



# **BITOU MUNICIPALITY**

## **SUPPLY CHAIN MANAGEMENT POLICY INCORPORATING PREFERENTIAL PROCUREMENT**

**ADOPTED ON: 27 MAY 2015**

**BITOU MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY INCORPORATING PREFERENTIAL PROCUREMENT**

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**SUPPLY CHAIN MANAGEMENT POLICY**

The Supply Chain Management Policy, adopted in terms of Section 111 of the Local Government: Municipal Finance Management Act, No. 56 of 2003 and the Municipal Supply Chain Management Regulations, Notice 868 of 30 May 2005;

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

<b>VERSION CONTROL</b>					
<b>POLICY OWNER:</b>		Bitou Municipality Supply Chain Management Unit			
<b>POLICY EFFECTIVE DATE:</b>		01 JULY 2015			
<b>Version</b>	<b>Date</b>	<b>Revision</b>	<b>Section</b>	<b>Page</b>	<b>Reason for change</b>
1	14 December 2005		All	All	Policy Approval
2	2007	Yes	All	All	Annual Review
3	29 May 2013	Yes	All	All	Annual Review
4	31 March 2014	Yes	All	All	Alignment of SCM Policy to the National Treasury Model Policy.
5	31 March 2015	Yes	All	All	Annual review of Budget-related policies

**BITOU MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY INCORPORATING PREFERENTIAL PROCUREMENT**

<b>TABLE OF CONTENTS</b>		
<b>SECTION</b>	<b>DESCRIPTION</b>	<b>PAGE #</b>
1	DEFINITIONS	6
	<b>CHAPTER 1: IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT</b>	
2	SUPPLY CHAIN MANAGEMENT POLICY	9
3	AMENDMENT OF SUPPLY CHAIN MANAGEMENT POLICY	9
4	DELEGATION OF SUPPLY CHAIN MANAGEMENT POWERS AND DUTIES	10
5	SUB-DELEGATIONS	10
6	OVERSIGHT ROLE OF COUNCIL	11
7	SUPPLY CHAIN MANAGEMENT UNITS	12
8	TRAINING OF SUPPLY CHAIN MANAGEMENT OFFICIALS	12
	<b>CHAPTER 2: SUPPLY CHAIN MANAGEMENT SYSTEM</b>	
9	FORMAT OF SUPPLY CHAIN MANAGEMENT	13
	<b><i>PART 1: DEMAND MANAGEMENT</i></b>	
10	SYSTEM OF DEMAND MANAGEMENT	13
	<b><i>PART 2: ACQUISITION MANAGEMENT</i></b>	
11	SYSTEM ACQUISITION MANAGEMENT	14
12	RANGE OF PROCUREMENT PROCESSES	14
13	GENERAL PRECONDITIONS FOR CONSIDERATION OF WRITTEN QUOTATIONS OR BIDS	14
14	LISTS OF ACCREDITED PROSPECTIVE PROVIDERS	15
15	PETTY CASH PURCHASES	16
16	WRITTEN OR VERBAL QUOTATIONS	16
17	FORMAL WRITTEN PRICE QUOTATIONS	17
18	PROCEDURES FOR PROCURING GOODS OR SERVICES THROUGH WRITTEN OR VERBAL QUOTATIONS AND FORMAL WRITTEN PRICE QUOTATIONS	17
19	COMPETITIVE BIDDING PROCESS	18
20	PROCESS FOR COMPETITIVE BIDS	18
21	BID DOCUMENTATION FOR COMPETITIVE BIDS	18
22	PUBLIC INVITATION FOR COMPETITIVE BIDS	19

**BITOU MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY INCORPORATING PREFERENTIAL PROCUREMENT**

<b>TABLE OF CONTENTS</b>		
<b>SECTION</b>	<b>DESCRIPTION</b>	<b>PAGE #</b>
23	PROCEDURE FOR HANDLING, OPENING AND RECORDING OF BIDS	20
24	NEGOTIATIONS WITH PREFERRED BIDDERS	21
25	TWO-STAGE BIDDING PROCESS	21
26	COMMITTEE SYSTEM FOR COMPETITIVE BIDS	21
27	BID SPECIFICATION COMMITTEES	21
28	BID EVALUATION COMMITTEE	22
29	BID ADJUDICATION COMMITTEE	23
30	PROCUREMENT OF BANKING SERVICES	24
31	PROCUREMENT OF IT GOODS AND SERVICES	24
32	PROCUREMENT OF GOODS AND SERVICES UNDER CONTRACTS SECURED BY OTHER ORGANS OF STATE	24
33	PROCUREMENT OF GOODS NECESSITATING SPECIAL SAFETY ARRANGEMENTS	25
34	PROUDLY SA CAMPAIGN	25
35	APPOINTMENT OF CONSULTANTS	25
36	DEVIATION FROM, AND RATIFICATION OF MINOR BREACHES OF, PROCUREMENT PROCESSES	25
37	UNSOLICITED BIDS	26
38	COMBATING OF ABUSE OF SUPPLY CHAIN MANAGEMENT SYSTEM	27
	<b><i>PART 3: LOGISTICS, DISPOSAL, RISK AND PERFORMANCE MANAGEMENT</i></b>	
39	LOGISTICS MANAGEMENT	29
40	DISPOSAL MANAGEMENT	29
41	RISK MANAGEMENT	30
42	PERFORMANCE MANAGEMENT	31
	<b><i>PART 4: OTHER MATTERS</i></b>	
43	PROHIBITION ON AWARDS TO PERSONS WHOSE TAX MATTERS ARE NOT IN ORDER	32
44	PROHIBITION ON AWARDS TO PERSONS IN THE SERVICE OF THE STATE	32
45	AWARDS TO CLOSE FAMILY MEMBERS OF PERSONS IN THE SERVICE OF THE STATE	32

**BITOU MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY INCORPORATING PREFERENTIAL PROCUREMENT**

---

<b>TABLE OF CONTENTS</b>		
<b>SECTION</b>	<b>DESCRIPTION</b>	<b>PAGE #</b>
46	ETHICAL STANDARDS	32
47	INDUCEMENTS, REWARDS, GIFTS AND FAVOURS TO MUNICIPALITIES, OFFICIALS AND OTHER ROLE PLAYERS	33
48	SPONSORSHIPS	34
49	OBJECTIONS AND COMPLAINTS	34
50	RESOLUTION OF DISPUTES, OBJECTIONS, COMPLAINTS AND QUERIES	34
51	APPEALS	35
51	CONTRACT MANAGEMENT	35
52	CONTRACTS PROVIDING FOR COMPENSATION BASED ON TURNOVER	35
53	COMMENCEMENT	36
ANNEXURE A	CODE OF CONDUCT FOR SCM PRACTITIONERS	37

**1. Definitions**

**BITOU MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY INCORPORATING PREFERENTIAL PROCUREMENT**

In this Policy, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the **Municipal Finance Management Act, no 56 of 2003**, has the same meaning as in the Act, and –

