



## social development

Department  
Social Development  
North West Provincial Government  
REPUBLIC OF SOUTH AFRICA



# NORTH WEST DEPARTMENT OF SOCIAL DEVELOPMENT

## SUPPLY CHAIN MANAGEMENT POLICY

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<b>Coverage</b>	North West Department of Social Development

## TABLE OF CONTENTS

1. INTRODUCTION.....	11
2. RATIONALE.....	11
3. PROBLEM STATEMENT.....	11
4. OBJECTIVES .....	12
5. SCOPE OF APPLICATION .....	12
6. LEGISLATIVE MANDATES.....	12
7. ROLES AND RESPONSIBILITIES.....	15
8. CODE OF CONDUCT .....	17
9. INVESTIGATING ABUSE OF THE SUPPLY CHAIN MANAGEMENT SYSTEM.....	19
10. FRAMEWORK FOR SUPPLY CHAIN MANAGEMENT.....	19
11. DELEGATIONS.....	20
12. DEMAND MANAGEMENT .....	20
13. BID SPECIFICATIONS AND TERMS OF REFERENCE DOCUMENT.....	23
14. BID SPECIFICATION COMMITTEE .....	25
15. COMPILATION OF BID DOCUMENT .....	26
16. ACQUISITION MANAGEMENT.....	27
17. PROCEDURE APPLICABLE TO THE INVITATION AND CONSIDERATION OF PRICE QUOTATIONS.....	28
18. OPENING OF BID BOX AND RECORD OF PRICE QUOTATIONS.....	31
19. PROCEDURE APPLICABLE TO THE INVITATION AND CONSIDERATION OF COMPETITIVE BIDS.....	32
20. SALE OF BID DOCUMENTS.....	34
21. SITE INSPECTIONS AND / OR BRIEFING SESSIONS.....	34
22. SAMPLES .....	35
23. SUBMISSION OF BIDS .....	35
24. OPENING AND CLOSING OF BIDS .....	35
25. LATE BIDS.....	36
26. PROMOTION OF ACCESS TO INFORMATION ACT .....	36
27. BID EVALUATION .....	37
28. BID ADJUDICATION.....	39

29. NEGOTIATION.....	41
30. REPORTING AND PUBLISHING OF AWARDS AND CANCELLATIONS .....	42
31. JUST ADMINISTRATIVE ACTION.....	42
32. RECORD KEEPING .....	43
33. USING THE CONTRACTS OF OTHER ORGANS OF STATE (PIGGYBACKING) .....	44
34. PUBLIC PRIVATE PARTNERSHIPS.....	45
35. UNSOLICITED BIDS .....	45
36. TRANSVERSAL AGREEMENTS .....	45
37. FRAMEWORK AGREEMENTS .....	46
38. COMMODITY: Information and Communications Technology Goods and Services.....	47
39. COMMODITY: Consulting Services .....	48
40. COMMODITY: Travel Management Services.....	48
41. COMMODITY: Construction and Infrastructure.....	48
42. CONTRACT MANAGEMENT.....	49
43. CANCELLATION OF BIDS.....	52
44. PROCUREMENT BY OTHER MEANS .....	52
45. RESTRICTION OF SUPPLIERS .....	55
46. LOGISTICS MANAGEMENT .....	56
47. DISPOSAL MANAGEMENT.....	58
49. SCM RISK MANAGEMENT AND INTERNAL CONTROL.....	58
50. SUPPLY CHAIN MANAGEMENT PERFORMANCE MANAGEMENT SYSTEM.....	59
51. OCCUPATIONAL HEALTH, SAFETY AND ENVIRONMENT.....	59
52. NON-COMPLIANCE AND IRREGULAR EXPENDITURE.....	60
53. FRAUD AND CORRUPTION .....	60
54. DOUBLE DIPPING .....	61
55. EXEMPTIONS .....	61
56. NON-COMPLIANCE TO THE POLICY .....	61
57. POLICY REVIEW.....	61

## DEFINITION OF TERMS AND ACCRONYMS

ACRONYM	MEANING
AO	Accounting Officer
AGSA	Auditor General of South Africa
BBBEE	Broad Based Black Economic Empowerment
BAC	Bid Adjudication Committee
BEC	Bid Evaluation Committee
BSC	Bid Specifications Committee
CFO	Chief Financial Officer
CIDB	Construction Industry Development Board
CIPC	Companies and Intellectual Property Commission
CPO	Chief Procurement Officer
CSD	Central Supplier Database
DPSA	Department of Public Service and Administration
DTI	Department of Trade and Industry
EA	Executive Authority
EOI	Expression of Interest
JV	Joint Venture
GCC	General Conditions of Contract
GIAMA	Government Immovable Asset Management Act
HDI	Historically Disadvantage Individual
IE	Irregular Expenditure
MTEF	Medium Term Expenditure Framework
NT	National Treasury
NTR	National Treasury Regulations
NWPT	North West Provincial Treasury
OCPO	Office of the Chief Procurement Officer
PAIA	Promotion of Access to Information Act
PAJA	Promotion of Administrative Justice Act
POPIA	Protection of Personal Information Act
PFMA	Public Finance Management Act

<b>ACRONYM</b>	<b>MEANING</b>
PIA	Provincial Internal Audit
PSCM	Provincial Supply Chain Management
PFMA	Public Finance Management Act (Act 1 of 1999)
PPP	Public Private Partnership
PPFA	Preferential Procurement Policy Framework Act (Act 5 of 2000)
PT	Provincial Treasury
RFI	Request for Information
RFP	Request for a Proposal
RFQ	Request for a Quotation
SABS	South African Bureau of Standards
SANAS	South African National Accreditation System
SARS	South African Revenue Services
SBD	Standard Bidding Document
SCM	Supply Chain Management
SITA	State Information Technology Agency
SLA	Service Level Agreement
SMME	Small Medium and Micro Enterprises
SP	Service Provider
TOR	Terms of Reference
TMC	Travel Management Company

<b>DEFINITIONS</b>	
Abuse	means any type of deliberate attempt to interfere with the operation of the Supply Chain Management system.
Acceptable bid	means any bid which, in all respects, complies with the specifications and conditions of bid as set out in the bid document.
Accounting Officer	the Head of Department of Social Development as delegated in terms of the PFMA.
Affected person	means a person whose rights may be materially and or adversely affected if the Accounting Officer takes any of the steps contemplated in this policy in order to combat abuse of the Supply Chain Management system.
All applicable taxes	includes value-added tax, pay-as-you-earn, income tax, unemployment insurance fund contributions and skills development levies.
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Assignment of a contract	Means transfer of rights and obligations in a contract from an assigner to an assignee. The effect of this is that the service provider appointed through a competitive bidding process transfers the contract in its entirety, that is, the obligation (the responsibility of rendering services) and the right (of receiving payment for services rendered) to a third party that did not participate in the bidding process or a bidder that participated but was not successful.
Executive Authority-	the member of the Executive Council of a province who is accountable to the provincial legislature for Department of Social Development.
B-BBEE status level of contribution	means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment.
Bidder	means any natural or legal person submitting a bid or quotation.
Black people	In terms of section 1 of the Broad-Based Black Economic Empowerment Act, Black people is a generic term which means Africans, Coloureds and Indians-  (a) who are citizens of the Republic of South Africa by birth or descent; or  (b) who became citizens of the Republic of South Africa by naturalisation-  (i) before 27 April 1994; or

	(ii) on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalisation prior to that date;
Competitive bid	means a written offer in a prescribed or stipulated form in response to an invitation by the department for the provision of goods and services through price quotations, advertised competitive bidding process or proposals, or any other proposition for business with the department whether solicited or not.
Bid Adjudication Committee	means a committee established, and members appointed in writing by the Head of the department to adjudicate bids
Bid Evaluation Committee	means the Bid Evaluation Committee established, and members appointed in writing by the Accounting Officer to evaluate bids and make a recommendation to the BAC.
Bid Specification Committee	means the Bid Specification Committee established, and members appointed in writing by the Accounting Officer to compile the specification and conditions of the bid.
Bid validity period	means the period within which a bidder's offer is considered valid and legally binding.
Cession of a contract	means the transfer of only the rights a service provider has in terms of a contract from it to a third party. In commercial contracts, the main right involved is the right to be paid for services rendered. While the appointed bidder remains the service provider that continues to render the services, the service provider may cede (transfer) its right to be paid for the services it rendered in terms of the contract to a third party.
Closing time	means the time and day specified in bid documents for the receipt of bids.
Consortium or Joint Venture	means an association of two or more individuals, companies, organisations or governments (or any combination of these entities) with the objective of participating in a common activity or pooling their resources for achieving a common goal.
Condition of bid	means a document of the procedures, the manner in which those engaged in the procurement process are to behave, the obligations of the bidder and the undertakings of the department. The Conditions of bid are distinct from the General Conditions of Contract and the Special Conditions of Contract.
Centralised supplier database	means which is a standardised and electronic supplier database administered by the National Treasury which provides supplier information to an organ of

	state.
Consultant	means a professional person appointed to provide technical and specialist advice or to assist with the design and implementation of projects and/or programmes. The legal status of this person can be an individual, a partnership, a corporation or a company. The fact that a consultant is defined as a professional person implies that the consultant is professionally qualified. The provision of advice or service provided by a consultant must be in line with a contractual arrangement (usually commissioned on a project basis). Remuneration will be based on an hourly fee or fixed fee for a product or a deliverable. A consultant includes consulting firms, management consulting firms, engineering firms, construction managers, management firms, procurement agents, inspection agents, auditors, other multinational organizations, investment and merchant banks, universities, research agencies, government agencies, non-governmental organizations (NGOs), and individuals but excludes an employee of the Department. To further elucidate the above-mentioned definition, a consultant is not regarded as a Public Service employee in terms of the criteria set out in the Labour Laws and does not include any person appointed on a fixed term contract against an approved post.
Consulting services	means those specialist services and skills that are required for the achievement of a specific objective with the aim of providing expert and professional advice on a time and adhoc basis. These professional services may include: (a) the rendering of expert advice (b) obtaining relevant information from the institution to draft a proposal for the execution of specific tasks that are of a technical or intellectual nature; (c) business and advisory services; (d) infrastructure and planning services; (e) laboratory services; and (f) science and technology.
Contract management	means maintaining control or influence over the contractual arrangement between the Department and the contractor or service provider including administering and regulating such agreement
Contract	means the agreement which results from the acceptance of a bid
Contractor	means any natural or legal person whose bid has been accepted by the State
Delegate	for purposes of this Policy means a person assigned by the accounting officer



	or accounting authority to perform specific powers or duties
Days	means calendar day(s) unless the context means otherwise and it's stated.
Irregular expenditure	Means expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including— this Act (PFMA); or  the State Tender Board Act, 1968 (Act No. 86 of 1968), or any regulations made in terms of that Act; or any provincial legislation providing for procurement procedures in that provincial government;
Emergency Situation	means a serious and unexpected situation that poses an immediate risk to health, life, property or environment which call for urgent action and there is insufficient time to invite price quotation or follow competitive bidding process.
Commodity	a required item to be procured
Chief User	an official who is accountable to procure goods and services within the Directorate or sub - directorate
Chief User clerk	an official who is appointed in writing to procure goods and services on behalf of the Directorate or sub - directorate
Compliant document	a document that is compiled to ensure that all requirements are adhered to, when procuring goods and services
Department	North West Department of Social Development (NWDSD)
End User	staff member who required goods and services.
Functionality	means the ability of a bidder to demonstrate capacity and capability to execute a contract in line with the criteria set out on the bid document.
Investigation	means a formal probe conducted by an Internal Audit function or another relevant function to analyse the particulars or non-compliance in order to establish the facts about the transactions related to an irregular, fraudulent, corrupt, criminal act or any uncertain act.
Market price	means the determination of fair and reasonable pricing to both parties considering the quality, output performance, and other factors and that is realistic for the performance of the work through either price analysis, which examines the total price, or cost analysis, which examines the individual cost elements that collectively comprise the total price.  Techniques are: price competition catalogue or established price lists at a set

	date; prices from other similar purchases; historical pricing where supported by appropriate documentation; price based on prior competition; independent in-house price estimate; comparison to substantially similar items, comparison to similar prices in a specific geographical area, and the workings are accurate, complete and current.
SCM Practitioner	an official who performs supply chain functions
Service Provider	Supplier of goods and/or services
Demand Plan	all user needs / plans for goods, services and assets for threshold below R500 000
Procurement Plan	all user needs with a value of R 500 000.00 and above
Quotations evaluation committee / persons	means the persons or quotation evaluation committee established, and members appointed in writing by the Accounting Officer to evaluate quotations.
Quotations adjudication committee / persons	means persons or a committee established, and members appointed in writing by the Accounting Officer to adjudicate quotations

## **1. INTRODUCTION**

The Supply Chain Management (SCM) policy is developed to guide the implementation of the Treasury Regulations, SCM Instruction Notes, and other SCM prescripts in the procurement of goods and services and assets within the North West Department of Social Development.

