms of renewals, transfers, terminations, amendments and price adjustments.

*[MFMA, Section 116 (2)]*

### **25.2 Managing the Contract**

- a. The Accounting Officer must take all reasonable steps to ensure that a contract or agreement procured through the SCM Manual of Msukaligwa Local Municipality is properly enforced.

*[MFMA, Section 116 (2)(a)]*

### **25.3 Correction of an Incorrect Acceptance**

- a. Mistakes in the letter of acceptance, contract form and/or formal contract must be reported immediately to the official in charge of the SCM Unit.
- b. Every effort must be made without delay to recover the original letter of acceptance, contract form and/or formal contract from the contractor.
- c. Where it is not possible to recover the original, all particulars of the incorrect acceptance must be reported to the relevant award structure together with a recommendation regarding the corrective steps that are envisaged.

## **25.4 Contract Monitoring**

- a. The Accounting Officer or delegate must monitor the performance of the contractor under the contract or agreement on a monthly basis.
- b. The Accounting officer must regularly report to the Council on the management of the contract or agreement and the performance of the contractor.
- c. Constant monitoring is essential to ensure that contractual obligations are met and that contracts run with as little disruption as possible.
- d. The SCM Unit is responsible for notifying the user group timely of term contract expiry that will allow the user group sufficient time to decide whether to renew the contract.
- e. The user group must ensure that the contractor performs according to the stipulations of the contract in delivering the goods or services on time, in the correct quantity and to the required standard.
- f. Regular meetings with contractors to discuss progress, deliverables, foreseeable problems and/or amendments must be held during the contract period.

*[MFMA, Section 116 (2)(a)]*

### **25.4.1 Trademark / Brand Name**

- a. If a bid is accepted for a particular trademark/brand name, that trademark/brand name must appear on the product and substitute products must not be accepted.

## **25.5 Long Term Contract Review**

- a. Msukaligwa Local Municipality must perform a periodic review of the contract of agreement once every three years in the case of a contract or agreement for longer than three years.

*[MFMA, Section 116 (1)(b)(iii)]*

## **25.6 Non-Contractual Purchases**

- a. Small quantities of supplies or minor services may be procured outside of the contract in the following circumstances:
  - i. In cases of emergency; or
  - ii. When the contractor's point of supply is not situated at or near the place where the supply or service is required; or
  - iii. If the contractor's supplies or services are not readily available.
- b. Purchases outside the contract must be restricted to requirements that are absolutely necessary to satisfy the immediate requirement and the action must always be justifiable against the contract conditions.
- c. Acquisitioning procedures must in all instances be followed when procuring outside of existing contracts.

*[Municipal SCM Regulations, Section 35 (1)]*

### **25.7 Payments**

- a. Under normal circumstances payment is made for supplies in accordance with the contract conditions only after it has been delivered and, where applicable, installed, in good working order.

*[Municipal SCM Regulations, Section 65 (2) (a) & (e)]*

### **25.8 Over-/Under-Deliveries**

- a. Over- or under-deliveries may be accepted in accordance with the Accounting Officer's delegated powers.

### **25.9 Discounts on Invoices**

- a. In cases where a discount is not a contract condition and a contractor indicates a discount on his invoice, this discount must be utilised if possible, for instance by making payment within the time limit specified on the invoice. However, orders must at all times be placed in accordance with the contract conditions, i.e. non-contractual discounts must not be taken into consideration when placing orders.

### **25.10 Insolvency, Liquidation, Death, Sequestration or judicial Management of Contractors**

- a. In terms of the general conditions of contract, Msukaligwa Local Municipality has certain options, which it may exercise in the case of insolvency.
- b. The risk to Msukaligwa Local Municipality is the determining factor and the choice with the smallest degree of risk is preferred.

*[General Conditions of Contract, Section 26]*

### **25.11 Transfer and Cession of Contracts**

- a. The contractual conditions should stipulate the conditions under which transfers/cessions may be considered and the process to be followed in such circumstance.
- b. To protect Msukaligwa Local Municipality, no more than 70% of a contract can be subjected to sessions.