<b>“Accounting Officer”</b>	in relation to a Municipality means the Municipal Manager as described in Section 60 of the Local Government: Municipal Finance Management Act, no 56 of 2003 as well as Section 82 of the Municipal Structures Act, no 117 of 1998.
<b>“Bid”</b>	means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of services, works or goods
<b>“Close Family Member”</b>	means: (i) spouse, (ii) child, (iii) parent
<b>“Competitive Bidding Process”</b>	means a competitive bidding process referred to in paragraph 12 (1) (d) of this Policy;
<b>“Competitive Bid”</b>	means a bid in terms of a competitive bidding process;
<b>“Consultants”</b>	means consulting firms, engineering firms, legal firms, construction managers, management firms, procurement agents, inspection agents, auditors, other multinational organizations, investments and merchant banks, universities, research agencies, government agencies, non-governmental (NGO’s) and individuals.
<b>“Emergency”</b>	means a serious, unexpected, unforeseen and potentially dangerous and damaging situation requiring immediate action and which is not due to a lack of planning.
<b>“Exceptional Case”</b>	means unusual not typical circumstances where it is impractical or impossible in practice to follow procurement processes.
<b>“Final Award”</b>	in relation to bids or quotations submitted for a contract, means the final decision on which bid or quote to accept;
<b>“Formal Written Price Quotation”</b>	means quotations referred to in Section 12 (1) (c) of this Policy;
<b>“Head Of Department”</b>	means a person in the employment of Bitou municipality who heads a department or who reports to the Municipal Manager
<b>“In The Service Of The State”</b>	means to be – (a) a member of – i) any municipal council; ii) any provincial legislature; or iii) the National Assembly or the National Council of Provinces; (b) a member of the board of directors of any municipal entity; (c) an official of any municipality or municipal entity; (d) an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No.1 of 1999); (e) a member of the accounting authority of any national or provincial public entity; or

**BITOU MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY INCORPORATING PREFERENTIAL PROCUREMENT**

	(f) an employee of Parliament or a provincial legislature;
<b>“Irregular Expenditure”</b>	For the purpose of this Policy means expenditure incurred by the municipality in contravention of, or that is not in accordance with, a requirement of the Supply Chain Management Policy of the municipality, and which is not been condoned in terms of the Policy
<b>“Long Term Contract”</b>	means a contract with a duration period exceeding one year;
<b>“List Of Accredited Prospective Providers”</b>	means the list of accredited prospective providers which the municipality must keep in terms of Section 14 of this policy;
<b>“Municipality”</b>	means Bitou Local Municipality
<b>“Municipal Systems Act”</b>	means the Local Government: Municipal System Act 32 of 2000
<b>“Notice Boards”</b>	means the official notice boards at the municipal offices, libraries and any notice boards at the dedicated directorates
<b>“Other Applicable Legislation”</b>	means any other legislation applicable to municipal supply chain management, including – a) the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000); b) the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003); c) the Construction Industry Development Board Act, 2000 (Act No.38 of 2000); d) the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003); e) the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000); f) the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998); g) the Prevention and Combating of Corrupt Activities Act, 2000 (Act No. 12 of 2004); h) the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003): Municipal Supply Chain Management Regulations; i) the Preferential Procurement Regulations, 2011
<b>“Quotation”</b>	means a stated price that a supplier expects to receive for the provision of specified services, works or goods;
<b>“Sole Supplier”</b>	means the only supplier in the South African market that can provide a particular product or service;
<b>“Tender”</b>	means ‘bid’ or ‘quotation’ in relation to ‘Tender Box’
<b>“Treasury Guidelines”</b>	means any guidelines on supply chain management issued by the Minister in terms of Section 168 of the Act;

**CHAPTER 1**

**BITOU MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY INCORPORATING PREFERENTIAL PROCUREMENT**

---

**ESTABLISHMENT AND IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY**

**2. Supply Chain Management Policy**

- (1) The Bitou Municipality resolved in terms of Section 111 of the Municipal Finance Management Act, No 56 of 2003, to have and implement a Supply Chain Management Policy that:
  - a) gives effect to –
    - i) Section 217 of the Constitution; and
    - ii) Part 1 of Chapter 11 and other applicable provisions of the Act;
  - b) is fair, equitable, transparent, competitive and cost effective;
  - c) complies with –
    - i) the Regulations; and
    - ii) any minimum norms and standards that may be prescribed in terms of Section 168 of the Act;
  - d) is consistent with other applicable legislation;
  - e) does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres;
  - f) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector;
  - g) applies the highest ethical standards;
  - h) promotes local economic development; and
  - i) assign responsibility for the implementation of the policy to the Accounting Officer of the Municipality.
- (2) The Municipality may not act otherwise than in accordance with this Supply Chain Management Policy when:
  - (a) procuring goods or services;
  - (b) disposing of goods no longer needed;
  - (c) selecting contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies; or
  - (d) selecting external mechanisms referred to in Section 80 (1) (b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in Section 83 of that Act.
- (3) This Policy, except where provided otherwise, does not apply in respect of the procurement of goods and services contemplated in Section 110(2) of the Act, including –
  - (a) water from the Department of Water Affairs or a public entity, another municipality or a municipal entity;
  - (b) electricity from Eskom or another public entity, another municipality or a municipal entity; and
- (4) This Policy does not apply in respect of the procurement of the publication of notices and advertisements in media distributed locally.

**3. Amendment of the Supply Chain Management Policy**

- (1) The Accounting Officer must –
  - (a) at least annually review the implementation of this Policy; and
  - (b) when the Accounting Officer considers it necessary, submit proposals for the amendment of this Policy to the Council.



**BITOU MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY INCORPORATING PREFERENTIAL PROCUREMENT**

---

- (2) If the Accounting Officer submits proposed amendments to the council that differs from the model policy issued by the National Treasury, the Accounting Officer must –
  - (a) ensure that such proposed amendments comply with the Regulations; and
  - (b) report any deviation from the model policy to the National Treasury and the Provincial Treasury.
  - (c) When amending this Supply Chain Management Policy the need for uniformity in supply chain practices, procedures and forms between organs of state in all spheres, particularly to promote accessibility of supply chain management systems for small businesses must be taken into account.
  - (d) The Accounting Officer must, in terms of Section 62(1) (f) (i) of the Act, take all reasonable steps to ensure that the Municipality has and implements this Supply Chain Management Policy.

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

- (1) The council hereby delegates all powers and duties to the Accounting Officer which are necessary to enable the Accounting Officer –
  - (a) to discharge the supply chain management responsibilities conferred on the Accounting Officer in terms of –
    - (i) Chapter 8 of the Act; and
    - (ii) the Supply Chain Management Policy.
  - (b) to maximize administrative and operational efficiency in the implementation of this Policy;
  - (c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of this Policy; and
  - (d) to comply with his or her responsibilities in terms of Section 115 and other applicable provisions of the Act.
- (2) Section 79 of the Act applies to the sub-delegation of powers and duties delegated to an Accounting Officer in terms of Sub-Section (1).
- (3) The Council or Accounting Officer may not sub-delegate any supply chain management powers or duties to a person who is not an official of municipality or to a committee which is not exclusively composed of officials of the municipality.
- (4) Section 4(3) may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in Section 26 of this Policy.