## **2. RATIONALE**

The rationale behind the development of this policy is to ensure that the procurement of goods, services and assets meets the following objectives;

- 2.1 best value for money is achieved.
- 2.2 uniformity and consistency in the application of procurement processes with the Department.
- 2.3 incidences of fraud and other procurement irregularities are prevented.
- 2.4 roles and responsibilities of officials in the procurement of goods, services and assets are clarified.

## **3. PROBLEM STATEMENT**

The policy seeks to address the following problem areas in the procurement of goods and services in the department:

### **3.1. Irregular expenditure**

Irregular Expenditure is one of the major problems affecting the organs of State and Accounting Officers are required to prevent irregular expenditure by ensuring that that department has and maintains— effective, efficient, transparent systems of financial and risk management and internal control an appropriate procurement and provisioning system that is fair, equitable, transparent, competitive and cost-effective.

#### **4. OBJECTIVES**

The main objectives of this policy are to;

- 4.1. To ensure compliance with the provisions of Section 217 of the Constitution and PFMA (as amended).
- 4.2. Guide the SCM activities and practices within the North West Department of Social Development.
- 4.3. Ensure consistency in the application and implementation of the SCM activities and practices throughout the North West Department of Social Development.
- 4.4. To prevent irregular expenditure and other SCM related irregularities in the procurement of goods, services and assets.

#### **5. SCOPE OF APPLICATION**

This policy is applicable to all officials within the North West Department of Social Development and other relevant stakeholders. It applies to all transactions where money is exchanged for goods and services between the Department and Service Providers.

#### **6. LEGISLATIVE MANDATES**

This policy derives its mandate from among others, the following legislative mandate;

- 6.1. Section 217 (1) of the Constitution of the Republic of South Africa, Act 108 of 1996 states that 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 or services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost-effective:
- 6.2. Section 217 (2) of the Constitution allows organs of state to implement procurement policies providing for categories of preference to advance or protect persons disadvantaged by unfair discrimination in the allocation of contracts. Section 217 (3) provides for enactment of legislation to prescribe a framework within which the procurement policy must be implemented.

- 6.3. Section 38(1)(a)(iii) of the PFMA imposes a responsibility on the Accounting Officer of each department by determining that: "The Accounting Officer for a department, trading entity or constitutional Department must ensure that that department, trading entity or constitutional department has and maintains an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective;
- 6.4. Treasury Regulation 16A (Government Gazette 27388 dated 15 March 2005) states that it is the responsibility of the Accounting Officer of National and Provincial Departments to develop an effective and efficient SCM system in their Departments for the acquisition of goods, services and assets; and the disposal and letting of state assets, including the disposal of assets no longer required.
- 6.5. Preferential Procurement Policy Framework Act and augmenting regulations published in November 2022 in order to give effect to Section 217 (2) of the Constitution which determines that;" Subsection (1) does not prevent the organs of state or Departments referred to in that subsection from implementing a procurement policy providing for-
- a) Categories of preferences in the allocation of a contract; or
  - b) The protection or advancement of persons, or categories of persons, disadvantaged by unfair discrimination."
- 6.6. The Construction Industry Development Board, a national body established by the CIDB Act, 2000 is, inter alia, responsible for developing the industry for the improved delivery of infrastructure to the South African public. The CIDB promotes sustainable growth of the construction industry and the participation of the emerging sector therein. The CIDB may monitor national programmes aimed at amongst other procurement reform and standardisation and uniformity in procurement documentation, practices and procedures.
- 6.7. All SCM officials and other role players involved in the supply chain management system of the Department must implement this policy in a way that gives effect to:

- 6.7.1. Practice / Instruction Notes on Supply Chain Management (SCM) and relevant circulars issued by National Treasury
- 6.7.2. Military Veterans Act 18 of 2011 and the Regulations developed in terms of section 24(1) of the Military Veterans Act 18 of 2011
- 6.7.3. National Youth Development Agency Act, 2008 (Act No. 54 of 2008)
- 6.7.4. National Small Business Act, 1996 (Act No102 of 1996).
- 6.7.5. Prevention and Combating of Corrupt Activities Act (Act No. 12 of 2004)
- 6.7.6. Promotion of Administrative Justice Act, Act No. 3 of 200
- 6.7.7. Promotion of Access to information Act 2 of 2000 (PAIA)
- 6.7.8. Promotion of Equality and Prevention of Unfair Discrimination Act, 4 of 2000
- 6.7.9. Protection of Personal Information Act (POPI Act), Act 4 of 2013
- 6.7.10. National Development Plan 2030
- 6.7.11. Disaster Management Act 57 of 2002

## **7. ROLES AND RESPONSIBILITIES**

The roles and responsibilities of all the responsible officials are listed hereunder, and have the following roles and responsibilities:

### **7.1. Accounting Officer**

- 7.1.1. Oversee the drafting and approval of the SCM Policy.
- 7.1.2. Appoint Quotation/Bid Committee members.
- 7.1.3. To enforce compliance with the SCM Policy

### **7.2. Chief Financial Officer**

- 7.2.1. Oversee the effective functioning and management of SCM.
- 7.2.2. Submits regular statutory and management reports to the AO and Treasury

### **7.3. Director: Supply Chain Management**

- 7.3.1. Monitoring the implementation of SCM policy and related prescripts.
- 7.3.2. Review and update the SCM and related policies.
- 7.3.3. Submits regular statutory and management reports to the CFO.

### **7.4. Senior Managers**

- 7.4.1. Senior Managers shall ensure compliance with the provisions of this policy.

### **7.5. Supply Chain Management Practitioners**

- 7.5.1. Implementation of SCM policy and related prescripts.
- 7.5.2. Managing planning and demand, procurement and contracting activities, inventory, internal controls, departmental performance and disposals.
- 7.5.3. Overall procurement management in respect of facilitating the invitation, closing and evaluation of quotations and tender documents.
- 7.5.4. Regular reporting of SCM performance.
- 7.5.5. Rendering assistance and administrative support to to the line function managers and other officials of the department in the performance of their procurement responsibilities.
- 7.5.6. Providing advise to procurement / bid committees.

7.5.7. May not amend or tamper with any bid or quotation after its submission, or contract after such contract has been awarded.

7.5.8. Any other functions that the Accounting Officer may consider necessary.

## **7.6. End Users**

7.6.1. Ensure that requisitions reflect comprehensive and clear specifications with the required delivery date of the goods or service before submitting the requisitions to the SCM Unit

7.6.2. Shall exercise powers and perform their duties for a purpose, consistent with their responsibilities, and with the degree of care and diligence that a reasonable person would exercise in similar instances in line with this policy.

7.6.3. Monitor the delivery of ordered goods and services, contract management and assist with payment of creditors payments.

7.6.4. No person may:

7.6.4.1. Interfere with or improperly influence the procurement process of the department.

7.6.4.2. Impede the accounting officer or an official in fulfilling his or her responsibilities in terms of this policy

7.6.4.3. Amend or tamper with any bid or quotation after its submission, or contract after such contract has been awarded.

## **7.7. Bid Committees**

### **7.7.1. Bid Specification Committee**

7.7.1.1. Compile bid specifications.

7.7.1.2. Ensure that bid specifications are not biased.

7.7.1.3. Establish bid evaluation criteria for the evaluation of the bid.

### **7.7.2. Bid Evaluation Committee**

7.7.2.1. Responsible for the evaluation of bids received according to the evaluation criteria specified in the bid document including:

7.7.2.1.1. Verification of tax compliance status of the bidders

7.7.2.1.2. The capability/ability of the bidder to execute the contract.

7.7.2.2. Evaluate the bid in accordance with the Preference Points and any applicable specific goals according to the prescript of the PPPFA.

7.7.2.3. Submit the bid evaluation report to the bid adjudication committee.



### **7.7.3. Bid Adjudication Committee**

7.7.3.1. Responsible for the adjudication of bids according to the evaluation criteria in the bid.

7.7.3.2. Submit to the AO the report / recommendations of the DBAC.

### **7.7.4. Quotations evaluation committee / persons**

7.7.4.1. Responsible for the evaluation of quotations received according to the evaluation criteria specified in the RFQ.

7.7.4.2. Evaluate the bid in accordance with the Preference Points and any applicable specific goals according to the prescript of the PPPFA.

### **7.7.5. Quotations adjudication committee / persons**

7.7.5.1. Responsible for the adjudication of quotations according to the evaluation criteria in the RFQ.

### **7.7.6. Internal Control unit**

7.7.5.2. Pre-audit of vouchers in order to ensure compliance in line with SCM legislation and instruction notes.

7.7.5.3. Observers during the closure the process tender process.

7.7.5.4. Internal review of the tender process before award.

## **8. CODE OF CONDUCT**

8.1. All officials shall adhere to the code of conduct as contained in chapter 2 of the Public Service Regulations of 2016 and the SCM Code of Conduct issued by National Treasury to ensure fair dealing and integrity.

8.2. All officials and other role players in a supply chain management system must comply with the highest ethical standards in order to promote:

8.2.1. mutual trust and respect and

8.2.2. an environment where business can be conducted with integrity and in a fair and reasonable manner.

8.3. A supply chain management official or other role player:

8.3.1. must recognise and disclose any conflict of interest that may arise.

8.3.2. must treat all suppliers and potential suppliers equitably.

8.3.3. may not use their position for private gain or to improperly benefit another person.

- 8.3.4. must ensure that they do not compromise the credibility or integrity of the supply chain management system through the acceptance of gifts or hospitality or any other act.
- 8.3.5. must be scrupulous in their use of public property; and
- 8.3.6. must assist accounting officers or accounting authorities in combating corruption and fraud in the supply chain management system.
- 8.4. All SCM officials are obliged to deal fairly in any procurement related negotiations or evaluations, refuse gifts, hospitality, favours, monetary compensation or any other act that would materially compromise the credibility and integrity of the SCM system.
- 8.5. Where gifts, hospitality, favours, monetary compensation or any other act are materially accepted, reference should be made to the departmental policies and circulars issued in this regard.
- 8.6. It must be ensured that on an annual basis all SCM practitioners and other role players involved in Supply Chain Management sign the undertaking to abide by the code of conduct for SCM roles players. Copies of all signed undertakings should be available in one file at the SCM unit.
- 8.7. Code of conduct for Bid Specification Committee and Bid Evaluation Committees
  - 8.7.1. This code of conduct is issued to instil standards of integrity, ethical conduct and professionalism in the evaluation of all procurement undertaken.
  - 8.7.2. All members of Bid Committees must sign the code of conduct.
- 8.8. Reporting of irregularities.
  - 8.8.1. All officials must advise / report to the Accounting Officer and any other relevant office timeously through normal channels of any irregularities in the procurement of goods, works and services which might have come to their notice.
- 8.9. **DECLARATION OF INTEREST**
  - 8.9.1. An SCM Practitioner or any other role player must recognise and disclose any conflict of interest that may arise. Therefore, if an SCM Practitioner or other role player, or any close family member, partner or associate of such official or other role player, has any private or business interest on any contract to be awarded, that official or other role player must disclose that interest.
  - 8.9.2. Each member of the BEC and BAC must declare any interest he/she might have in any bidder / company that submitted a bid.

8.9.3. For this purpose, the Declaration of interest together with the attendance register must be completed by each BEC and BAC member.

## **9. INVESTIGATING ABUSE OF THE SUPPLY CHAIN MANAGEMENT SYSTEM**

9.1. After cases have been reported for investigation, the Risk Management unit, Managers at Provincial, Districts and Points levels must initiate investigation into any allegation or complaint of abuse of the SCM system:

9.1.1. The response must be submitted to the person who raised the complaint / allegation within 60 days after receipt of the complaint/allegation.