### **25.12 Transfer of Contract Payments**

- a. Transfer of payments may be considered in cases where a contractor makes application on an official letter signed by the CEO, or any other authorised person, for monies due to the contractor, to be paid to another person or organisation, such as a bank or supplier of materials.
- b. Contract payments may be transferred on the recommendation of Msukaligwa Local Municipality and with the relevant award structure's approval only.

*[MFMA, Section 65 (2)(a) & (e)]*

- c. Written confirmation must be obtained from the contractor as requests for transfer of payment received from another person or organisation cannot be considered favourably.
- d. Every application must be dealt with on its own merits. Favourable consideration will result only where it is not to the detriment of the Msukaligwa Local Municipality.

**25.13 Contract Variations/Amendments**

- a. A contract or agreement procured through the SCM policy of Msukaligwa Local Municipality may be amended by the parties, but only after:
  - iii. The reasons for the proposed amendment have been tabled in the Municipal Council.
  - iv. The local community:
    - Has been given reasonable notice of the intention to amend the contract or agreement; and
    - Has been invited to submit representations to Msukaligwa Local Municipality.

*[MFMA, Section 116 (3)]*

- b. Amendments may not materially alter the original objective; as such amendments should form part of a new bid invitation.

All contractual parties must agree to the amendment in writing.

*[General Conditions of Contract, Section 18]*

- c. No contract may be amended after the original contract has ceased to exist.

**25.13.1 Extension of Contract Periods**

- a. The extension of a contract must be finalised before the current expiry date of the contract.
- b. Where prices are amended for the extended period, the reasonableness of the prices must be established.

**25.13.2 Extension of Delivery Periods**

- a. Delivery periods may be extended according to the Accounting Officer's delegated powers.

**25.13.3 Amendment of Contract Conditions**

- a. Amendments may be considered on its merits bearing in mind the best interest of Msukaligwa Local Municipality. Amendments, that prejudice Msukaligwa Local Municipality, may be agreed to only with the approval of the relevant award structure.

*[MFMA, Section 116 (3)]*

#### **25.13.4 Amendment of Specifications**

- a. Where a binding contract has been concluded, an amendment of the specification whether initiated by the contractor or by Msukaligwa Local Municipality, may be made only after negotiation between the contractor and Msukaligwa Local Municipality and through the facilitation of the relevant award structure.

#### **25.13.5 Contractual Price Adjustments**

- a. The contractual conditions must stipulate the circumstances under which price adjustments will be considered, the intervals for adjustment, the base date for adjustments as well as the price adjustment formula and the process to be followed in such circumstances.
- b. In cases of term contracts, price adjustments must be considered on a quarterly basis and this condition must be indicated in the bid document.
- c. No price adjustments should preferably be considered for a contract period less than twelve (12) months.

*[National Treasury's SCM: A guide for Accounting Officers of Municipalities and Municipal Entities, Section 5.13.2)]*

- d. The prescribed formula will be used for adjustment of prices due to the fluctuation of the indices.

*[National Treasury's SCM: A guide for Accounting Officers of Municipalities and Municipal Entities, Section 4.5.2.9 "Price adjustments due to escalation"]*

- e. Indices compiled by Statistics South Africa must be used for price adjustments.
- f. Rate of Exchange (ROE) fluctuations are only allowed on the imported content of the commodity.

*[National Treasury's SCM: A guide for Accounting Officers of Municipalities and Municipal Entities, Section 4.5.2.9 "Price adjustments due to fluctuation in the Rate of Exchange (ROE)"]*

#### **25.13.6 Non-Contractual Adjustment of Prices**

- a. Non-contractual adjustment of prices is normally not allowed.

#### **25.13.7 Reduction of Prices**

- a. Msukaligwa Local Municipality must accept price reductions after award of a contract where this is advantageous to Msukaligwa Local Municipality, unless the acceptance of the price reduction amounts to breach of contract.

#### **25.14 Unsatisfactory Performance**

- a. Continuously communicate unsatisfactory performance to contractors in writing compelling the contractor to perform according to the contract and thus to rectify or to restrain from unacceptable actions.

#### **25.14.1 Unsatisfactory Performance: National Treasury's Role**

- a. National Treasury must establish a mechanism to receive and consider complaints regarding alleged non-compliance with the prescribed norms and standards; and
- b. To make recommendations for remedial actions to be taken if noncompliance of any norms and standards is established, including recommendations of criminal steps to be taken in the case of corruption, fraud or other criminal offences.