**5. Sub-delegations**

- (1) The Accounting Officer may in terms of Section 79 of the Act sub-delegate any supply chain management powers and duties, including those delegated to the Accounting Officer in terms of this Policy, but any such sub-delegation must be consistent with Sub-Section (2) of this Section and Section 4 of this Policy.
- (2) The power to make a final award –
  - (a) above R10 million may not be sub-delegated by the Accounting Officer;
  - (b) above R2 million, but not exceeding R10 million, may be sub-delegated but only to –
    - (i) the Chief Financial Officer;
    - (ii) a Head of Department; or
    - (iii) a Bid Adjudication Committee of which the Chief Financial Officer or a senior manager is a member.
  - (c) not exceeding R2 million may be sub-delegated but only to –

**BITOU MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY INCORPORATING PREFERENTIAL PROCUREMENT**

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- (i) the Chief Financial Officer;
  - (ii) a Head of Department;
  - (iii) a manager directly accountable to the Chief Financial Officer or a Head of Department, or
  - (iv) a Bid Adjudication Committee.
- (3) An official or Bid Adjudication Committee to which the power to make final awards has been sub-delegated in accordance with Sub-Section (2) must within five working days of the end of each month submit to the Accounting Officer a written report containing particulars of each final award made by such official or committee during that month, including–
- (a) the amount of the award;
  - (b) the name of the person to whom the award was made; and
  - (c) the reason why the award was made to that person.
- (4) A written report referred to in Sub-Section (3) must be submitted –
- (a) to the Accounting Officer, in the case of an award by –
    - (i) the Chief Financial Officer;
    - (ii) a senior manager; or
    - (iii) a Bid Adjudication Committee of which the Chief Financial Officer or a senior manager is a member.
  - (b) to the Chief Financial Officer or the senior manager responsible for the relevant bid, in the case of an award by –
    - (i) a manager referred to in subparagraph (2)(c)(iii); or
    - (ii) a Bid Adjudication Committee of which the Chief Financial Officer or a senior manager is not a member.
- (5) Sub-Section (3) of this Section does not apply to procurements out of petty cash.
- (6) This Section may not be interpreted as permitting an official to whom the power to make final awards has been sub-delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in Section 26 of this Policy.
- (7) No supply chain management decision-making powers may be delegated to an advisor or consultant.

**6. Oversight role of council**

- (1) The council reserves its right to maintain oversight over the implementation of this Policy.
- (2) For the purposes of such oversight the Accounting Officer must –
  - (a) within 30 days of the end of each financial year, submit a report on the implementation of this Policy and the Supply Chain Management Policy of any municipal entity under the sole or shared control of the municipality, to the council of the municipality; and
  - (b) whenever there are serious and material problems in the implementation of this Policy, immediately submit a report to the council.
- (3) The Accounting Officer must, within 10 days of the end of each quarter, submit a report on the implementation of the Supply Chain Management Policy to the mayor.
- (4) The reports must be made public in accordance with Section 21A of the Municipal Systems Act.
- (5) The Accounting Officer will, within 60 days of the end of each financial year, submit to the Provincial Treasury any information concerning supply chain management in such format as the National Treasury and Provincial Treasury may determine.

**BITOU MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY INCORPORATING PREFERENTIAL PROCUREMENT**

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**7. Supply Chain Management Unit**

- (1) The Accounting Officer must establish a Supply Chain Management Unit to implement this Policy.
- (2) The Supply Chain Management Unit operates under the direct supervision of the Chief Financial Officer or an official to whom this duty has been delegated in terms of Section 82 of the Act.

**8. Training of supply chain management officials**

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



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

**9. Format of supply chain management system**

- (a) This Supply Chain Management Policy provides systems for –

- (i) demand management;
- (ii) acquisition management;
- (iii) logistics management;
- (iv) disposal management;
- (v) risk management; and
- (vi) performance management.

***Part 1: Demand Management***

**10. System of demand management**

- (1) The Accounting Officer must establish and implement an appropriate demand management system in order to ensure that the resources required by the municipality to support its operational commitments and its strategic goals outlined in the Integrated Development Plan.
  
- (2) The demand management system must –
  - (a) include timely planning and management processes to ensure that all goods and services required by the municipality are quantified, budgeted for and timely and effectively delivered at the right locations and at the critical delivery dates, and are of the appropriate quality and quantity at a fair cost;
  - (b) take into account any benefits of economies of scale that may be derived in the case of acquisitions of a repetitive nature;
  - (c) provide for the compilation of the required specifications to ensure that its needs are met;
  - (d) undertake appropriate industry analysis and research to ensure that innovations and technological benefits are maximized; and
  - (e) include the following demand management considerations –
    - (i) understanding of future and current needs;
    - (ii) requirements are linked to the budget;
    - (iii) specifications are determined;
    - (iv) needs form part of the strategic plan and Integrated Development Plan of the Municipality;
    - (v) analysis of past and current expenditure;
    - (vi) optimum methods to satisfy needs;
    - (vii) frequency of requirements are specified;
    - (viii) calculation of economic order quantity; and
    - (ix) conducting of industry and market analysis.

***Part 2: Acquisition management***

**11. System of acquisition management**

- (1) The Accounting Officer must establish, through operational procedures, an effective system of acquisition management in order to ensure:-
  - (a) that goods and services are procured by the municipality in accordance with authorized processes only;
  - (b) that expenditure on goods and services is incurred in terms of an approved budget in terms of Section 15 of the Act;
  - (c) that the threshold values for the different procurement processes are complied with;
  - (d) that bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation; and
  - (e) that any Treasury guidelines on acquisition management are properly taken into account.
- (2) When procuring goods or services contemplated in Section 110(2) of the Act, the Accounting Officer must make public the fact that such goods or services are procured otherwise than through the municipality's supply chain management system, including -
  - (a) the kind of goods or services; and
  - (b) the name of the supplier.

**12. Range of procurement processes**

- (1) Goods and services may only be procured by way of –
  - (a) petty cash purchases in terms of Council's Petty Cash Policy for procurement transactions with a value up to R2 000 (Incl. VAT);
  - (b) written or verbal quotations for procurement transactions of a value up to R10 000;
  - (c) formal written price quotations for procurement transactions of a value over R10 000 up to R200 000; and
  - (d) a competitive bidding process for–
    - (i) procurement transactions with a value above of R200 000; and
    - (ii) the procurement of long term contracts.
- (2) The Accounting Officer may, in writing-
  - (a) lower, but not increase, the different threshold values specified in Sub-Section (1); or
  - (b) direct that –
    - (i) written or verbal quotations be obtained for any specific procurement of a transaction value lower than R2 000;
    - (ii) formal written price quotations be obtained for any specific procurement of a transaction value lower than R10 000; or
    - (iii) a competitive bidding process be followed for any specific procurement of a transaction value lower than R200 000.
- (3) Goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of the policy. When determining transaction values, a requirement for goods or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction.

**BITOU MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY INCORPORATING PREFERENTIAL PROCUREMENT**

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**13. General preconditions for consideration of written quotations or bids**

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

- (a) has furnished that provider's –
  - (i) full name;
  - (ii) identification number or company or other registration number; and
  - (iii) tax reference number and VAT registration number, if any;
- (b) has authorised the Municipality to verify any of the documentation referred to in Sub-Section (a) above; and
- (c) has indicated –
  - (i) whether he or she is in the service of the state, or has been in the service of the state in the previous twelve months;
  - (ii) if the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the state, or has been in the service of the state in the previous twelve months; or
  - (iii) whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in Sub-Section (ii) is in the service of the state, or has been in the service of the state in the previous twelve months.
- (d) has indicated the status of the providers municipal accounts with Bitou Municipality, where applicable.