9.1.2. May extend the period mentioned by 30 days provided the person who raised the complaint/allegation is informed in writing of the reasons for the extension.

9.1.3. If the conclusion is that the abuse was the result of an irregularity or the result of misconduct by an official, the matter must be referred to Human resources for further investigation and processing.

9.1.4. If the conclusion was that the abuse was by a person, act against that person in terms of the relevant prescript and may also implement remedial action including:

9.1.4.1. Rejecting the bid or quotation

9.1.4.2. Cancelling a contract

9.1.4.3. Restrict the person from doing further business with the state; and

9.1.4.4. Claim damages if any.

9.1.5. Report the outcome of the investigation to the OCPO of NWPT and also the AGSA.

9.1.6. If the allegation / complaint implicates the CFO the above process must be performed by the Accounting Officer.

9.1.7. If the allegation or complaint implicates the Head of the Department, the CFO must submit the allegation / complaint in writing to the Provincial Director General in the office of the Premier.

## **10. FRAMEWORK FOR SUPPLY CHAIN MANAGEMENT**

10.1. The policy provides for the following supply chain management elements:

10.1.1. Demand management system

10.1.2. Acquisition management system

10.1.3. Contract management system

10.1.4. Logistics management system

- 10.1.5. Disposal management
- 10.1.6. SCM risk management
- 10.1.7. SCM performance management system

## **11. DELEGATIONS**

- 11.1. The Accounting Officer has the statutory power to delegate or sub-delegate to a staff member any power conferred on the Accounting Officer.
- 11.2. No decision making in terms of any supply chain management powers and duties may be delegated to an advisor or consultant.

## **12. DEMAND MANAGEMENT**

- 12.1. Demand management provides for an effective system to ensure that the resources required to support the strategic and operational commitments of the department are delivered at the right time, at the right price and at the right location, in right quantities and quality satisfy the needs of the department.
- 12.2. Demand management is intended to build and promote effective planning, timeously acquisition of goods and services according to the procurement plan.
- 12.3. The Annual Performance Plan (APP) is a strategic document setting out how the department intends to achieve its targets in a financial year. It is on the basis of the APP that the department's resources will be allocated and on which budget is based.
- 12.4. In order to achieve effective demand management, the Director SCM shall continuously ensure:
  - 12.4.1. That efficient and effective Supply Chain Management systems and practices are implemented to enable the department to deliver the required quantity and quality of services to the public.
  - 12.4.2. The establishment of uniformity in policies, procedures, documents and contract options and the implementation of sound systems of control and accountability.
  - 12.4.3. The development of a professional supply chain system which results in continuing improvement in an affordable and value for money based on total cost of ownership and quality of procurement as competition amongst suppliers is enhanced.

- 12.4.4. In dealing with suppliers and potential suppliers, the department shall respond promptly, courteously and efficiently to enquiries, suggestions and complaints.
- 12.5. Analysis of the goods, works or services:
- 12.5.1. During the strategic planning phase of the institution, the goods, services or works required to execute the identified functions are determined. The SCM representatives should assist with the process of ensuring that the identified goods, works or services are the optimum resources required to achieve the goals and objectives of the institution.
- 12.6. Planning to obtain the required goods, works or services.
- 12.6.1. Together with the end-user, the SCM unit/directorate must consider and comply with prescripts to determine the manner in which to acquire the required goods, works or services. This entails among others, the following:
- 12.6.2. Confirmation that sufficient funds have been allocated for the required goods or services
- 12.6.3. Procurement method must be in line with the approved thresholds, e.g., price quotations, bids, transversal contracts or ad hoc contracts and framework agreements.
- 12.7. The Director Supply Chain Management must annually compile the Procurement Plan and ensure that the plans are approved and submitted to Provincial Treasury OCPO on or before the date stipulated:
- 12.7.1. The Procurement Plan shall be signed by the Accounting Officer (HoD) and the Chief Financial Officer (CFO).
- 12.8. Demand Management is the beginning of Supply Chain Management process and the major activities associated with identifying demand are:
- 12.8.1. Establishing requirements.
- 12.8.2. Determining needs.
- 12.8.3. Deciding on appropriate procurement strategies.
- 12.8.4. Developing specifications and terms of reference.
- 12.9. Demand management accordingly shall involve the following activities:
- 12.9.1. understanding future needs.
- 12.9.2. identifying critical delivery dates.
- 12.9.3. identifying the frequency of the need.
- 12.9.4. Linking the requirement to the budget.
- 12.9.5. conducting expenditure analysis based on past expenditure.

12.9.6. determining requirements (including the internal capacity to implement).

12.9.7. conducting commodity analysis in order to check for alternatives; and conducting industry analysis.

12.10. The Director SCM shall consider the following alternative strategies prior to the acquisition process:

12.10.1. Acquisition of redundant / obsolete material, goods and assets from other institutions.

12.10.2. Leasing / rental / hiring from other institutions.

12.10.3. Sourcing of expertise from other institutions.

12.10.4. Utilization of transversal agreements.

12.10.5. Use of contracts administered by other institutions.

12.10.6. Local versus international sourcing.

12.10.7. Framework agreements including Panels; or

12.10.8. Public Private Partnership.

#### **12.11. Procurement and demand planning**

12.11.1 For procurement transactions below R500,000 a demand plan will be compiled and transactions above R500,000 a procurement plan will be developed.

##### **12.11.1. PROCUREMENT PLAN**

12.11.1.1. The Procurement Plan must comply with the format as issued by National Treasury which may include the following information:

- a) Goods and services to be procured.
- b) Method of procurement (including deviations from competitive bidding).
- c) Planned dates to execute the procurement action.
- d) Estimated value including all applicable taxes.
- e) Confirmation that funds are available.
- f) The responsible officer and contact details.

12.11.1.2. Procurement planning is one of the important processes within Demand Management.

This will ensure that service delivery commences immediately and that there is no delay in expenditure. Procurement planning should take place during the beginning of the financial year when the institution's strategic plan and budget have been approved.

Procurement plans cannot be developed in isolation. The SCM directorate consult with user /directorates in the formulation of procurement plans.

12.11.1.3. The Head of the Department is responsible for ensuring the procurement plan is aligned with budget and that the programme managers become key drivers in the development of these plans.

12.11.1.4. On a quarterly basis, the report on the implementation of the procurement plan shall be submitted to Provincial Treasury OCPO by the 15th of the month following the end of the quarter.

a) The quarterly report must comply with the format as required by National Treasury.

## **12.12. SPECIFICATIONS AND TERMS OF REFERENCE**

12.12.1. It is the responsibility of the end-user to initiate the procurement process by submitting their requirements in a form of draft Terms of Reference / draft specifications. Such will be subjected to vetting and verification by either the SCM officials or the bid specifications committee depending on the applicable procurement process.

12.12.2. The end user shall properly plan for, and as far as possible, estimate the costs of the provision of goods or services for which an invitation for bids is to be made.

12.12.3. The estimated project value shall determine:

12.12.3.1. if the transaction will be processed as a quotation or a bid; and

12.12.3.2. the appropriate preference point system to be utilised in the award of bids.

12.12.3.3. Where applicable, the end-user shall determine the technical / quality / functionality criteria that a bidder will be assessed on.

12.12.3.4. Advertisement in terms of construction projects will be on CIDB website and the e-tender portal. In terms of other acquisition projects, the advertisements will be on, e-tender portal.

## **13. BID SPECIFICATIONS AND TERMS OF REFERENCE DOCUMENT**

13.1. A bid specification is a document that clearly, accurately and completely describes the requirements of the department.

13.2. The purpose of a bid specification are as follows:

13.2.1. Define requirements: the process of determining and writing down what the users require. Users need to indicate why the item is required.

- 13.2.2. Guide the supplier: The specification provides guidance to potential suppliers so that they can supply the department with what is required.
  - 13.2.3. Agreement with supplier: The specifications become the basis for the contract with the supplier. It means we can have clear agreement with the supplier about what is required. The clearer the specification, the easier it is to manage the contract. If specifications are not clear, it can create inefficiency, confusion, disagreement and conflict.
  - 13.2.4. Future evaluation: Clear and complete specifications enable BEC to evaluate whether the product complies and ensures that the department will receive what was asked for.
- 13.3. A bid specification is written after:
    - 13.3.1. Goods and services have been established.
    - 13.3.2. The need is included in the Procurement plan of the department; and
    - 13.3.3. Funds are available.
  - 13.4. It is important to do necessary research in order to ensure that the exact requirement is received.
  - 13.5. The bid specifications must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services.
  - 13.6. Bid specifications must consider standards such as those issued by South African National Standards, the International Standards Organization or any authority accredited or recognized by the South African National Accreditation System with which the equipment or material or workmanship should comply with.
  - 13.7. Bid specifications shall, where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design.
  - 13.8. Bid specifications 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.
  - 13.9. Bid specifications may not make reference to any particular trademark, 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 such reference must be accompanied by the words "similar or equivalent".
  - 13.10. The bid specification must include the bid evaluation criteria which the bidders will be evaluated on.



- 13.11. The bid specification must state if the evaluation will be on functionality / quality or technical requirements. The evaluation criteria for measuring functionality must be objective. The specifications must specify:
- 13.11.1. The evaluation criteria for measuring functionality, such criteria must be determined separately for each bid.
  - 13.11.2. The points for each criterion and, if any, each sub-criterion; and
  - 13.11.3. The basis for determining the acceptable bids:
    - 13.11.3.1. Using a single minimum qualifying score for very low risk and common goods and services. The minimum qualifying score must not be set so low that it may jeopardise the quality of the required goods or services; or high that it is unreasonably restrictive.
    - 13.11.3.2. A double minimum threshold for goods and service of low to medium risk and moderate complexity; or
    - 13.11.3.3. Setting a minimum qualifying score and shortlisting from the top five scores for medium to high risk and high complexity goods and services.
- 13.12. Bid specifications must stipulate eligibility requirements however such requirements may not contain requirements for qualification or disqualification that are:
- 13.12.1. based on affiliation to or membership of a voluntary association.
  - 13.12.2. based on arbitrary or subjective criteria in other words, there is no rational link between the criteria stipulated in the bid documents and the goods or services required.
- 13.13. Preferential points to be allocated must be stipulated on the bid specifications in accordance with the departmental Preferential Procurement Policy.
- 13.14. Bid specifications must be approved by the Accounting Officer or his/her delegate prior to invitation of bids.
- 13.15. Where specifications are based on standard documents available to bidders, a reference to those documents is sufficient.
- 13.16. Specifications should be precise and should avoid duplication of the same service or performance requirements.

#### **14. BID SPECIFICATION COMMITTEE**

- 14.1. All bid specifications and bid documentation must be compiled by the bid specification committee appointed by the Accounting Officer after the end user has drafted the specification.

- 14.2. The BSC shall be comprised of appointed chairperson, at least three officials, a secretariat and at least one SCM practitioner or delegated official as an advisor.
- 14.3. Where the Accounting Officer deem appropriate a representative of Internal Audit and / or Legal Services and / or other specialist advisors (internal or external) may form part of this committee.
- 14.4. Members of the BSC or BEC cannot serve on the BAC.
- 14.5. Proper segregation must be recognized, if an official was a BAC member at the time of bid specification compilation and they are appointed a BAC member in the next term and the same bid is evaluated then, they should not form part of that BAC for that specific bid.
- 14.6. No person, advisor, director or corporate entity involved with the compilation of the specification may bid for any resulting contracts.
- 14.7. Bid specification committee meetings must be conducted in accordance with the applicable charters.
- 14.8. The following documents need to be provided to each member of the BSC:
  - 14.8.1. Agenda
  - 14.8.2. Code of conduct
  - 14.8.3. Draft terms of reference / specifications
  - 14.8.4. Declaration of confidentiality
  - 14.8.5. Declaration of interest
- 14.9. At least 50% plus one of appointed members shall form a quorum.
- 14.10. The BSC shall ensure that the Special Conditions of Contract stipulated are reasonable and will stand in a court of law should the decisions taken be challenged.