#### **25.14.2 Restriction**

- a. Msukaligwa Local Municipality may in terms of Treasury Regulations 16A9.2:
  - i. Disregard the bid of any bidder if that bidder, or any of its directors:
    - Have abused Msukaligwa Local Municipality's SCM system;
    - Have committed fraud or any other improper conduct in relation to such system; or
    - Have failed to perform on any previous contract; and
    - Has been listed in the Register for Tender Defaulters In terms section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).
- b. Must inform the National Treasury of any action taken in terms of the aforementioned paragraph.

*[Municipal SCM Regulations, Section 38 (1)(g)]*

#### **25.15 Contract Termination**

- a. Msukaligwa Local Municipality must cancel a contract awarded to a supplier of goods of services:
  - i. If the supplier committed any proven corrupt or fraudulent act during the bidding process or the execution of that contract.
  - ii. If any official or other role player committed any proven corrupt or fraudulent act during the bidding process or the execution of that contract that benefited the supplier.

*[Municipal SCM Regulations, Section 38 (1)(f)]*

- b. Termination of a contract may be considered for a variety of reasons, as stipulated in the general conditions of contract, such as delayed deliveries, failing to perform any other contractual obligation or if the supplier has engaged in corrupt and fraudulent practices and insolvency.
- c. Contract termination may be effected if allowed for in the contractual conditions and if both parties agree to the termination in writing.

*[General Conditions of Contract, Section 23]*

### **25.16 Objections and Complaints**

- a. 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.

*[Municipal SCM Regulations, Section 49]*

### **25.17 Resolution of Disputes, Objections, Complaints and Queries**

- a. The accounting officer must appoint an independent and impartial person, not directly involved in the supply chain management processes of the Msukaligwa Local Municipality, to:
- i. assist in the resolution of disputes between the municipality or the municipal entity in the implementation of its supply chain management system; or
    - any decisions or actions taken by the municipality or municipal entity in the implementation of its supply chain management system; or
    - any matter arising from a contract awarded in the course of its supply chain management system.

*[Municipal SCM Regulations, Section 1(a)]*

- b. 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.

*[MFMA, Section 116 (2)(c)]*

## **26 LOGISTICS MANAGEMENT**

### **26.1 Integrated Logistics Management**

- a. The logistics management policy must provide for an effective system for the setting of inventory levels, placing of orders, receiving and distribution of goods, stores management, expediting orders, transport management, vendor performance, and maintenance and contract administration.

*[Municipal SCM Regulations, Section 39]*

- b. Management should strive to minimise the total cost of logistics rather than the cost of each activity.
- c. Attempts to reduce the cost of individual activities may lead to increased total costs.

*[National Treasury's SCM: A guide for Accounting Officers of Municipalities and Municipal Entities, Section 6.1.2)]*

### **26.2 Stores Accounting**

- a. The principles of accounting must always be kept in mind when accounting takes place.
- b. All stores, items or services received must be accounted for.
- c. Services rendered will be regarded as E-class accountable.
- d. Accounting in respect of all stores, equipment, livestock and services rendered is to be effected on ledger cards.
- e. The receipt voucher must be used for external receipts as well as external stores issue.
- f. When opening a ledger/tally card a register number must be allocated to each card.
- g. All A-class accountable stores items issued to users must be accounted for in the distribution ledger card.
- h. Every distribution account holder may delegate duties and responsibilities to inventory holders in writing, per room, floor or building.
- i. All A-class accountable stores must be accounted for on inventory registers.
- j. Officials making use of their personal equipment on municipal property must declare such and obtain authority.
- k. The voucher registry must allow for the orderly and accurate storage of accounting documentation.

*[MFMA, Section 63 (1) & (2)]*

### **26.3 Handing and Taking Over**

- a. Where handing and taking over between logistics officials, who are in control of stores/equipment, takes place, a handing and taking over certificate must be completed.

- b. Handing and taking over is also applicable to inventory holders.

## **26.4 Placing of orders**

- a. An order should be placed either when a pre-determined stock level for inventory items is reached or when a request is received from an end user for an item, which is not held in stock.