**14. Lists of accredited prospective providers**

- (1) The Accounting Officer must –
  - (a) keep a list of accredited prospective providers of goods and services that must be used for the procurement requirements through written or verbal quotations and formal written price quotations;
  - (b) at least once a year through newspapers commonly circulating locally, the website and any other appropriate ways, invite prospective providers of goods or services to apply for evaluation and listing as accredited prospective providers;
  - (c) ensure that prospective providers meet the following listing criteria:
    - (i) Name of supplier / service provider;
    - (ii) Street address;
    - (iii) Postal address;
    - (iv) Contact person in Sales Department;
    - (v) Sales Department's telephone number;
    - (vi) Sales Department's fax number;
    - (vii) Sales Department's cell number;
    - (viii) Sales Department's email address;
    - (ix) Contact person in Accounts Department;
    - (x) VAT registration number;
    - (xi) Bank details;
    - (xii) Type of industry;
    - (xiii) Valid certification for specialised services;
    - (xiv) Valid tax clearance certificate, if available;

**BITOU MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY INCORPORATING PREFERENTIAL PROCUREMENT**

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- (xv) Valid certification in respect of Exempted Micro Enterprises or B-BBEE Status Level of Contributor, if available; and
- (xvi) Relevant identification numbers of all members, directors and partners
- (d) disallow the listing of any prospective provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector.
- (2) The list must be updated at least quarterly to include any additional prospective providers and any new commodities or types of services. Prospective providers must be allowed to submit applications for listing at any time.
- (3) The list must be compiled per commodity and per type of service.
- (4) Once a list has been compiled per commodity and per type of service, price quotations will be invited from the suppliers in a manner that promotes on-going competition, including on a rotation basis.
- (5) The inclusion of any supplier in the database of suppliers does not exempt the supplier from the obligation to respond in the prescribed manner to notices of the municipality's supply chain management requirements.
- (6) Suppliers who wish to be included in the list of accredited suppliers without waiting for the next invitation may approach the Procurement Section for inclusion, provided that they supply the necessary documentation and information for evaluation. Once these requirements have been satisfied, the Procurement Section will ensure that the prospective supplier is evaluated and will provide a response as to approval or not within a reasonable time.

**15. Petty cash purchases**

- (1) The conditions for the procurement of goods by means of petty cash purchases referred to in Section 12(1)(a) of this Policy must be stipulated in a Petty Cash Policy which must comply with the individual transaction with the Chief Financial Officer having the discretion to approve transactions under exceptional circumstances that does not exceed R 500 per transaction.

**16. Written or verbal quotations**

- (1) The conditions for the procurement of goods by means of verbal quotations for minor items with a value up to R2 000 are as follows:
  - a) Verbal quotations must be obtained from at least one prospective supplier or service provider preferably from, but not limited to, suppliers or service providers whose names appear on the list of accredited prospective providers of the Municipality provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria set out in Section 14(1) (b), (c) and (d) of this Policy;
  - b) when using the list of accredited prospective providers the Accounting Officer must promote on-going competition amongst providers by inviting providers to submit quotations on a rotation basis if and when possible;
  - c) if a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider; and
  - d) no orders may be placed based on verbal price quotations only.
- (2) The conditions for the procurement of goods or services for a value over R2 000 up to R10 000, through written quotations are as follows:
  - (a) Written quotations must be obtained from at least three different providers preferably from, but not limited to, providers whose names appear on the list of accredited prospective providers of the municipality, provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria set out in Section 14(1)(b) and (c) of this Policy;
  - (b) to the extent feasible, providers must be requested to submit such quotations in writing;

**BITOU MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY INCORPORATING PREFERENTIAL PROCUREMENT**

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- (c) if it is not possible to obtain at least three quotations, the reasons must be recorded and reported quarterly to the Accounting Officer or another official designated by the Accounting Officer;
  - (d) the Accounting Officer must record the names of the potential providers requested to provide such quotations with their quoted prices; and
- (3) Quotations must:
- (a) be signed by a person with the necessary authority to act on behalf of the prospective supplier;
  - (b) comply with the specifications set out in the quotation notice;
  - (c) be marked for identification in relation to the particular quotation.
- (4) Re-imbursments to personnel are subject to emergency situations only, and have to be authorized by the relevant Head of the Department as well as the Chief Financial Officer.

**17. Formal written price quotations**

- (1) The conditions for the procurement of goods or services for a value over R10 000 up to R200 000, through formal written price quotations are as follows:
- (a) quotations must be obtained in writing from at least three different providers whose names appear on the list of accredited prospective providers of the municipality;
  - (b) quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria set out in Section 14(1)(b) and (c) of this Policy;
  - (c) if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the Chief Financial Officer or an official designated by the Chief Financial Officer, and
  - (d) the Accounting Officer must record the names of the potential providers and their written quotations.
- (2) Quotations must:
- (a) be in writing, and signed by a person with the necessary authority to act on behalf of the prospective supplier;
  - (b) comply with the specifications set out in the quotation notice;
  - (c) be marked for identification in relation to the particular quotation.
- (3) A designated official referred to in Sub-Section (1) (c) must within three days of the end of each month report to the Chief Financial Officer on any approvals given during that month by that official in terms of that Sub-Section.

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

- (1) The procedure for the procurement of goods or services through written or verbal quotations or formal written price quotations is as follows:
- (a) when using the list of accredited prospective providers the Accounting Officer must promote on-going competition amongst providers by inviting providers to submit quotations on a rotation basis;
  - (b) all goods and services in excess of R30 000 that are to be procured by means of formal written price quotations must, in addition to the requirements of Section 17, be advertised for at least seven days on the website and an official notice board of the municipality;
  - (c) re-imbursments to personnel are subject to emergency situations only, and have to be authorized by the relevant Head of the Department as well as the Chief Financial Officer;



**BITOU MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY INCORPORATING PREFERENTIAL PROCUREMENT**

---

- (d) offers received must be evaluated on a comparative basis taking into account unconditional discounts;
  - (e) the Accounting Officer or Chief Financial Officer must on a monthly basis be notified in writing of all written or verbal quotations and formal written price quotations accepted by an official acting in terms of a sub delegation;
  - (f) offers below R30 000 must be awarded based on compliance to specifications and conditions of contract, ability and capability to deliver the goods and services and lowest price;
  - (g) acceptable offers, which are subject to the preference points system (PPPFA and associated regulations), must be awarded to the bidder who scored the highest points; and
  - (h) requirements for proper record keeping such as:
    - (i) filing of documents for audit purposes;
    - (ii) ensure the correctness of documents;
    - (iii) before awards proper checking of documents must be done.
- (2) Notwithstanding the above requirements for consideration, quotations not to specification may not be accepted.
- (3) Only quotations complying with the specifications will be considered to be accepted, provided that there are sufficient funds within the appropriate budget.
- (4) Where no quotation complies with the specification, as determined by the Head of the Department, the SCM Manager may re-invite quotations.

**19. Competitive bids**

- (1) Goods or services above a transaction value of R200 000 and long term contracts may only be procured through a competitive bidding process, subject to Paragraph 11(2) of this Policy.
- (2) The bid documentation will be prepared by the SCM Manager in consultation with the relevant directorate and displayed on notice boards, placed on the council's website, and advertised in commonly circulated local and/or provincial newspapers with a closing date of at least 14 days after the date that the advertisement first appears.
- (3) No requirement for goods or services above an estimated transaction value of R200 000 may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.

**20. Process for competitive bidding**

- (1) The procedures for the following stages of a competitive bidding process are as follows:
  - (a) Compilation of bidding documentation as detailed in Section 21;
  - (b) Public invitation of bids as detailed in Section 22;
  - (c) Site meetings or briefing sessions as detailed in Section 22;
  - (d) Handling of bids submitted in response to public invitation as detailed in Section 23;
  - (e) Evaluation of bids as detailed in Section 28;
  - (f) Award of contracts as detailed in Section 29;
  - (g) Administration of contracts; after approval of a bid, the Accounting Officer and the bidder must enter into a written agreement.
  - (h) Proper record keeping; Original / legal copies of written contract agreements should be kept in a secure place for reference purposes.