## **15. COMPILATION OF BID DOCUMENT**

- 15.1. Bid documents shall be compiled by making use of the following documents:
  - 15.1.1. Standard Bidding Document 4 Form (bidders Disclosure form)
  - 15.1.2. Standard Bidding Document 6.1 Form (Specific Goals points claim form)
  - 15.1.3. Approved Specifications and/or Terms of Reference
  - 15.1.4. Special Conditions of Contract (if applicable)
  - 15.1.5. General Conditions of Contract
- 15.2. The bid documents must indicate the requirements as to documentary evidence or other information that has to be submitted by a prospective bidder to demonstrate the bidder's qualifications, capacity and capability.
- 15.3. The verification of bid documents shall be dealt with in line with the financial delegations.

- 15.4. General Conditions of Contract and supply chain management guidelines of National Treasury in respect of goods and services must be taken into account when compiling documents.
- 15.5. Bid documentation must clearly indicate the terms of conditions of contract, specifications, criteria for evaluation and adjudication procedure where applicable, and include where in exceptional circumstances, site inspections are compulsory.
- 15.6. An appropriate contract and / or delivery period must be specified for all contracts.
- 15.7. The requirements of the preferential procurement section must be clearly set out in the bid documentation.
- 15.8. The bid document must require a bidder to furnish the following:
  - 15.8.1. Tax compliance status pin.
  - 15.8.2. A B-BBEE certificate issued by SANAS accredited institution or sworn affidavit certificate or certificate issued by CIPC, however this should not be a mandatory requirement.
  - 15.8.3. A signed joint venture agreement in case of joint ventures / consortium partners where applicable.
  - 15.8.4. A consolidated B-BBEE certificate in the name of joint venture where applicable.
- 15.9. Unless otherwise indicated in the bid documents, the department will not be liable for any expenses incurred in the preparation and / or submission thereof.
- 15.10. Bid documentation must state that the department shall not be obliged to accept the lowest bid, any alternative bid or any bid.

## **16. ACQUISITION MANAGEMENT**

- 16.1. This system should not be abused, and items of regular use should be bought in bulk through the relevant procurement process. This acquisition management system contains the general conditions and procedures which are applicable, as amended from time to time, to all procurement, contracts and orders for the department.
- 16.2. Acquisition Management provides guidance on how goods, services and works should be procured, leased or hired from the marketplace.
- 16.3. All procurement shall be in line with the approved Procurement and Demand Plans.
- 16.4. Procurement of goods and services may not be deliberately split into parts or items of a lesser transaction value in order to circumvent the prescribed procurement process. When determining transaction values, where required goods and services consist of different

parts or items, said parts or items must as far as possible be treated as a single transaction for the purposes of determining which procurement process to follow.

- 16.5. The Centralised Supplier Database (CSD) is the only current standardised and electronic supplier database to source quotations from. All quotations must be sourced from suppliers that are registered on CSD, except in cases where transactions are concluded through petty cash or sundry payments where suppliers are foreign with no local registered entity.
- 16.6. All suppliers must be registered on the CSD.
- 16.7. Accounting Officer or delegated authority must not award any bid or price quotations to a bidder(s) not registered on the CSD, unless
  - 16.7.1. Transactions are concluded through petty cash, sundry payments and foreign suppliers with no local registered entity may be concluded even if the supplier is not registered on the CSD.
  - 16.7.2. Suppliers are exempted from registration on the CSD, the reasons should be recorded and approved by the Accounting Officer or delegated authority before the order is issued and maintained for audit purposes.
- 16.8. SCM should always verify the supplier key information in line with regulatory requirements:
  - 16.8.1. Whether any of the directors are in service of the state status
  - 16.8.2. Tax compliance status
  - 16.8.3. Whether any of the directors or the company is not listed on the dataset of tender defaulters or database of restricted suppliers, and
  - 16.8.4. Any additional and supplementary verification information communicated by National Treasury.

## **17. PROCEDURE APPLICABLE TO THE INVITATION AND CONSIDERATION OF PRICE QUOTATIONS**

- 17.1. For price quotations of up to R1,000,000.00 (including VAT), the following documentation must be used for the invitation of price quotations:
  - 17.1.1. SBD 4 Form (Declaration of interest)
  - 17.1.2. SBD 6.1 Form (Claim form for Specific Goals)
- 17.2. The user must compile specifications and SCM must vet and verify for completeness and compliance.
  - 17.2.1. The Head of SCM (Provincial or District) may nominate the SCM official for the review and updating of quotations.

- 17.3. The closing date must be clearly indicated. The minimum number of days from quote publication until closing date shall be:
- 17.3.1. One (1) calendar day for quotations estimated up to R500,000 (vat inclusive).
  - 17.3.2. Five (5) to fourteen calendar days for quotations greater than R500,000 up to R1,000,000 (vat inclusive) depending on the type of commodity sourced.
- 17.4. The number of suppliers to be invited will be:
- 17.4.1. At least three (3) for transactions up to R1 000,000 (vat inclusive)
- 17.5. The above number of suppliers takes precedence over the methodology listed below. Methodology to be used to select the bidders on the CSD will be:
- 17.5.1. CSD registration;
  - 17.5.2. The commodity with which they are listed;
  - 17.5.3. Locality where the service will be delivered;
  - 17.5.4. Tax compliance for quotations up to R1,000,000 including VAT
  - 17.5.5. To ensure rotation of suppliers when selecting suppliers on CSD. Previously awarded supplier may not be considered for the next procurement unless there are not so many suppliers for that commodity or if there are a limited suppliers for that commodity in the locality where the service is required.
- 17.6. The request for a written price quotation shall be sent through an e-mail or call for manual collection. If collected manually, the Collection Register must be signed by each bidder and by the SCM Practitioner.
- 17.7. Written price quotations may be received through an e-mail or through a submission into the department's Tender Box.
- 17.8. Prior to the award of the price quotation, Supply Chain Management must:
- 17.8.1. Verify the tax status of the recommended supplier as no price quotation may be awarded to suppliers who are not tax compliant.
  - 17.8.2. Verify the status of recommended supplier(s) including their director(s) / trustee(s) and shareholder(s) by confirming with the database of Restricted suppliers on the website of National Treasury to ensure that no recommended supplier or any of the director(s) / trustee(s) and shareholder(s) are listed as companies or persons that are prohibited from business with the public sector; and
  - 17.8.3. Verify whether the recommended supplier(s) including their director(s) / trustee(s) and shareholder(s) are not listed as Tender defaulters on the website of National Treasury.

- 17.8.4. Verify whether the recommended supplier(s) including their director(s) / trustee(s) and shareholder(s) are not employees of Government.
  - 17.8.5. A bid that has complied with all requirements is considered as an acceptable bid therefore must be subjected to the preferential procurement policy for points allocation.
  - 17.8.6. At least three (3) written quotations must be obtained. If it is not possible to obtain at least three (3) written price quotations the reasons should be documented and approved by the Accounting Officer or delegated authority or committee before the order is issued.
- 17.9. Transactions above R500,000 it must be:
- 17.9.1. On the approved procurement plan, else it must not be processed unless it is approved by the Accounting Officer;
  - 17.9.2. A quotation Evaluation Committee / persons must be established and appointed by the Accounting Officer or delegated authority to evaluation the quotations received;
  - 17.9.3. The adjudication and approval of quotations will be as per financial delegation of authority.
- 17.10. The Request for quotations documentation must include the following:
- 17.10.1. Brief description of the goods and/or services procured
  - 17.10.2. Closing date and time
  - 17.10.3. Briefing session details if applicable
  - 17.10.4. Preferential procurement system to be used including the specific goals and the points to be allocated
  - 17.10.5. Specifications and/or terms of reference
  - 17.10.6. SBD 4, SBD 6.1
- 17.11. Should a briefing session or site inspection be compulsory, it should be included in the conditions of price quotations.
- 17.12. The validity period for quotations is thirty (30) days or as prescribed by the suppliers.
- 17.13. The Quotations committee will evaluate the quotations based on compliance, the required mandatory documents, quality, adherence to specification and considering value for money and
- 17.13.1. Verify the tax status of the recommended supplier as no price quotation may be awarded to suppliers who are not tax compliant.

- 17.13.2. Verify the status of recommended supplier (s) including their director(s) / trustee(s) and shareholder(s) by confirming with the database of restricted suppliers on the website of National Treasury to ensure that no recommended supplier or any of the director(s) / trustee(s) and shareholder(s) are listed as companies or persons that are prohibited from business with the public sector.
- 17.13.3. Verify whether the recommended supplier(s) including their director(s) / trustee(s) and shareholder(s) are not listed as Tender defaulters on the website of National Treasury.
- 17.13.4. Verify whether the recommended supplier(s) including their director(s) / trustee(s) and shareholder(s) are not employees of Government.
- 17.14. A bid that has complied with all requirements is considered as an acceptable bid therefore may be subjected to the preferential procurement policy for points allocation.
- 17.15. Price quotations should be recommended for award to the highest scoring bidder as per the Preferential Procurement Policy and if not, reasons for such deviations and the Objective Criteria (2(1)(f)) used, must be recorded and approved in line with delegations.
- 17.16. All goods and services must be delivered only after an official order has been issued.
- 17.17. In instances where the price quotation necessitates the signing of further documentation (e.g. a Contract), such agreements must be legally vetted prior to signing by the delegated official.

## **18. OPENING OF BID BOX AND RECORD OF PRICE QUOTATIONS**

- 18.1. On closing date, the bid box should be closed at the exact stipulated time and all bids / quotations should be removed and opened.
- 18.2. Bids / quotations received should be registered in a Bids / quotations received register.
- 18.3. Late bids / quotations (received after closing time) must be registered and should not be considered and where feasible must be returned unopened to the bidder accompanied by an explanation.
- 18.4. The following should be considered as control measures for the handling of bids:
  - 18.4.1. A lockable office or strong room or walk-in safe for the receipt and storing of bids.
  - 18.4.2. A bid box that is open and accessible to bidders seven (7) days a week including weekends and public holidays.
- 18.5. At least two people must be involved in opening of bids / quotations.

## **19. PROCEDURE APPLICABLE TO THE INVITATION AND CONSIDERATION OF COMPETITIVE BIDS**

- 19.1. Accounting Officer must establish a competitive bidding system for procurement above R1,000,000 (Including all applicable taxes). The systems must comprise of
  - 19.1.1. Bid Specifications Committee
  - 19.1.2. Bid Evaluation Committee
  - 19.1.3. Bid Adjudication Committee
  - 19.1.4. Advertising of Bids
  - 19.1.5. Receiving and recording of bids
- 19.2. For all procurement above R1,000,000.00 (all applicable taxes included), competitive bids shall be invited.
- 19.3. Goods, works or services may not be deliberately split into parts or items of lesser value merely for the sake of procuring goods, services or works otherwise than through the prescribed procurement process. When determining the transaction value, a requirement of goods and services consisting of different parts or items must be as far as possible be treated and dealt with as a single transaction.
- 19.4. Procurement of these requirements can only commence if the need is registered on the approved Procurement Plan of the department.
- 19.5. Competitive bids should be advertised for a period not less than twenty-one (21) days, unless a lesser period is approved by the Accounting Officer on an urgent basis.
- 19.6. Should it be impractical to advertise bids, reasons for deviating should be recorded and approved by the accounting officer delegated authority. The Accounting Officer is required to report within ten (10) working days to the relevant Treasury and the Auditor General all cases where goods and services above the value of R1,000,000.00 (vat inclusive) were procured.
- 19.7. End users must obtain approval for the business case for all cases exceeding R1,000,000.00 (all applicable taxes included) from the delegated official or authority as per approved financial delegations.
- 19.8. Requests to SCM for the invitation of bids must contain full details. The following details must be provided / indicated where applicable:
  - 19.8.1. Detailed specifications / Terms of Reference / Task Directives.
  - 19.8.2. Proof that the specification / Terms of Reference / Task Directive has been approved by the relevant Accounting Officer or delegated official.