*[National Treasury's SCM: A guide for Accounting Officers of Municipalities and Municipal Entities, Section 6.3]*

## **26.5 Order Processing**

### **26.5.1 Contract Purchase**

- a. Where a contract exists, orders should be placed for the item from the contract.

*[National Treasury's SCM: A guide for Accounting Officers of Municipalities and Municipal Entities, Section 6.4.1]*

### **26.5.2 Price Quotation / Competitive Bidding Method**

- a. Where there is no contract, the price quotation or competitive bidding method of ordering should be applied within delegated authority.

*[National Treasury's SCM: A guide for Accounting Officers of Municipalities and Municipal Entities, Section 6.4.2]*

## **26.6 Stocktaking**

- a. Stocktaking of all inventory and capital assets shall be conducted at least once a year.
- b. Any deficiencies should then be accounted for.
- c. Stocktaking must at all times take place in accordance with this procedure manual.
- d. Stock take of storerooms and asset records must be carried out on a yearly basis and take place in accordance with this policy.

*[National Treasury's SCM: A guide for Accounting Officers of Municipalities and Municipal Entities, Section 6.8]*

## **26.7 Asset Management**

- a. Asset management must at all time take place in accordance with this asset management policy.
- b. A distribution register must be kept in order to determine which asset record holders have been issued with a specific item.
- c. Asset controllers and holders must be appointed in writing.
- d. A list of asset records must be kept for a cycle of 5 years.

- e. All equipment on asset records should be marked with the municipal ownership mark.

*[MFMA, Section 63 (1) & (2)]*

## **26.8 Transit**

- f. Goods in transit must at all times be dealt with in accordance with this procedure manual.
- g. Transit must be an independent section, performing specific functions such as receiving and distribution of goods.

*[National Treasury's SCM: A guide for Accounting Officers of Municipalities and Municipal Entities, Section 6.6 & 6.7)]*

## **26.9 Stores/ Warehouse Management**

- a. Store management must at all times take place in accordance with this procedure manual.
- b. Hazardous material such as explosives, flammable items and oxidising items must be separated from other items to eliminate the possibility of damage.
- c. Products requiring special security precautions should be properly safeguarded against pilferage.
- d. All poison containers, full, partially full or empty must be clearly labelled.

*[Municipal SCM Regulations, Section 31 (1)]*

- e. BIN maintenance should be done and the ledgers updated accordingly.
- f. All containers (holders) in respect of which a refundable deposit has been paid must be accounted for.

*[National Treasury's SCM: A guide for Accounting Officers of Municipalities and Municipal Entities, Section 6.6.5)]*

*[MFMA, Section 63 (2)(a)]*

## **26.10 Transport Management**

- a. Transport management must at all times take place in accordance with this procedure manual.
- b. All vehicles should be issued on the day of travel unless advance authority to park the vehicle at home has been obtained.
- c. The driver must be in possession of a valid drivers licence.
- d. The traffic department may impound vehicles if misuse is suspected.
- e. Passengers carried by a municipal vehicle must be authorised to travel in the vehicle.
- f. All municipal vehicles are subject to inspection by duly authorised officials to ensure that the municipality maintains their transport.

- g. The driver of a municipal vehicle must at all times ensure that the vehicle is in a roadworthy condition.

### **26.11 Channels of Distribution**

- a. Goods must be physically moved or transported between the place they are produced and the place they are consumed.
- b. Channels of distribution develop when many exchanges take place between suppliers and consumers.
- c. The objective is to obtain optimum performance of the distribution channel at minimum total cost.
- d. In order to be successful, the supply chain manager must select the appropriate channel structure, choose the intermediaries to be used and establish procedures regarding channel members (i.e. organizational units responsible for warehousing, transport, etc.) and devise information and control systems to ensure that performance objectives are met.

### **26.12 Contract Administration**

#### **26.12.1 Managing the Contract**

- a. The Accounting Officer must take all reasonable steps to ensure that a contract or agreement procured through the SCM policy of Msukaligwa Local Municipality is properly enforced.

*[Municipal SCM Regulations, Section 116 (2)(a)]*

- b. Both the user department and the SCM unit have a responsibility towards managing a contract.
- c. The nature of the responsibility will determine who manages the specific contractual aspect.
- d. Bidders commitments - All prospective bidders of the municipality shall after an award of any contract for more than R200 000, commit to a 1% social responsibility programme.