**BITOU MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY INCORPORATING PREFERENTIAL PROCUREMENT**

---

**21. Bid documentation for competitive bids**

- (1) The criteria with which bid documentation for a competitive bidding process must comply, must –
- (a) take into account –
    - (i) the general conditions of contract and any special conditions of contract, if specified;
    - (ii) any Treasury guidelines on bid documentation; and
    - (iii) the requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;
  - (b) include the preference points system to be used, goals as contemplated in the Preferential Procurement Regulations and evaluation and adjudication criteria, including any criteria required by other applicable legislation;
  - (c) include the compulsory submission of B-BBEE status level verification certificates or certified copies thereof;
  - (d) include evaluation and adjudication criteria, including any criteria required by other applicable legislation;
  - (e) include evaluation criteria for measuring of functionality (where applicable);
  - (f) include conditions for sub-contracting according to applicable legislation;
  - (g) ensure that a due diligence process is conducted to determine whether the preferred bidders have the capability and ability to execute the contract;
  - (h) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;
  - (i) if the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish–
    - (i) if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements
      - (aa) for the past three years; or
      - (bb) since their establishment if established during the past three years;
    - (ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;
    - (iii) particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract; and
    - (iv) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality or municipal entity is expected to be transferred out of the Republic.
  - (j) stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law;
  - (k) a requirement to supply tax references, tax clearance certificates, VAT registration numbers and identification or registration numbers;
  - (l) details of any contracts above R200 000 carried out on behalf of the municipality within the last five years;
  - (m) contract management processes and procedures including provision for the Accounting Officer to cancel the contract on the grounds of unsatisfactory performance; and
  - (n) any other matters as required by the MFMA and the Supply Chain Management Regulations.

**BITOU MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY INCORPORATING PREFERENTIAL PROCUREMENT**

---

**22. Public invitation for competitive bids**

- (1) The procedure for the invitation of competitive bids is as follows:
  - (a) Any invitation to prospective providers to submit bids must be by means of a public advertisement in newspapers commonly circulating locally, the website of the municipality or any other appropriate ways (which may include an advertisement in the Government Tender Bulletin); and
  - (b) the information contained in a public advertisement, must include –
    - (i) the closure date for the submission of bids, which may not be less than 30 days in the case of transactions over R10 million, or which are of a long term nature, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to Sub-Section (2) of this policy;
    - (ii) a statement that bids may only be submitted on the bid documentation provided by the municipality; and
    - (iii) date, time and venue of any proposed site meetings or briefing sessions.
- (2) The Accounting Officer may determine a closure date for the submission of bids which is less than the 30 or 14 days requirement, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process.
- (3) Bids submitted must be sealed.

**23. Procedure for handling, opening and recording of bids**

- (1) The procedures for the handling, opening and recording of bids, are as follows:
  - (a) Bids–
    - (i) must be opened only in public;
    - (ii) must be opened at the same time and as soon as possible after the period for the submission of bids has expired; and
    - (iii) received after the closing time should not be considered and returned unopened immediately.
  - (b) Any bidder or member of the public has the right to request that the names of the bidders who submitted bids in time must be read out and, if practical, also each bidder's total bidding price;
  - (c) No information, except the provisions in Sub-Section (b), relating to the bid should be disclosed to bidders or other persons until the successful bidder is notified of the award; and
  - (d) The Accounting Officer must –
    - (i) record in a register all bids received in time;
    - (ii) make the register available for public inspection; and
    - (iii) publish the entries in the register and the bid results on the website.
- (2) For a bid to be considered it must comply with all the requirements of the bid documentation and be placed in the official tender box located at the Supply Chain Management Unit in Marine Drive.
- (3) The Municipality charges a non-refundable fee for provision of bid documents. This is subject to annual review. Values of the fees will be determined annually and included in the official lists of tariffs.
- (4) Bid documents must be made available on Council's Website for free as far as possible.
- (5) The Supply Chain Manager will ensure that tender boxes are sealed until the time of their official opening, and ensure that they are properly secured.
- (6) At the advertised time, the tender box will be unlocked by officials from the Supply Chain Management Unit.

**BITOU MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY INCORPORATING PREFERENTIAL PROCUREMENT**

---

- (7) A Supply Chain Management practitioner will open bid documents in the presence of bidders or other interested parties.
- (8) The tender box may be opened without any members of public being present provided that the appropriate procedure for advertising the time and venue has been followed.
- (9) Unmarked or incorrectly marked tenders will not be opened
- (10) The names and total bid amounts will be read out and recorded in the tender register, which will be available for public inspection on request.
- (11) A copy of the record must be kept in the office of the SCM Manager and a complete schedule provided as soon as is practical.
- (12) Bid results will be published on the municipality's website.

**24. Negotiations with preferred bidders**

- (1) The Accounting Officer may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provided that such negotiation –
  - (a) does not allow any preferred bidder a second or unfair opportunity;
  - (b) is not to the detriment of any other bidder; and
  - (c) does not lead to a higher price than the bid as submitted.
- (2) Minutes of such negotiations must be kept for record purposes.

**25. Two-stage bidding process**

- (1) A two-stage bidding process is allowed for –
  - (a) large, complex projects;
  - (b) projects where it may be undesirable to prepare complete detailed technical specifications; or
  - (c) long term projects with a duration period exceeding three years.
- (2) In the first stage technical proposals on conceptual design or performance specifications should be invited, subject to technical as well as commercial clarifications and adjustments.
- (3) In the second stage final technical proposals and priced bids should be invited.

**26. Committee system for competitive bids**

- (1) The Accounting Officer is required to establish a committee system for competitive bids of at least-
  - (i) a Bid Specification Committee;
  - (ii) a Bid Evaluation Committee; and
  - (iii) a Bid Adjudication Committee.
- (2) The Accounting Officer appoints the members of each committee, taking into account Section 117 of the Act.
- (3) A neutral or independent observer, appointed by the Accounting Officer, must attend or oversee a committee when this is appropriate for ensuring fairness and promoting transparency.
- (4) The committee system must be consistent with –
  - (a) Section 27, 28 and 29 of this Policy; and
  - (b) any other applicable legislation.
- (5) The Accounting Officer may apply the committee system to formal written price quotations.

**BITOU MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY INCORPORATING PREFERENTIAL PROCUREMENT**

---

**27. Bid Specification Committees**

- (1) The bid specification committee must compile the specifications for each procurement transaction of goods or services by the municipality.
- (2) Specifications –
  - (a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
  - (b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organization, or an authority accredited or recognized by the South African National Accreditation System with which the equipment or material or workmanship should comply;
  - (c) must, where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;
  - (d) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labelling of conformity certification;
  - (e) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the word “equivalent”;
  - (f) must indicate each specific goal for which points may be awarded in terms of the points system set out in the Preferential Procurement Regulations 2011; and
  - (g) must be approved by the Bid Specification Committee prior to publication of the invitation for bids in terms of Section 22 of this Policy.
- (3) A bid specification committee must be composed of at least three (3) officials of the municipality. The attendance of the relevant Project Manager is compulsory and the Committee may, when appropriate, include external specialist advisors.
- (4) No person, advisor or corporate entity involved with the bid specification committee, or director of such a corporate entity, may bid for any resulting contracts.
- (5) The quorum for each meeting of the specification committee is 50% of the members plus one. One member from the Supply Chain Management Unit and one member of the directorate as minimum. A member of the specification committee can also be a member of either the Bid Evaluation or Bid Adjudication Committee (but not both committees) that considers any of the bids for the same goods or services.
- (6) The advertisement must be approved by the Accounting Officer or the official or Bid Specifications Committee delegated by the Accounting Officer, prior to advertisement of the bid.