- 19.8.3. Approved Special Conditions of Contract (including i.e. delivery conditions, warranty, etc.).
- 19.8.4. The estimated value of the requirement.
- 19.8.5. Confirmation that funds are available.
- 19.9. Should it be necessary that a compulsory briefing session / site inspection visit be held it must be clearly indicated on the bid advertisement and bid documents. Particulars of the place and time must be indicated.
- 19.10. All prospective bidders should be provided with the same information and should be ensured of equal opportunity to obtain additional information on a timely basis.
- 19.11. All proceedings of the compulsory briefing sessions / site visits should be properly minuted.
- 19.12. Any clarifications, corrections of errors/modifications of bidding documents should be sent to all prospective bidders that attended the briefing session / site inspection in sufficient time, which is a reasonable time before the closing date to enable bidders to take appropriate actions. The modifications should be advertised in e-tender portal and other media that was used to advertise the bid.
- 19.13. On the date of the briefing session, bidders should be informed that they should ensure that they sign the attendance register.
- 19.14. Bid documents must be ready and signed when the bid invitations are advertised.
- 19.15. A minimum period of twenty-one (21) calendar days may be allowed between the publication date and the closing date, except in urgent cases when bids may be advertised for such shorter period as the Accounting Officer may determine.
- 19.16. It is emphasized that bids may not close on weekends or public holidays, therefore the days should be verified when determining the closing date.
- 19.17. When determining a closing date, sufficient time must be allowed for prospective bidders to prepare and submit their bids. Circumstances may exist where the preparation of bid submission is complex and in which case it is advisable to determine a longer period for the submission of bids. In such cases, when motivated adequately, a longer period may be determined approved by the accounting officer.
- 19.18. When motivated adequately, a shorter period may be determined with prior approval by the Accounting Officer or delegated official.
- 19.19. Bidders should be required to submit bids valid for a period specified in the bidding documents. This period should be sufficient to enable the department to complete the evaluation, adjudication, review process and award of contracts (normally not longer than ninety (90) calendar days).

- 19.20. The period for which bids are to remain valid and binding must be indicated in the bid documents.
- 19.21. The validity period is calculated from the bid closure date and bids shall remain in force and binding until the end of the final day of that period.
- 19.22. The validity period may be extended, provided that the original validity period has not expired.
- 19.23. An extension of bid validity, if justified should be requested from the Accounting Officer prior to expiry date of the bid validity period.
- 19.24. The full correct physical address where bids are to be submitted must be clearly indicated in the bid documents.
- 19.25. In an event where the closing date may be postponed, such must be published on the same media where the bid was originally advertised.

## **20. SALE OF BID DOCUMENTS**

- 20.1. Bid document shall be freely accessible from the e-tender portal and all other sources of advert the department has used. A non-refundable fee as determined by the Accounting Officer for bidding documents is payable if documents are sold.
- 20.2. All monies received from the sale of bidding documents must be paid into the Provincial Revenue Fund.
- 20.3. Bid documents must state that the applicable fees are non-refundable in the case where a bid was unsuccessful, cancelled or awarded.

## **21. SITE INSPECTIONS AND / OR BRIEFING SESSIONS**

- 21.1. Where necessary, compulsory briefing sessions and/or site inspection will be arranged in order to give more detail information to the prospective bidders.
- 21.2. These details must be stipulated clearly in the advert of the bid and must be arranged on a date after the bid has been advertised.
- 21.3. In some circumstances a site inspection and/or may be required, if it is compulsory, attendance registers must be kept serving as proof and will be used as a disqualifying factor if a bidder did not attend compulsory briefing and/or site inspection.
- 21.4. If the briefing and/or site inspections are to be held, full details must be included in the bid notice, including whether the briefing and/or site inspection is compulsory.
- 21.5. The date and time of the briefing and/or site inspection shall be clearly indicated.

## **22. SAMPLES**

- 22.1. Where samples are called for in documents, samples (marked with the bid and item number as well as bidder's name and address) shall be delivered separately (to the bid) to the addressee mentioned in the bid documents.
- 22.2. Samples may not be included in parcels containing bid documents.
- 22.3. If samples are not submitted as required in the bid documents or within any further time stipulated, then the bid concerned may be declared non-responsive.
- 22.4. Samples shall be supplied by a bidder at his or her own expense and risk.
- 22.5. The department will not be obliged to pay for such samples or compensate for the loss thereof unless otherwise specified in the bid documents and shall reserve the right not to return such samples and to dispose of them at its own discretion.
- 22.6. If a bid is accepted for the supply of goods according to a sample submitted by the bidder, that sample will become the contract sample.
- 22.7. All goods/ materials supplied shall comply in all aspects to that contract sample.

## **23. SUBMISSION OF BIDS**

- 23.1. Bids must be submitted on or before the closing date and time at the address in accordance with the directives in the bid documents.
- 23.2. Each bid must be in writing using non-erasable ink.
- 23.3. No bids forwarded by email, facsimile or similar apparatus shall be considered unless otherwise stipulated.
- 23.4. Electronical bids will not be accepted unless indicated otherwise.
- 23.5. The bidder shall choose the domicilium citandi et executandi in the Republic and unless notice of the change thereof has been duly given in writing, it shall be the address stated in the bid.
- 23.6. No person may amend any bids or quotations after the closing time and date.

## **24. OPENING AND CLOSING OF BIDS**

- 24.1. Bids shall close on the date and at a time stipulated in the bid notice.
- 24.2. Two or more officials of the Acquisition Management unit shall open the bids on the closing date and time.

- 24.3. In exceptional cases where the bid box is full and needs frequent opening, the opening must be in the presence of more than one official.
- 24.4. The bid shall be open in public as soon as possible after the closing time.
- 24.5. Immediately after opening of the bid box, all bids shall be publicly opened and read out bidder name, if practical the price of the bid.
- 24.6. An attendance register must be signed by all officials as well as bidders who attended the opening of bid box.
- 24.7. Bids received must be recorded on the bid register.
- 24.8. The name of the bidder, and where possible the bid sum shall be recorded in a register of bids received.
- 24.9. Bidders should not be permitted to alter or amend their bids after the deadline for receipt of bids.
- 24.10. The accounting officer should only allow questions be asked to bidders if clarifications needed to evaluate their bids but should not ask or permit bidders to change substance or price of their bids after bid opening.
- 24.11. Bids received or bid list must be published on the e-tender portal within ten (10) days of bid opening.
- 24.12. Notwithstanding the above, the bid closing date may be extended if circumstances justify this action and provided that the extension is published prior to the original bid closing date. The notice shall also be published on media platforms used to advertise the original advert.

## **25. LATE BIDS**

- 25.1. A bid is late if it is not placed in the relevant bid box by the closing time for such bid.
- 25.2. A late bid shall not be admitted for consideration and where feasible shall be returned unopened to the bidder with the reason thereof.

## **26. PROMOTION OF ACCESS TO INFORMATION ACT**

- 26.1. The Promotion of Access to Information Act gives effect to the constitutional right of access to any information held by the state and any information held by any other person and that is required for the exercise or protection of any rights.
- 26.2. SCM practitioners shall be as open as possible about all decisions and actions that they take.

- 26.3. They shall give reasons for their decisions and restrict information only if it is in the public interest to do so and within the ambit of Promotion of Access to Information Act 02 of 2000.
- 26.4. To give effect to this act about the awarding of bids, while limiting possible litigation exposure of the department, the CFO / duly delegated official shall assign a function of communicating to bidders (successful / unsuccessful) or interest parties to an official. Each bidder requesting information shall be provided with the same information in line with the Promotion of Access to Information Act.

## **27. BID EVALUATION**

27.1. Evaluation of all bids received shall be conducted by a bid evaluation committee established by the Accounting Officer

### **27.2. Composition of the Bid Evaluation committee (BEC)**

27.2.1. The members of BEC shall be appointed in writing by the Accounting Officer delegated official.

27.2.2. Members must accept their appointment in writing and sign the code of conduct.

27.2.3. The BEC must be cross functional and should be composed of the following officials:

27.2.3.1. The Director SCM shall serve as the Chairperson of the BEC following appointment by the Accounting Officer.

27.2.3.2. SCM is required to provide secretariat services.

27.2.4. When deemed necessary, independent experts may also be co-opted to a BEC in advisory capacity but may not have voting rights.

27.2.5. No members of the BEC may be appointed as members of any other committee (BSC or BAC) with the exception of the Provincial or National BEC and only if they did not participate on the bid specification compilation process of that particular bid.

### **27.3. Functions of the BEC**

27.3.1. The Bid Evaluation Committee (BEC) is responsible for the evaluation of all bids received in terms of the evaluation criteria stipulated in the specification / terms of reference and special conditions of contract. The evaluation of bids will be conducted as follows, including the following:

27.3.1.1. Firstly, assessment against conditions or requirements as stated in the bid document.

27.3.1.2. Secondly, where functionality is part of the bid, evaluation must be done in terms of functionality and the minimum qualifying score as stipulated in the approved

specifications. A bid must be disqualified if it fails to meet the requirements in the bid invitation.

27.3.1.3. Only acceptable bidders may be evaluated in terms of the 80/20 or 90/10 preference points systems, where the 80 or 90 points must be used for price only and the 20 or 10 points must be allocated for specific goals in line with the Preferential Procurement Policy.

27.3.2. A bid that fails to comply with the conditions or requirements and to obtain the minimum qualifying score for functionality, where applicable, as indicated in the bid documents is not an acceptable bid and should not be evaluated further.

27.3.3. Price differences by more or less than a predetermined percentage from the cost estimates of a project/ commodity must not be used as a criterion to disqualify a bid.

27.3.4. Prior to commencing with the evaluation of bids, the BEC must be briefed by SCM about the process that must be followed. The following documents need to be provided to each member of the BEC:

27.3.4.1. Agenda

27.3.4.2. Code of conduct (Signed only at the beginning of the financial year or at appointment)

27.3.5. All members must complete the following registers:

27.3.5.1. Attendance Register

27.3.5.2. Declaration of interest

27.3.5.3. Declaration of confidentiality

27.3.6. The evaluation report to be compiled by SCM shall be comprised of at least the following:

27.3.6.1. List of bids received and the compliance status,

27.3.6.2. Number of bids received on time and late if there are any,

27.3.6.3. Closing date and expiry of the validity period,

27.3.6.4. BEC members are responsible for ensuring completeness of the report Closing date and expiry of the validity period.

27.4. A recording device may be used to capture the meeting proceedings.

27.5. Should all the members not be available due to unforeseen circumstances during the evaluation meetings agreed upon by BEC members, the BEC should at least form a quorum (50% plus one of the appointed members).

- 27.5.1. Should any member (including the chairperson) declare any conflict of interest, the BEC must discuss such conflict and such member must withdraw or recuse themselves from the BEC. The Accounting Officer must be informed accordingly.
- 27.5.2. The BEC must before recommending a bidder for award:
- 27.5.2.1. Verify the tax status of the recommended supplier as no price quotation may be awarded to suppliers who are not tax compliant.
- 27.5.2.2. Verify the status of recommended supplier (s) including their director(s) / trustee(s) and shareholder(s) by confirming with the database of restricted suppliers on the website of National Treasury to ensure that no recommended supplier or any of the director(s) / trustee(s) and shareholder(s) are listed as companies or persons that are prohibited from business with the public sector.
- 27.5.2.3. Verify whether the recommended supplier(s) including their director(s) / trustee(s) and shareholder(s) are not listed as Tender defaulters on the website of National Treasury.
- 27.5.2.4. Verify whether the recommended supplier(s) including their director(s) / trustee(s) and shareholder(s) are not employees of Government.
- 27.5.3. SCM must ensure that all bidders are requested to extend bid validity period of their bids where necessary in order to ensure that their bids remain valid throughout the finalisation of the award.
- 27.5.4. A bid that has complied with all requirements and the conditions of bid, is considered an acceptable bid and must be subjected to the Preferential Procurement Policy for points allocation and the award decision.
- 27.5.5. The BEC must make a recommendation to the Bid Adjudication Committee which can be either to award, negotiate or cancel.
- 27.5.6. The BEC shall ensure that recommendations made to the BAC for award are lawful & reasonable; and will stand in a court of law should the decisions be challenged.

## **28. BID ADJUDICATION**

### **28.1. Composition of the BAC**

- 28.1.1. The Accounting Officer shall select and appoint the members of the Bid Adjudicating Committee (BAC). The Accounting Officer shall also appoint the CFO as the chairperson of the Committee.
- 28.1.2. All members of the Bid Adjudicating Committee must be cleared at a level of **"CONFIDENTIAL"** and are required to declare their financial interest annually.

28.1.3. The BAC must adjudicate if the process was fair, equitable, transparent, competitive, and cost effective; and that the process was lawful, reasonable and procedurally fair.