#### **26.12.2 Contract Monitoring**

- a. The Accounting Officer must monitor, monthly, the performance of the contractor under the contract or agreement.

*[Municipal SCM Regulations, Section 116 (2)(b)]*

- b. The Accounting officer must regularly report to the Council on the management of the contract or agreement and the performance of the contractor.

*[Municipal SCM Regulations, Section 116 (2)(d)]*

- c. Constant monitoring is essential to ensure that contractual obligations are met and that contracts run with as little disruption as possible.

*[Municipal SCM Regulations, Section 116 (2)(c)(ii)]*

- d. The SCM Unit is responsible for notifying the user department timely of term contract expiry that will allow the user department sufficient time to decide whether to renew the contract.

- e. The user department must ensure that the contractor performs according to the stipulations of the contract in delivering the goods or services on time, in the correct quantity and to the required standard.
- f. Regular meetings with contractors to discuss progress, deliverables, foreseeable problems and/or amendments must be held during the contract period.

### **26.13 Maintenance**

- a. Maintenance plans are dynamic and must be reviewed regularly to ensure they remain appropriate to programme delivery needs.

*[Municipal SCM Regulations, Section 63 (1)(a)]*

## **27 DISPOSAL MANAGEMENT**

### **27.1 System of Disposal Management**

- a. The disposal management system must provide for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to Section 14 of the MFMA.

*[Municipal SCM Regulations, Section 40 (1)]*

### **27.2 Obsolescence Planning**

- a. An obsolescence plan must be determined for each asset to ensure that when the asset can no longer be maintained or used for its original purpose, that there is a plan to replace it.

### **27.3 Renewal Planning**

- a. A renewal plan must be determined for assets that have reached the end of its useful life.

### **27.4 Disposal Decision**

- a. Asset disposal decisions must be made within an integrated, service and financial planning framework.

*[Municipal SCM Regulations, Section 14 (2)]*

### **27.5 Disposal Strategy**

- a. Msukaligwa Local Municipality must establish a disposal strategy to determine the best mechanism of disposal for each asset.

*[Municipal SCM Regulations, Section 40 (2)(a)]*

- b. Immovable property may be sold only at market related prices except when the public interest or the plight of the poor demands otherwise.
- c. Moveable assets may be sold either by way of written price quotations, a competitive bidding process, and auction or at market related prices, whichever is the most advantageous to Msukaligwa Local Municipality.
- d. 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. If there is no need, computer equipment may be disposed of by another approved disposal mechanism.
- e. In the case of the disposal of firearms, the National Conventional Arms Control Committee must approve any sale or donation of firearms to any person or institution within or outside the Republic.

*[Municipal SCM Regulations, Section 40 (2)(b)]*

- f. Immovable property is let at market related rates except when the public interest or the plights of the poor demands otherwise.
- g. All fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed.

*[Municipal SCM Regulations, Section 40 (2)(c)]*

## **27.6 Alternatives to Disposal**

- a. Msukaligwa Local Municipality may:
  - i. Transfer the asset to another organ of state in terms of a provision of the MFMA enabling the transfer of assets, or
  - ii. Transfer the asset to another organ of state at market related value or, when appropriate, free of charge, or
  - iii. Sell the asset, or
  - iv. Destroy the asset.

*[Municipal SCM Regulations, Section 40 (2)(a)]*

- b. Msukaligwa Local Municipality must ensure that where assets are traded in for other assets, the highest possible trade-in price is negotiated.

*[Municipal SCM Regulations, Section 40 (2)(d)]*

### **27.6.1 Disposal of Capital Assets**

- a. Msukaligwa Local Municipality may not transfer ownership as a result of a sale or other transaction or otherwise permanent dispose of a capital asset needed to provide the minimum level of basic municipal services.
- b. Msukaligwa Local Municipality may transfer ownership or otherwise dispose of a capital asset other than one mentioned above, only after the Council, in a meeting open to the public.
  - i. Has decided on reasonable grounds that the asset is not needed to provide the minimum level of basic municipal services; and
  - ii. Has considered the fair market value of the asset and the economic and community value to be received in exchange for the asset.