**28. Bid evaluation committees**

- (1) The bid evaluation committee must –
  - (a) evaluate bids in accordance with –
    - (i) the specifications for a specific procurement; and
    - (ii) the points system set out in terms of Section 27(2)(f);
  - (b) evaluate each bidder’s ability to execute the contract;
  - (c) check in respect of the each bidder whether municipal rates and taxes and municipal service charges are not in arrears,
  - (d) check in respect of each bidder that their tax matters are in order and;
  - (e) may use the following remedies where a bidder does not comply to any or certain requirements–
    - (i) disqualify bidders from the bidding process;

**BITOU MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY INCORPORATING PREFERENTIAL PROCUREMENT**

---

- (ii) recover all costs, losses or damages the municipality has suffered from the bidder's non-compliance;
  - (iii) claim any damages as a result of having to make less favourable arrangements
  - (f) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.
- (2) A bid evaluation committee must as far as possible be composed of-
- (a) officials from departments requiring the goods or services; and
  - (b) at least one supply chain management practitioner of the municipality,
  - (c) Technical experts, consultants or advisors, provided that these experts can only actively contribute to discussions, and not vote on the items
  - (d) The quorum for each meeting of the Bid Evaluation Committee is 50 % of the members plus one, provided that one is a senior supply chain management practitioner.
  - (e) Attendance of the relevant project manager is compulsory'
  - (f) Members of the bid evaluation committees may not serve on any adjudication committee that adjudicates on any of the items that has been considered at a bid evaluation committee.
  - (g) Notwithstanding the above requirements for consideration, bids not according to specification may not be accepted and the evaluation committee may recommend that new tenders be called if necessary.

**29. Bid Adjudication Committees**

- (1) The Bid Adjudication Committee must –
- (a) consider the report and recommendations of the bid evaluation committee; and
  - (b) either –
    - (i) depending on its delegations, make a final award or a recommendation to the Accounting Officer to make the final award; or
    - (ii) make another recommendation to the Accounting Officer how to proceed with the relevant procurement.
- (2) The Bid Adjudication Committee must consist of at least four senior managers of the municipality which must include –
- (a) the Chief Financial Officer or, if the Chief Financial Officer is not available, another manager in the budget and treasury office reporting directly to the Chief Financial Officer and designated by the Chief Financial Officer; and
  - (b) at least one senior supply chain management practitioner who is an official of the municipality; and
  - (c) a technical expert in the relevant field who is an official, if such an expert exists.
- (3) The Accounting Officer must appoint the chairperson of the committee. If the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside at the meeting.
- (4) The quorum for each meeting of the Bid Adjudication Committee is 50 % of the members plus one.
- (5) Neither a member of a bid evaluation committee, nor an advisor or person assisting the evaluation committee, may be a member of a Bid Adjudication Committee.
- (6) If the Bid Adjudication Committee decides to award a bid other than the one recommended by the bid evaluation committee, the Bid Adjudication Committee must prior to awarding the bid –
- (i) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears,
  - (ii) check in respect of the preferred bidder whether the bidder's taxation matters are in order,

**BITOU MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY INCORPORATING PREFERENTIAL PROCUREMENT**

---

- (iii) notify the Accounting Officer.
- (7) The Accounting Officer may –
  - (i) after due consideration of the reasons for the deviation, ratify or reject the decision of the Bid Adjudication Committee referred to in paragraph (a); and
  - (ii) if the decision of the Bid Adjudication Committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.
- (8) The Accounting Officer may at any stage of a bidding process, refer any recommendation made by the evaluation committee or the adjudication committee back to that committee for reconsideration of the recommendation.
- (9) The Accounting Officer must comply with Section 114 of the Act within 10 working days.

**30. Procurement of banking services**

- (1) A contract for banking services –
  - (a) must be procured through competitive bids;
  - (b) must be consistent with Section 7 of the Act; and
  - (c) may not be for a period of more than five years at a time.
- (2) The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.
- (3) The closure date for the submission of bids may not be less than 60 days from the date on which the advertisement is placed in a newspaper in terms of Section 22(1). Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

**31. Procurement of IT related goods or services**

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

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

- (1) The Accounting Officer may procure goods or services under a contract secured by another organ of state, but only if –
  - (a) the contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;
  - (b) there is no reason to believe that such contract was not validly procured;
  - (c) there are demonstrable discounts or benefits to do so; and
  - (d) that other organ of state and the provider have consented to such procurement in writing.

**BITOU MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY INCORPORATING PREFERENTIAL PROCUREMENT**

---

- (2) Sub-Sections (1)(c) and (d) do not apply if –
- (a) a municipal entity procures goods or services through a contract secured by its parent municipality; or
  - (b) a municipality procures goods or services through a contract secured by a municipal entity of which it is the parent municipality.

**33. Procurement of goods necessitating special safety arrangements**

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

**34. Proudly SA Campaign**

- (1) The municipality supports the Proudly SA Campaign to the extent that, all things being equal, preference is given to procuring local goods and services from:
  - (a) Firstly – suppliers and businesses within the municipality or district;
  - (b) Secondly – suppliers and businesses within the relevant province;
  - (c) Thirdly – suppliers and businesses within the Republic.

**35. Appointment of consultants**

- (1) The Accounting Officer may procure consulting services provided that any Treasury guidelines in respect of consulting services are taken into account when such procurements are made.
- (2) Consultancy services must be procured through competitive bids if:
  - (a) the value of the contract exceeds R200 000; or
  - (b) the duration period of the contract exceeds one year.
- (3) In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish particulars of –
  - (a) all consultancy services provided to an organ of state in the last five years; and
  - (b) any similar consultancy services provided to an organ of state in the last five years.
- (4) The Accounting Officer must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, thing, system or process designed or devised, by a consultant in the course of the consultancy service, is vested in the municipality.
- (5) The appointment of advisors must also follow the same competitive bidding process as set out in this Policy.
- (6) No advisor will take any part in the final decision-making process regarding the award of bids.
- (7) No decision-making authority may be delegated to an advisor.

**36. Deviation from, and ratification of minor breaches of, procurement processes**

- (1) The Accounting Officer may –
  - (a) dispense with the official procurement processes established by this Policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only –



**BITOU MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY INCORPORATING PREFERENTIAL PROCUREMENT**

---

- (i) in an emergency which is considered an unforeseeable and sudden event with materially harmful or potentially materially harmful consequences for the municipality which requires urgent action to address.
  - (ii) where it can be demonstrated that goods or services are produced or available from a single provider only;
  - (iii) for the acquisition of special works of art or historical objects where specifications are difficult to compile;
  - (iv) acquisition of animals for zoos and/or nature and game reserves; or
  - (v) in any other exceptional case where it is impractical or impossible to follow the official procurement processes.
- (b) ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature; and
- (c) may condone any irregular expenditure incurred in contravention of, or that is not in accordance with a requirement of this Policy, provided that such condonation and the reasons therefore shall be reported to Council at the next ensuing meeting.
- (2) The Accounting Officer must record the reasons for any deviations in terms of Sub-Sections (1)(a) and (b) of this policy and report them to the next meeting of Council and include as a note to the annual financial statements.
- (3) Sub-Section (2) does not apply to the procurement of goods and services contemplated in Section 11(2) of this policy.