28.1.4. The principle that no single individual official shall be in a position to take a decision in isolation regarding the award of a bid shall be applied.

28.1.5. An electronic recording device may be used to capture the meeting proceedings.

28.1.6. All members must complete the following registers:

28.1.6.1. Attendance Register

28.1.6.2. Declaration of interest

28.1.6.3. Declaration of confidentiality

28.1.7. Should any the member/s not be available due to unforeseen circumstances during the evaluation meetings agreed upon by BAC members, the BAC should at least form a quorum (50% plus one of the appointed members).

28.1.8. Should any member (including the chairperson) declare any conflict of interest, the BAC must discuss such conflict and such member must withdraw or recuse themselves from the BAC.

## **28.2. Functions of the BAC**

28.2.1. The Bid Adjudication Committee shall be responsible for the adjudication of bids and make recommendations to the Accounting Officer regarding the awarding of bids.

28.2.2. The recommendations may be one or the following:

28.2.2.1. An award to a bidder recommended by BEC.

28.2.2.2. A bid be cancelled and an alternative procurement method such as transversal contract or any other participation contract.

28.2.2.3. Award to a recommended bidder subject to negotiations.

28.2.3. If the Accounting Officer does not agree with the recommendation of the BAC, the reason(s) thereto shall be submitted in writing to the BAC. The BAC should take into account the concerns raised before submitting a second recommendation to the Accounting Officer.

28.2.4. In respect of the recommendations from BEC, the BAC must ensure that:

28.2.4.1. All necessary bid documents have been submitted.

28.2.4.2. Disqualifications are justified and that valid and accountable reasons / motivations were furnished for passing over of bids.



28.2.4.3. Scoring has been fair, consistent and correctly calculated and applied and

28.2.4.4. Bidders' declaration of interest has been taken cognisance of.

28.2.5. Approved bids shall be returned to SCM for further processing and generation of purchase order.

28.2.6. The BAC shall ensure that the awards are lawful & reasonable and will stand in a court of law should the decisions taken be challenged.

## **29. NEGOTIATION**

29.1. In the case where the price offered by a bidder that scores the highest price, is neither market-related or reasonable, the Accounting Officer may appoint a negotiations committees at Provincial, District and Service Points to:–

29.1.1. negotiate a market-related price with the bidder scoring the highest points;

29.2. if the negotiations with the highest scoring bidder fail, the negotiations committee may negotiate a market-related or reasonable price with the bidder scoring the second highest points provided that bidder submitted an acceptable bid;

29.3. if the negotiations with the bidder scoring the second highest points fail, the negotiations committee may negotiate a market-related or reasonable price with the bidder scoring the third highest points provided the bidder submitted an acceptable bid; and

29.4. if the negotiations with the bidder scoring the third highest points fail, the negotiations committee may recommend cancelling the bid.

29.5. Negotiations shall not be conducted-

29.5.1. to substantially change the specification or details of the requirement, including tasks or responsibilities of the bidder; or

29.5.2. To materially alter the terms and conditions of contract stated in the bid document.

29.6. The accounting officer or delegated authority must appoint a negotiation committee that is cross functional with one member being a team leader and one member being a Senior SCM official.

29.7. Members of the negotiation committee shall be subject to the code of conduct for SCM practitioners and will be required to complete the registers for declaration of interest and confidentiality.

29.8. The negotiations committee must ensure that negotiations are undertaken in an ethical manner and in accordance with the government's procurement principles of value for money, economy, integrity, efficiency, transparency and fairness.

29.9. In terms of conducting a negotiation, all bidders invited to the negotiation must be treated equally, and specifically:

29.9.1. Information must not be provided in a discriminatory manner so as not to confer advantage to one bidder over another;

29.9.2. Confidential information such as another bidder's solution, any commercially confidential information and intellectual property of any bidder must not be shared with another bidder without their express agreement in writing; and

29.9.3. Information from bidders must not be shared to enhance the bid/proposal of another to improve the technical solution or merge two or more technical solutions into a single optimum solution.

29.10. All negotiations must be officially concluded and closed with a decision communicated and agreed between parties only after confirmation with the BAC or the Accounting Officer.

### **30. REPORTING AND PUBLISHING OF AWARDS AND CANCELLATIONS**

30.1. The Director SCM must within ten (10) days after the award of a bid, report the award on:

30.1.1. e-Tender portal; and

30.1.2. CIDB website for construction related works.

30.2. The Director SCM must if any, ten (10) days before the closing date of the bid, publish any amendments, clarification request and responses on the e-Tender portal.

### **31. JUST ADMINISTRATIVE ACTION**

31.1. Everyone has the right to administrative action that is lawful, reasonable and procedurally fair.

31.2. Everyone whose rights have been adversely affected by administrative action has the right to be given reasons.

31.3. National legislation must be enacted to give effect to these rights, and must:

31.3.1. Provide for a review of administrative action by a court, or where appropriate, an independent and impartial tribunal;

31.3.2. Impose a duty on the state to give effect to the rights in sub-sections (1) and (2) and

31.3.3. Promote an efficient administration.

## **32. RECORD KEEPING**

- 32.1. For quotations, the following records must be maintained:
  - 32.1.1. The request from the user;
  - 32.1.2. The names of the bidders that were invited to submit a quotation;
  - 32.1.3. The quotations and the SBD's received from the bidders that did respond;
  - 32.1.4. Where fewer than three quotations were received, the approved deviation from the Accounting Officer or delegated official;
  - 32.1.5. The calculations or spreadsheet used to score the acceptable quotations for the 80/20 calculation;
  - 32.1.6. Where the award was to a bidder that did not score the highest points, the objective criteria that was used and the basis;
  - 32.1.7. If an SDB 7 was completed and signed; and
  - 32.1.8. The purchase order or the PO number issued to the winning bidder where applicable.
- 32.2. For Bids, a separate bid file must be opened for each bid with the following information:
  - 32.2.1. Procurement plan;
  - 32.2.2. Project Aligned to the budget (Budget availability);
  - 32.2.3. Approved business case;
  - 32.2.4. Bid specification committee appointment letters and meeting attendance registers;
  - 32.2.5. Declaration forms;
  - 32.2.6. BSC minutes;
  - 32.2.7. Bid Advertisement;
  - 32.2.8. Briefing session attendance register (where applicable);
  - 32.2.9. Briefing session minutes;
  - 32.2.10. Bid closing & opening attendance register;
  - 32.2.11. Bids received register;
  - 32.2.12. BEC appointment letters and attendance register;
  - 32.2.13. BEC declaration forms;
  - 32.2.14. BEC report;
  - 32.2.15. BEC minutes;
  - 32.2.16. BEC Score sheets where applicable (consistent scoring) (Functionality);

- 32.2.17. BAC appointment letters and attendance register;
- 32.2.18. BAC declaration forms;
- 32.2.19. BAC report;
- 32.2.20. BAC minutes;
- 32.2.21. Award letters and acceptance;
- 32.2.22. Publication of awards (responsive and non-responsive);
- 32.2.23. Vetting / screening of recommended supplier where applicable;
- 32.2.24. SBD 7 or SLA signed;
- 32.2.25. Contract register updated;
- 32.2.26. Bid validity extension (where necessary).

### **33. USING THE CONTRACTS OF OTHER ORGANS OF STATE (PIGGYBACKING)**

- 33.1. The department may participate in a contract arranged by another organ of state, on condition that a competitive bidding process was used, and subject to the written approval of such organ of state and the relevant supplier.
- 33.2. Prior to proceeding to participate in the contract referred to above, the Director SCM through CFO and HOD may initiate an assessment to establish:
  - 33.2.1. whether or not the original procurement process was compliant with the relevant legislation;
  - 33.2.2. whether there is sufficient time left on the original contract to justify the contractual processes;
  - 33.2.3. whether the original organ of state is willing to forfeit a portion of the contract volume to the department; and
  - 33.2.4. the total contracted value cannot be increased as a result of the piggybacking.
- 33.3. The department must become a party to the existing contract and cannot create a separate contract directly between the department and the supplier:
  - 33.3.1. Only the initial contracting parties may amend the contract;
  - 33.3.2. The specifications of the goods or services described in the contract must remain the same;
  - 33.3.3. The unit price or contract rates of the goods or services must remain the same; and
  - 33.3.4. A separate service level agreement is concluded for this purpose which clearly stipulates the duration of the contract with particular emphasis on the start and end

date. Such start and end date must not be outside the contract period of the other organ of state.

#### **34. PUBLIC PRIVATE PARTNERSHIPS**

- 34.1. The Director SCM will facilitate exploring the possibility of PPPs during the annual procurement planning process.
- 34.2. Should a PPP be identified, an initial motivation must be developed by the user department with the support of SCM for submission to the Accounting Officer.
- 34.3. An initial budget should be established that may be needed for the cost of the transaction advisor in the initial phases.
- 34.4. The Accounting Officer will forward the initial project outline to the NWPT OCPO for registration on the Provincial Treasury's PPP Register.
- 34.5. If the NWPT OCPO requests it, then a competitive bid process may be required to appoint a transaction advisor.

#### **35. UNSOLICITED BIDS**

- 35.1. The department is not obliged to consider all unsolicited bids.
- 35.2. The department may only consider the unsolicited bid if:
  - 35.2.1. It is a unique innovative concept that will provide exceptional value or have exceptional cost savings for the department; and
  - 35.2.2. The person who made the unsolicited offer is a sole provider for that unique product or service.
- 35.3. Should the unsolicited proposal satisfy the above requirements, then the Director SCM , CFO must request approval from the Accounting Officer to initiate direct negotiations.
- 35.4. Should the unsolicited proposal not satisfy the above requirements that it is a unique innovative concept from a sole supplier, then the department will not consider the proposal further.

#### **36. TRANSVERSAL AGREEMENTS**

- 36.1. Should the department opt to participate on a Transversal Contract when it is first established by National Treasury (NT), then the department may not source goods and services outside of the transversal contract, without a formal NT exemption.
  - 36.1.1. The decision to participate in the establishment of a Transversal Contract facilitated by NT must first be approved by the Director SCM, CFO or as per National Treasury requirements.

36.2. SCM Director shall recommend the use of an existing Transversal Contract that has been established by National Treasury where this is more cost effective than the department's own quotation or competitive bidding process. The SCM Director may decide to do a due diligence on the transversal contract before the department makes use of it or approach this as a piggybacking approach.

## **37. FRAMEWORK AGREEMENTS**

### **37.1. Two-Stage Panels**

37.1.1. Panels will be established through an advertised competitive bidding process.

37.1.2. Two-stage panels can be established for a contract period up to five (5) years.

37.1.3. During the first stage, suppliers shall be evaluated based on capability and on shortlisting criteria outlined in the specification document.

37.1.4. Pricing information may be requested during the first phase for reasonableness of their rates but may not be used to determine appointment to the panel. Suppliers that meet the shortlisted criteria will be placed on the panel.

37.1.5. A panel may include sub-categories or lots. Should only one supplier be appointed to a sub-category that shall be acceptable, providing the first stage process was open and competitive, and that the rate is assessed for reasonableness.

37.1.6. When the specific product or service is required, the SCM Unit will initiate the second stage by inviting selected panel members to respond to a request for quotation.

37.1.6.1. The invitation method shall be via rotation if there are more than one supplier in a sub-category of the panel.

37.1.6.2. During this stage suppliers are required to quote their price offer.

37.1.6.3. The quotations process is acceptable even if the value is outside the standard quotations threshold, as the first stage used an open competitive bidding process. The second stage can be considered either a single or multi-bidder.

37.1.6.4. The award shall be made using the Preferential Procurement Policy applicable at the time the panel was first advertised.