*[MFMA, Section 14 (2)]*

## **28 RECORDING, REPORTING AND SUPPLY CHAIN PERFORMANCE MEASUREMENT**

### **28.1 Introduction**

- a. Msukaligwa Local Municipality must submit to the National Treasury, Provincial Treasury and the Auditor-General such SCM information as they may require and in such format and at such intervals as specified.
- b. Msukaligwa Local Municipality must implement an information gathering, recording, reporting and performance measurement system to facilitate the above and to promote good governance.

### **28.2 Record Keeping**

- a. Msukaligwa Local Municipality must gather as much information as possible on a continuous basis to adapt to the changing environment and Government's reporting requirements pertaining to SCM.

*[National Treasury's SCM: A guide for Accounting Officers of Municipalities and Municipal Entities, Section 2.2.1.2]*

### **28.3 Ad Hoc Reporting Obligations**

- a. The Accounting Officer of Msukaligwa Local Municipality must submit to the, National Treasury, the Provincial Treasury, and the Department for Local Government in the Province or the Auditor-General such information, returns, documents, explanations and motivations as may be prescribed or as may be required.

*[MFMA, Section 74 (1)]*

### **28.4 Information to Be Disseminated To the Ward Councillor**

- a. The Accounting officer, through the procurement section, must notify the ward councillor on any site inspection or site visit taking place on his or her ward.
- b. The ward councillor concerned must at all times attend the site inspection or site visit.

### **28.5 Assessment/Measurement of Supply Chain Performance**

- a. Msukaligwa Local Municipality must measure and monitor the SCM policy and process through a performance measurement system to ascertain whether government's objectives and targets have been achieved.

*[Municipal SCM Regulations, Section 40 (2)(d)]*

- b. In this regard complete records pertaining to SCM must be kept.

*[MFMA, Section 62 (1)(b)]*

- c. Msukaligwa Local Municipality must monitor and assess the performance of all contractors during the contract period.

*[MFMA, Section 116 (2)(b)]*

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## **ANNEXURE A**

### **Supply Chain Management – Code of Conduct**

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

#### **1. General Principles**

- a. The municipality commits itself to a policy of fair dealing and integrity in the conducting of its business. Officials and other role players involved in supply chain management (SCM) are in a position of trust, implying a duty to act in the public interest.
- b. Officials and other role players should not perform their duties to unlawfully gain any form of compensation, payment or gratuities from any person, or provider/contractor for themselves, their family or their friends.
- c. Officials and other role players involved in SCM should ensure that they perform their duties efficiently, effectively and with integrity, in accordance with the relevant legislation, policies and guidelines. They should ensure that public resources are administered responsibly.
- d. Officials and other role players involved in SCM should be fair and impartial in the performance of their functions. They should at no time afford any undue preferential treatment to any group or individual or unfairly discriminate against any group or individual. They should not abuse the power and authority vested in them.

#### **2. Conflict of interest**

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

- (i) must treat all providers and potential providers equitably;
- (ii) may not use his or her position for private gain or to improperly benefit another person;
- (iii) 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;
- (iv) 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;
- (v) must declare to the accounting officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process, or in any award of a contract by the municipality;
- (vi) 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;

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

### **3. Accountability**

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

### **4. Openness**

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

## **5. Confidentiality**

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

## **6. Bid Specification / Evaluation / Adjudication Committees**

- a. Bid specification, evaluation and adjudication committees should implement supply chain management on behalf of the municipality in an honest, fair, impartial, transparent, cost-effective and accountable manner.
- b. Bid evaluation / adjudication committees should be familiar with and adhere to the prescribed legislation, directives, and procedures in respect of supply chain management in order to perform effectively and efficiently.
- c. All members of bid adjudication committees should be cleared by the accounting officer at the level of "CONFIDENTIAL" and should be required to declare their financial interest annually.
- d. No person should-
  - (i) interfere with the supply chain management system of the municipality; or
  - (ii) amend or tamper with any price quotation / bid after its submission.

## **7. Combative Practices**

- a. Combative practices are unethical and illegal and should be avoided at all cost. They include but are not limited to:
  - (i) Suggestions to fictitious lower quotations;
  - (ii) Reference to non-existent competition;
  - (iii) Exploiting errors in price quotations / bids;
  - (iv) Soliciting price quotations / bids from bidders / contractors whose names appear on the Register for Tender Defaulters.