**37. Unsolicited bids**

- (1) In accordance with Section 113 of the Act there is no obligation to consider unsolicited bids received outside a normal bidding process.
- (2) The Accounting Officer may decide in terms of Section 113(2) of the Act to consider an unsolicited bid, only if –
- (a) the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;
  - (b) the product or service will be exceptionally beneficial to, or have exceptional cost advantages;
  - (c) the person who made the bid is the sole provider of the product or service; and
  - (d) the reasons for not going through the normal bidding processes are found to be sound by the Accounting Officer.
- (3) If the Accounting Officer decides to consider an unsolicited bid that complies with Sub-Section (2) of this policy, the decision must be made public in accordance with Section 21A of the Municipal Systems Act, together with –
- (a) reasons as to why the bid should not be open to other competitors;
  - (b) an explanation of the potential benefits if the unsolicited bid were accepted; and
  - (c) an invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.
- (4) The Accounting Officer must submit all written comments received pursuant to Sub-Section (3), including any responses from the unsolicited bidder, to the National Treasury and the relevant provincial treasury for comment.
- (5) The adjudication committee must consider the unsolicited bid and may award the bid or make a recommendation to the Accounting Officer, depending on its delegations.
- (6) A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.
- (7) When considering the matter, the adjudication committee must take into account –
- (a) any comments submitted by the public; and

**BITOU MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY INCORPORATING PREFERENTIAL PROCUREMENT**

---

- (b) any written comments and recommendations of the National Treasury or the Provincial Treasury.
- (8) If any recommendations of the National Treasury or Provincial Treasury are rejected or not followed, the Accounting Officer must submit to the Auditor-General, the Provincial Treasury and the National Treasury the reasons for rejecting or not following those recommendations. Such submission must be made within seven days after the decision on the award of the unsolicited bid is taken, but no contract committing the municipality to the bid may be entered into or signed within 30 days of the submission.

**38. Combating of abuse of supply chain management system**

- (1) The Accounting Officer must–
  - (a) take all reasonable steps to prevent abuse of the supply chain management system;
  - (b) investigate any allegations against an official or other role player of fraud, corruption, favouritism, unfair or irregular practices or failure to comply with this Policy, and when justified–
    - (i) take appropriate steps against such official or other role player; or
    - (ii) report any alleged criminal conduct to the South African Police Service;
  - (c) check the National Treasury's database prior to awarding any contract to ensure that no recommended bidder, or any of its directors, is listed as a person prohibited from doing business with the public sector;
  - (d) take cognizance of the provisions of Chapter 2 of the Competition Act no 89 of 1998, with specific reference to:
    - (i) restrictive practices;
    - (ii) abuse of a dominant position; and
    - (iii) exemption from application of Chapter 2 of the Act.
  - (e) reject any bid from a bidder–
    - (i) if any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the municipality, or to any other municipality or municipal entity, are in arrears for more than three months; or
    - (ii) who during the last five years has failed to perform satisfactorily on a previous contract with the municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;
  - (f) reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;
  - (g) cancel a contract awarded to a person if –
    - (i) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
    - (ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and
  - (h) reject the bid of any bidder if that bidder or any of its directors –
    - (i) has abused the supply chain management system of the municipality or has committed any improper conduct in relation to such system;
    - (ii) has been convicted for fraud or corruption during the past five years;
    - (iii) has wilfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or has been listed in the Register for Tender Defaulters in terms of Section 29 of the Prevention and has been in contravention of the Competition Act no 89 Of 1998.

**BITOU MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY INCORPORATING PREFERENTIAL PROCUREMENT**

---

- (i) No person placing a procurement requisition for goods or Services shall knowingly understate the requirements of the estimated value with the intention of avoiding a more stringent procurement process. This includes the deliberate splitting of requirements to reduce individual order values. Procurement is limited to R200 000 per commodity type per month unless a competitive bidding process has been undertaken. The Municipal Manager shall promptly institute disciplinary action against any person infringing this requirement.
  - (j) No official shall engage in contact with a prospective supplier in respect of a quotation or tender which the supplier intends to submit except where clarification of requirements is required from either party, or where the Accounting Officer may negotiate with identified preferred bidders. Any such communication must be recorded and appropriately filed with the bid documentation.
  - (k) The Accounting Officer may, where a bidder has contravened the prescriptions of the Competition Act no 89 of 1998 –
    - (i) recover all costs, losses or damages the Municipality suffered as a result of the bidder's conduct;
    - (ii) cancel the contract and claim any damages which the Municipality has suffered as a result of having to make less favourable arrangements due to such cancellation;
    - (iii) restrict the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis; and
    - (iv) forward the matter for criminal prosecution.
- (2) The Accounting Officer must inform the National Treasury and relevant Provincial Treasury in writing of any actions taken in terms of Sub-Sections (1)(b)(ii), (e)(f) or 2 of this policy.

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

**39. Logistics Management**

- (1) The Accounting Officer must establish and implement an effective system of logistics management, which must include -
  - (a) the monitoring of spending patterns on types or classes of goods and services incorporating, where practical, the coding of items to ensure that each item has a unique number;
  - (b) the setting of inventory levels that includes minimum and maximum levels and lead times wherever goods are placed in stock;
  - (c) the placing of manual or electronic orders for all acquisitions other than those from petty cash;
  - (d) before payment is approved, certification by the responsible officer that the goods and services are received or rendered on time and is in accordance with the order, the general conditions of contract and specifications where applicable and that the price charged is as quoted in terms of a contract;
  - (e) appropriate standards of internal control and warehouse management to ensure that goods placed in stores are secure and only used for the purpose for which they were purchased;
  - (f) regular checking to ensure that all assets including official vehicles are properly managed, appropriately maintained and only used for official purposes; and
  - (g) monitoring and review of the supply vendor performance to ensure compliance with specifications and contract conditions for particular goods or services.
  - (h) monitoring and review of the distribution of items,
  - (i) monitoring and review of losses and surpluses.

**40. Disposal management**

- (1) The criteria for the disposal or letting of assets, including unserviceable, redundant or obsolete assets will be subject to Sections 14 of the Act, and asset transfer regulations;
- (2) Assets may be disposed of by –
  - (i) transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;
  - (ii) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
  - (iii) selling the asset; or
  - (iv) destroying the asset
- (3) The Accounting Officer must ensure that –
  - (a) immovable property is sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
  - (b) movable assets are sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous;
  - (c) firearms are not sold or donated to any person or institution within or outside the Republic unless approved by the National Conventional Arms Control Committee;
  - (d) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise;
  - (e) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are reviewed annually;

**BITOU MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY INCORPORATING PREFERENTIAL PROCUREMENT**

---

- (f) where assets are traded in for other assets, the highest possible trade-in price is negotiated; and
- (g) in the case of the free disposal of computer equipment, the provincial department of education is first approached to indicate within 30 days whether any of the local schools are interested in the equipment.