37.2. Quotations may not be awarded to panel members after the contract period of the panel expires.

### **37.3. Single-Stage Panels**

- 37.3.1. Single stage panels are appropriate where it is practical for bidders to provide a rate per unit for the goods or services.
- 37.3.2. Single stage panels can be established for a contract period of three (3) years, but not exceeding five (5) years.
- 37.3.3. Single stage panels must be established through an advertised competitive process.
  - 37.3.3.1. Should market conditions dictate, such as the entry of additional capable bidders that were not available and did not bid when the panel was first established, the department reserves the right to consider the panel open and run additional advertised competitive bidding processes within the contract term.
- 37.3.4. Suppliers must be evaluated on capability and based on the selection criteria stipulated in the specification.
- 37.3.5. A single-stage panel may include sub-categories or lots. Should only one supplier be appointed to a sub-category that shall be acceptable, provided the first stage process was open and competitive.
- 37.3.6. Should multiple suppliers be appointed to a sub-category or lot, the rotation method used to appoint a bidder (that has qualified for the panel and agreed the negotiated rates) must be clearly described in the initial specification.
- 37.3.7. The unit prices and escalation rates may be negotiated with shortlisted bidders prior to the finalization of the panel if necessary.
- 37.3.8. Prior to issuing the purchase order to the appointed supplier, the SCM unit will confirm with the bidder that they still comply with the conditions of contract. A supplier may consider withdrawing from a single-stage panel should they not be able to continue to meet the conditions of contract.

### **38.COMMODITY: Information and Communications Technology Goods and Services**

- 38.1. The State Information Technology Agency (SITA) may act as the procurement agent the information technology requirements of the department.
- 38.2. SCM must take note of the requirements of the SITA act on which items they may procure and which one they must not.
- 38.3. All IT hardware requirements shall adhere to the Information Technology standards and shall comply with the Asset Management Policy.

38.4. Although procurement must be done through SITA, accountability remains with the Accounting Officer.

### **39. COMMODITY: Consulting Services**

- 39.1. Consultants should only be engaged when the necessary skills and/or resources to perform a project/duty/study are not available and the department cannot be reasonably expected either to train or to recruit people in the time available.
- 39.2. The work undertaken by a consultant must be regulated by a contract. The contract manager responsible for monitoring and evaluating contractor performance and outputs against project specifications and targets and should take remedial action if performance is below standard.
- 39.3. A summary business case must be approved by the Accounting Officer or delegated official prior to issuing the Terms of Reference.

### **40. COMMODITY: Travel Management Services**

- 40.1. The specification for the appointment of a Travel Management Company (TMC) must be in accordance with the Minimum Bid Specification Requirements for the appointment of TMCs as issued by National Treasury.
- 40.2. The award criteria must be as per the Preferential Procurement Policy applicable at the time the bid is advertised.
- 40.3. Car rental, shuttle services, events coordinators and accommodation establishments service providers may be sourced separately to the TMC.
- 40.4. The department will only pay the transaction fees and/or management fees as agreed in the Service Level Agreement between the parties / quotation where there is no contracted TMC and the actual cost of the airline ticket, accommodation, car hire or shuttle service.

### **41. COMMODITY: Construction and Infrastructure**

- 41.1. Procurement of construction related must comply with GIAMA, CIDB Act and Regulations. For construction procurement above R30, 000 including VAT.
- 41.2. Quotations above R200 000 and bids above R1 000 000 must be advertised on CIDB i-tender portal for at least twenty-one (21) days, and on the e-tender portal;



- 41.3. Quotations above R200,000 and tenders above R1 000 000 must be advertised on the CIDB i-tender portal and any other relevant or applicable tender portal for tender advertisements for at least twenty-one (21) days;
- 41.4. The relevant class of works and grading must be stipulated on the invitation;
- 41.5. The award must be loaded on the CIDB i-tender portal.
- 41.6. Construction works as contemplated by the Infrastructure Procurement and Delivery Management Policy, CIDB Act, all requirements of that Act must be taken into account.

## **42. CONTRACT MANAGEMENT**

- 42.1. A contract is concluded and becomes binding when a bid is accepted by the relevant delegate and a signed letter of acceptance, by an authorised person, has been sent before the validity period has expired.
- 42.2. Any decision regarding the awarding of a contract will be final and, on written request, reasons for the decision will be provided without revealing any information of any bidder that is afforded protection under the Promotion of Access to Information Act 2 of 2000 or by any other law.
- 42.3. For transaction above R1, 000,000, a contract shall be signed between the department and the supplier awarded the bid.
- 42.4. There shall be no conflict between the bid specification (special and general conditions of contract, technical specifications) and bid proposal accepted.
- 42.5. For quotations, the purchase order may serve as the contract or the department shall decide on a contract to be signed by both parties, where the requirements dictate that.
- 42.6. Non-performance shall be addressed in consultation with SCM Contract Management and Legal Services.

### **42.7. Contract changes**

- 42.7.1. Contracts that originated through an Open Competitive Bidding or "Procurement by "Other Means" method, shall be reviewed and adjudicated by the BAC, who shall then provide a recommendation to the Accounting Officer or delegated authority to reject or approve the proposed contract change.
- 42.7.2. The Accounting Officer or delegated authority shall report to NT and the AG, in a format and timing determined by NT, should any of the following apply:

- 42.7.3. A contract for construction related goods or services is expanded or varied by more than 20% or R20 million (including applicable taxes), of whichever is the lesser, of the original contract value; or
- 42.7.4. A contract for other goods or services is expanded or varied by more than 15% or R15 million (including applicable taxes), of whichever is the lesser, of the original contract value.
- 42.7.5. The contract variations referred to in aforementioned paragraphs shall also be reported in the annual report.
- 42.7.6. No contract shall continue beyond its approved contract period or exceed the approved contract value without the approved contract changes by the Accounting Officer and signature from authorised representative from both parties agreeing to the change.

#### **42.8. Cessions and Assignments**

- 42.8.1. Cessions shall apply to supply of goods, services above R1, 000,000 VAT Inclusive or any amount if deemed necessary by the Accounting Officer or delegated authority.
- 42.8.2. Application of cession shall be limited only to those cession agreements in favour of registered Financial Services Providers (FSP) and state institutions established for the express purpose of providing funding to businesses and entities (State Institution).
- 42.8.3. The written request for cession shall be by the service provider and not a third party.
- 42.8.4. The written request by the service provider shall be accompanied by the cession agreement.
- 42.8.5. Assignments shall not be allowed.

#### **42.9. Contracts termination**

- 42.9.1. Before action is taken to terminate a contract, the supplier shall be notified in writing that action shall be taken unless the contractor complies with the contract conditions and delivers satisfactory supplies or services within a specified reasonable time.
- 42.9.2. The power to terminate contracts shall rests with the Accounting Officer or delegated official through legal advice. This excludes orders below R1, 000,000 procured through quotations process.

42.9.3. Purchase Orders issued for transactions below R1, 000,000, shall be cancelled through the SCM Unit in line with the delegations of authority.

42.9.4. Contracts shall be terminated under, but not limited to the following circumstances:

42.9.4.1. the supplier fails to deliver any or all of the goods within the period(s) specified in the contract, or within any extension thereof granted by the purchaser pursuant to GCC Clause 21.2; or another form of conditions of contract agreed to by contractual parties;

42.9.4.2. the supplier fails to perform any other obligation(s) under the contract;

42.9.4.3. the supplier/service provider, in the judgment of the purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the contract

42.9.4.4. the death, sequestration or liquidation of the supplier;

42.9.4.5. both parties agree to the termination in writing or if allowed for in the conditions of contract

42.9.5. Where contracts above R1, 000,000 are terminated, the department shall consider whether to restrict the supplier from doing business with the state or not.

42.9.6. Successful Bidders information will be published on the departmental website. Except for period contracts, the under-mentioned particulars of the successful bidder must be published in the e-Tender and CIDB (where relevant) for general information:

42.9.6.1. Name of the Contractor.

42.9.6.2. The relevant price and delivery basis;

42.9.6.3. Where applicable, the preference points claimed; and

42.9.6.4. Particulars for non-responsive bid or bids where no responses received will not be made public.

42.9.7. All correspondence, including letters of acceptance, must be signed on behalf of the Accounting Officer and in accordance with relevant delegations. This is an administrative arrangement and although the Accounting Officer accepts accountability for the contract that is concluded, the signatory remains co-responsible for the contract and for the correctness of the data supplied.

42.9.8. The letters of acceptance/SLA serve as the basis for placing orders and for the administration of the contract as well as for the settlement of disputes.

42.9.9. All Service Level Agreements (SLA) must be done in consultation with Legal Services and should also be approved by the Accounting Officer. If not possible, the reasons must be recorded for audit purposes.

42.9.10. A register of active contracts must be kept and regularly updated.

### **43. CANCELLATION OF BIDS**

- 43.1. The Accounting Officer may cancel the bid if:
  - 43.1.1. There is no longer a need for goods or services.
  - 43.1.2. Funds are no longer available to cover the total envisaged expenditure.
  - 43.1.3. No acceptable bids are received.
  - 43.1.4. Due to the risk of material irregularities in the bid process.
  - 43.1.5. Negotiating a fair market price has failed.
- 43.2. In instances where the bid is cancelled for the second time, only the relevant Treasury can grant approval for cancellation of the bid. The department must make representation to the relevant Treasury stating reasons for the second cancellation.
- 43.3. Upon approval of a bid cancellation, the Accounting Officer or the delegated authority must publish the cancellation on:
  - 43.3.1. Relevant e-tender portal; and
  - 43.3.2. Other media platforms which the bid was advertised.

### **44. PROCUREMENT BY OTHER MEANS**

- 44.1. Where in a specific case it is impractical to follow an open competitive bidding process the department may procure the required goods or services by "other means", provided the reasons for deviating from open competitive bid is recorded and approved by the Accounting Officer or delegated authority.
- 44.2. Two "Other Means" procurement methods shall be used to satisfy the procurement needs described above:
  - 44.2.1. Quotations (exceeding the price quotations threshold, where there are Limited multiple instances); and
  - 44.2.2. Direct Negotiations, where there are Limited single, Sole, Urgent, Emergency or other Impractical circumstances.
- 44.3. Circumstances to deviate includes:
  - 44.3.1. The Sole Source circumstances shall include but is not limited to:
    - 44.3.1.1. Technical – Matching or Standardisation
    - 44.3.1.2. Technical – Spare Part or Component (e.g. OEM)
    - 44.3.1.3. Intellectual Property – Licences

44.3.1.4. Intellectual Property – Innovation Right Holder

44.3.2. The Single Source circumstances shall include:

- 44.3.2.1. Downstream where a supplier completed an earlier phase of a project and there are costs benefits to them continuing.
- 44.3.2.2. Failure of at least two prior Open Competitive bids (or quotations in the case of panels) and only one and the same bidder responded each time or when only one bidder was acceptable, but the award was not possible.
- 44.3.2.3. When an RFI resulted in only one responsive bidder.
- 44.3.2.4. Location/Region (only one supplier in that location).
- 44.3.2.5. As required by an international obligation, agreement or treaty.
- 44.3.2.6. For legal, regulatory reasons or a lawful directive.
- 44.3.2.7. Due to Classified Information or for Essential Interests.
- 44.3.2.8. Due to market research conducted which reveals only 1 supplier has the capacity to meet the requirements of the department.

44.3.3. Multiple Source circumstances using the quotations other means shall include but is not limited to:

- 44.3.3.1. Failure of at least two prior Open Competitive bids where more than one response was received.
- 44.3.3.2. Where an RFI resulted in more than one acceptable bidder.
- 44.3.3.3. Preferential Procurement Policy category.
- 44.3.3.4. Locality / Region (only two or three suppliers in that location).
- 44.3.3.5. Due to an international obligation, agreement or treaty.
- 44.3.3.6. For legal reasons or a lawful directive.
- 44.3.3.7. Due to Classified Information or for Essential Interests.
- 44.3.3.8. Due to market research conducted which reveals that only few suppliers have the capacity to meet the requirements of the department.

44.3.4. Emergency Circumstances. The circumstances related to an Emergency shall include the existence of one or more of the following:

- 44.3.4.1. The possibility of human injury or death;
- 44.3.4.2. The prevalence of human suffering or the deprivation of rights;
- 44.3.4.3. The possibility of damage to property or a resultant loss of property;
- 44.3.4.4. The possibility that the security of the employee, institution or the state could be compromised;

- 44.3.4.5. The possibility that revenue collection may be seriously compromised and thus seriously impact the effective running of the institution;
- 44.3.4.6. The possibility of serious damage occurring to the natural environment;
- 44.3.4.7. The possibility that failure to take necessary action may result in the institution or the state not being able to render an essential service; or
- 44.3.4.8. A travel emergency, where unforeseen and unavoidable circumstances (either personal and, or, business related), including but not limited to, a death, illness, health risk, disaster management operations, or a business environmental risk, requires a booking for travel or a diversion from the original planned trip.
- 44.3.5. Lack of proper planning does not constitute an Emergency Situation.
- 44.3.6. Urgent Circumstances. The following three conditions shall be met for a situation to be classified as urgent:
  - 44.3.6.1. The early delivery is the key requirement to decide the success or failure of the project and must be an integral component of the project;
  - 44.3.6.2. The time period available for the acquisition makes it impractical or impossible to pursue a competitive bid process; and
  - 44.3.6.3. The urgency was not foreseeable or as the result of dilatory conduct.
- 44.3.7. The processes to be followed when identifying prospective suppliers for "Other Means", shall include:
  - 44.3.7.1. Consideration of suppliers that are already contracted to the department either through a panel or for another product or service, providing the supplier does not act as an agent.
  - 44.3.7.2. Consideration of suppliers that supplied similar goods or services to the department within the last three (3) years, but the contract period has ended.
  - 44.3.7.3. Where require the department products or services where the institutional knowledge of that market is limited, recognized experts that are either independent, or employed by other organs of state in that industry, will be requested to suggest companies that should be approached.
- 44.3.8. Suppliers that are approached shall be requested to complete a Declaration of Interest prior to appointment.
- 44.3.9. Measures to curtail reliance on procurement by "Other Means":
  - 44.3.9.1. The procurement process shall be formally adjudicated as per the delegation of authority.

44.3.9.2. If it is impractical to adjudicate before approval, the head of department shall appoint ad-hoc adjudication committee.

44.3.10. On an annual basis, prior to procurement planning, all instances that gave rise to procurement by the other means shall be assessed by the Senior Manager SCM to:

44.3.10.1. determine opportunities to create framework agreements or framework contracts that can be implemented; and

44.3.10.2. Identify planning improvements for instances where the event could have been foreseen.

## **45. RESTRICTION OF SUPPLIERS**

45.1. The Accounting Officer must, in writing, notify a person of:

45.1.1. The intention to restrict a person from doing business with the State.

45.1.2. The grounds for the restriction.

45.1.3. The period of restriction which may not exceed ten (10) years.

45.1.4. The right to make representation within fourteen (14) as to why the person should not be restricted.

45.2. The Accounting Officer must:

45.2.1. consider reasons provided by the person on why the person should not be restricted, and

45.2.2. if, after considering the reasons referred to in 45.2.1 the Accounting Officer intends to restrict a person, in writing consult the National Treasury by submitting the notification envisaged in paragraph 45 and the reasons referred to in paragraph 45.2.1.

45.3. The National Treasury shall submit to the Accounting Officer its view on the intended restriction.

45.4. The Accounting officer must:

45.4.1. After considering the view of National Treasury, make a decision whether to restrict.

45.4.2. within seven days following a decision to restrict, submit to the National Treasury:

45.4.2.1. the reasons for the decision to restrict.

45.4.2.2. Name and address of the person restricted.

45.4.2.3. The identity or registration number of the person restricted.

- 45.4.2.4. The period of restriction and
- 45.4.2.5. The representations made by the person and the reasons why the Accounting Officer proceeded with the decision to restrict despite the representations.
- 45.5. The National Treasury, on receipt of information on paragraph 45.4.2
  - 45.5.1. May request the Accounting Officer to submit further information pertaining to the restriction.
  - 45.5.2. Must record information on a record of restricted suppliers.
- 45.6. The restriction would be effective from the date that the National Treasury records the information on the list of restricted suppliers.
- 45.7. National Treasury will inform the department immediately after the restriction is recorded on the list of restricted suppliers.
- 45.8. The Accounting Officer must inform the person immediately after the National Treasury has informed the Accounting Officer that the restriction is recorded on the list of restricted suppliers.

## **46. LOGISTICS MANAGEMENT**

- 46.1. Logistics Management involves requisitioning, coding of items, setting inventory levels, placing orders, receiving and distribution, stores/warehouse management, expediting orders, transport management.
- 46.2. This process integrates with the financial systems to generate payments to suppliers.
- 46.3. The purpose of ordering is to place orders on the prescribed order form for goods/services required by the department with suppliers appointed through the relevant procurement processes and purchasing system. This process may only happen if the order has been approved by the relevant delegated official and is a valid request.
- 46.4. Generation and authorisation of purchase orders on the Walker system shall be in line with the User rights and any applicable Financial Delegations
- 46.5. The order should be cross-referenced to the requisition and checked for accuracy and authority. Performance specifications, as determined by the budget holder (program manager) should be communicated to the suppliers as part of the ordering process.
- 46.6. Where a formal written contract exists, orders should be placed in accordance with the written contract. Where there is no formal written contract in place it should be ensured that the necessary procurement procedures were followed before an order is placed.



- 46.7. It is the responsibility of the SCM Unit to inform the end-user / store manager requiring the goods or services of the order and to send a copy of the approved order to the awarded supplier of goods or services and designated official. The end-user / store manager / goods receiving official must use the copy of the approved order to check against the delivery note and complete the goods received note.
- 46.8. Deliveries should be carefully examined before any delivery is accepted.
- 46.9. Any evidence of damage or short delivery should be investigated immediately, and particulars should be endorsed on the delivery and/ goods received notes.
- 46.10. If a complete check is not possible, the goods should at least be counted and a superficial check of the quality of goods performed. It may not always be practical to quality check the contents of boxes, but obvious damages may be easily detected, and goods rejected e.g. if a box is wet or there is spillage. The receiver must confirm the following information on the purchase order against the actual delivery:
- 46.10.1. Supplier.
  - 46.10.2. Description of item being delivered; and
  - 46.10.3. Quantity and quality of Items being delivered.
- 46.11. Material that does not conform to the specifications and description issued by the buyer on the purchase order, must not be accepted and received based on the visual inspection;
- 46.12. The program manager / receiving official or his/her delegate should acknowledge for the goods actually received through cross-referencing it to the purchase order and signing the delivery note or goods received note. The completed goods received note and/ signed delivery note and invoice should be sent to the Payment section for payment processing.
- 46.13. All invoices must be certified as follows:
- 46.13.1. That the invoice is correct and has not been paid previously by the delegated official or by officials who have actual knowledge of the goods supplied and the services rendered.
  - 46.13.2. All copies of invoices are an exact copy of the original invoice.
  - 46.13.3. No information may be changed on invoices due for payment purposes without the Director SCM approval or as delegated. If information needs to be changed the supplier must be requested to issue a revised invoice.
- 46.14. Valid invoices must be processed within thirty (30) days.

## **47. DISPOSAL MANAGEMENT**

48. Disposal management processes shall be conducted in accordance with the Departmental Asset Management Policy.

## **49. SCM RISK MANAGEMENT AND INTERNAL CONTROL**

- 49.1. Supply chain management (SCM) is a systematic process 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. It is part of a broader function of managing expenditure on and payments for the goods and services that are involved in delivering services to communities.
- 49.2. In order to achieve service delivery goals effectively, efficiently and economically, managers must ensure that proper controls exist over the entire business process, from planning (determining the demand for goods and services), procuring (through a fair, equitable, transparent, competitive and cost-effective system).
- 49.3. Risk management in the supply chain management context ensures that a department identifies and understands the risks to which it is exposed. Risk management also guarantees that the department creates and implements an effective plan to prevent losses or reduce the impact if a loss occurs.
- 49.4. Operational risk is the exposure of an organisation to losses resulting from internal failures or shortcomings of people, processes and systems. Supply Chain Management is also reliant on people, processes and systems to function effectively.
- 49.5. Technology controls are required throughout the department to ensure that technology is protected against human error, data theft, equipment failure, fire, heat, water, smoke, corrosive fumes etc.
- 49.6. SCM must participate in the risk management processes. The criteria for the identification, consideration and avoidance of potential risks in the supply chain management system, are as follows:
- 49.6.1. the identification of risks on a case-by-case basis;
  - 49.6.2. the allocation of risks to the party best suited to manage such risks;
  - 49.6.3. acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;
  - 49.6.4. the management of risks in a pro-active manner and the provision of adequate cover for residual risks; and

the assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.

## **50. SUPPLY CHAIN MANAGEMENT PERFORMANCE MANAGEMENT SYSTEM**

50.1. Performance Management depicts the final element in the SCM cycle. The process consists of a retrospective analysis to determine whether the proper process was followed and whether the desired outcomes were achieved.

50.2. Performance management reviews the following:

50.2.1. Compliance to norms and standards.

50.2.2. Cost efficiency of SCM processes.

50.2.3. If the supply chain practices are consistent with Government's broader policy focus.

50.3. Performance management oversees the following SCM related:

50.3.1. Internal Audit and the Auditor General action plans.

50.3.2. Oversee the implementation and monitoring of SCM complaints system.

### **50.4. Submission of Returns / Statistics**

50.4.1. In order to ensure effective Supply Chain Management within the department, the Chief Directorate will issue circulars, templates and timeframes for submission of all required information/statistics.

50.4.2. Monthly reporting of SCM performance as and when necessary to relevant stakeholders must be complied with.

## **51. OCCUPATIONAL HEALTH, SAFETY AND ENVIRONMENT**

51.1. The department is committed to highest standards of safety, health and environment protection.

Occupational health and safety issues should not only be considered for employees but also for suppliers of goods and services at any site in the department.

## **52. NON-COMPLIANCE AND IRREGULAR EXPENDITURE**

- 52.1. Irregular Expenditure incurred as a result of non-compliance with the applicable SCM laws and regulations shall;
- 52.1.1. Be recorded in the Irregular Expenditure Register and be reported to Provincial Treasury on a monthly, quarterly and annual basis.
  - 52.1.2. Be investigated in accordance with the guidelines issued by National Treasury on Irregular Expenditure.
  - 52.1.3. Corrective Action shall be taken against all officials found guilty of causing the department to incur irregular expenditure.
  - 52.1.4. Where an official is suspected of breaching the policy (corruption, improper conduct or failure to comply with the supply chain management system), an internal investigation shall be undertaken, and depending on the outcome, Departmental / civil and/or criminal legal action shall be instituted against the employee. Where the allegations are justified
    - 52.1.4.1. Inform Provincial Treasury about such steps.
    - 52.1.4.2. report any conduct that may constitute an offence to the South African Police Service
  - 52.1.5. Any disciplinary action arising from breach of this policy will be taken according to the disciplinary code and grievance procedure of the Department and Public Service Regulations.
  - 52.1.6. Completed disciplinary cases and outcomes thereof shall also be reported to the Executive Authority, the National Treasury, the Auditor General of South Africa, the Department of Public Service and Administration and the Public Service Commission.

## **53. FRAUD AND CORRUPTION**

- 53.1. The Department shall conduct a fraud risk assessment annually.
  - 53.2. The Department shall review its internal controls to ensure their effectiveness in prevention and dealing with fraud activities.
  - 53.3. SCM Practitioners and all other officials must report incidents of fraud through the National Fraud and Corruption Hotline.
- The provisions of the Prevention and Combating of Corrupt Activities Act No. 12 of 2004 as well as the Department's Fraud and Corruption Prevention Policy shall be adhered to.

**54. DOUBLE DIPPING**

54.1. Double dipping is an unethical practice and shall not permitted. The department will cooperate with other Organs of State to eliminate double dipping, fraud and corruption.

**55. EXEMPTIONS**

55.1. Any deviation from this policy shall be motivated with reasons for recommendation by the Chief Financial Officer and approval by the Accounting Officer.

55.2. Exemptions to the policy must be approved by the Accounting Officer.

**56. NON-COMPLIANCE TO THE POLICY**

56.1. All employees share the responsibility of adhering to and enforcing the policy. Mistreatment or abuse of this policy could result in possible disciplinary action under the Disciplinary Code.

**57. POLICY REVIEW**

57.1. The SCM Director is delegated to issue Departmental Circulars to advise on changes to the Policy as a result of Instructions or any legislation that may be issued by National Treasury or Provincial Treasury OCPO.

This SCM Policy shall be reviewed every two years or as and when required in line with National or Provincial SCM legislation.

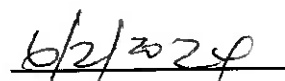
**POLICY SIGN-OFF: -**

**APPROVED/~~NOT APPROVED~~**



**DR. F. NGQOBE**

**ACTING HEAD OF DEPARTMENT**



**DATE**