**41. Risk management**

- (1) The criteria for the identification, consideration and avoidance of potential risks in the supply chain management system, must be identified.
- (2) Risk management must include –
  - (i) the identification of risks on a case-by-case basis;
  - (ii) the allocation of risks to the party best suited to manage such risks;
  - (iii) acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;
  - (iv) the management of risks in a pro-active manner and the provision of adequate cover for residual risks; and
  - (v) the assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.
- (3) The Accounting Officer must ensure that risks are identified utilizing the following methods –
  - (i) Focus group sessions;
  - (ii) Personal interviews;
  - (iii) Questionnaires;
  - (iv) Audit reports analysis;
  - (v) Statistical analysis of related risk data;
  - (vi) Trend analysis;
  - (vii) Scenario analysis; and
  - (viii) Forecasting methodologies.
- (4) The Accounting Officer must ensure that a risk register is implemented consisting of the following–
  - (i) Each risks identified with a unique number;
  - (ii) Description of the risk;
  - (iii) Assessment of occurrence or likelihood and its impact if it does;
  - (iv) Grading of risk;
  - (v) Responsibility for managing the risk; and
  - (vi) Proposed mitigation processes.
- (5) The Accounting Officer must ensure that all risks are assessed and indicating the magnitude of the risk as well as the probability of occurrence;
- (6) The Accounting Officer must ensure that a risk strategy is implemented which may include the following-
  - (i) avoiding the risk by eliminating the action;
  - (ii) treating the risk, how the risk can be prevented and if it were to occur how the impact can be minimized;.
  - (iii) transfer or outsource the risk;
  - (iv) tolerate the risk.

**BITOU MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY INCORPORATING PREFERENTIAL PROCUREMENT**

---

- (7) The Accounting Officer must ensure that all risk related matters are reported and that a communication plan which may consist of the following is implemented –
- (i) responsibility for the communication;
  - (ii) frequency of communication;
  - (iii) format of communication;
  - (iv) record of communication.

**42. Performance management**

- (1) The Accounting Officer must establish and implement an internal monitoring system in order to determine, on the basis of a retrospective analysis, whether the authorised supply chain management processes were followed and whether the objectives of this Policy were achieved;
- (2) The Accounting Officer must ensure that the following issues are reported on a quarterly basis –
- (i) Achievement of preferential procurement goals and objectives;
  - (ii) Implementation of the Supply Chain Management Policy of the municipality;
  - (iii) Compliance to SCM norms and standards such as the municipal supply chain management regulations, National Treasury's model policy, standard bid documents and the general conditions of contract;
  - (iv) Savings generated, amongst others, by arranging contracts for the purpose of developing economies of scale;
  - (v) Stores efficiency, ( the proper layout of stores through clear bin locations and bin numbering, promptly satisfying the users requirements, etc.)
  - (vi) Contract breach either by the municipality or contractors;
  - (vii) Cost efficiency of the procurement process;
  - (viii) That the supply chain objectives are consistent with Government's broader policy focus on trade, small business development, anti-corruption measures and the proudly South African.

**Part 4: Other matters**

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

- (1) No award above **R30 000** may be made in terms of this Policy to a person whose tax matters have not been declared by the South African Revenue Service to be in order.
- (2) Before making an award to a person the Accounting Officer must first check with SARS whether that person's tax matters are in order.

**44. Prohibition on awards to persons in the service of the state**

- (1) Irrespective of the procurement process followed, no award may be made to a person in terms of this Policy –
  - (a) who is in the service of the state;
  - (b) if that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is –
    - (i) a member of any municipal council, any provincial legislature or the National Assembly or the National Council of Provinces;
    - (ii) an official of any municipality;
    - (iii) an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No.1 of 1999);
    - (iv) a member of the board of directors of any municipal entity;
    - (v) a member of the accounting authority of any national or provincial public entity;
  - (c) a person who is an advisor or consultant contracted with the municipality.

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

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

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

**46. Ethical standards**

- (1) All officials involved in supply chain management for the municipality must comply with the Code of Conduct prescribed in the Municipal Systems Act, the Supply Chain Management Framework and the Code of Conduct for Supply Chain Management role players as prescribed.
- (2) A code of ethical standards is hereby established for officials and other role players in the Supply Chain Management System in order to promote –
  - (a) mutual trust and respect; and
  - (b) an environment where business can be conducted with integrity and in a fair and reasonable manner.
- (3) An official or other role player involved in the implementation of the Supply Chain Management Policy:
  - (a) must treat all providers and potential providers equitably;

**BITOU MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY INCORPORATING PREFERENTIAL PROCUREMENT**

---

- (b) may not use his or her position for private gain or to improperly benefit another person;
- (c) may not accept any rewards, gift, favour, hospitality or other benefit directly, including to any close family member, partner or associate of that person, of a value more than R350;
- (d) notwithstanding Sub-Section 48(2)(c), must declare to the Accounting Officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;
- (e) must declare to the Accounting Officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by, the Municipality;
- (f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;
- (g) must be scrupulous in his or her use of property belonging to the Municipality;
- (h) must assist the Accounting Officer in combination fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system; and
- (i) must report to the Accounting Officer any irregular conduct in the supply chain management system which that person may become aware of, including –
  - (i) any alleged fraud, corruption, favouritism or unfair conduct
  - (ii) any alleged contravention of Section 49(1) of this Policy; or
  - (iii) any alleged breach of this of this code of ethical standards.
- (j) Declarations in terms of Sub-Sections 49 (2) (d) and (e)-
  - (i) must be recorded in a register which the Accounting Officer must keep for this purpose;
  - (ii) by the Accounting Officer must be made to the Mayor of the Municipality who must ensure that such declarations are recorded in the register.
- (k) The National Treasury Code of Conduct must also be taken into account by supply chain management practitioners and other role players involved in supply chain management.
- (l) The National Treasury Code of Conduct for Supply Management Practitioners, attached as Annexure A, is adopted by the Municipality and shall apply mutatis mutandis to and be binding on supply chain management of the Municipality.
- (m) A breach of the code of conduct adopted by the Municipality must be dealt with in accordance with Schedule 1 (code of Conduct for Councillors) and Schedule 2 (Code of Conduct for Municipal Staff Members) of the Municipal Systems Act, No 32 of 2000.

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

- (1) No person who is a provider or prospective provider of goods or services, or a recipient or prospective recipient of goods disposed or to be disposed of may either directly or through a representative or intermediary promise, offer or grant –
  - (a) any inducement or reward to the municipality for or in connection with the award of a contract; or
  - (b) any reward, gift, favour or hospitality to –
    - (i) any official; or
    - (ii) any other role player involved in the implementation of this Policy.
- (2) The Accounting Officer must promptly report any alleged contravention of Sub-Section (1) to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the public sector.



**BITOU MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY INCORPORATING PREFERENTIAL PROCUREMENT**

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(3) Sub-Section (1) does not apply to gifts less than R350 in value.

#### **48. Sponsorships**

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

#### **49. Objections and complaints**

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

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

- (1) The Accounting Officer must appoint an independent and impartial person, not directly involved in the supply chain management processes –
- (a) to assist in the resolution of disputes between the municipality and other persons regarding -
    - (i) any decisions or actions taken in the implementation of the supply chain management system; or
    - (ii) any matter arising from a contract awarded in the course of the supply chain management system; or
    - (iii) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.
  - (b) Suppliers must provide details of the reasons for their appeal including any non-compliance with this Policy, the MFMA and related legislation. The Accounting Officer shall provide written acknowledgement of the receipt of appeals to the appellant;
  - (c) If the appeal is based on a technically complex matter, the Accounting Officer may engage an impartial external advisor, provided that their engagement is compliant with this Policy and sufficient budgetary provision exists. The Accounting Officer is not bound by any opinion provided.
  - (d) The Accounting Officer will decide if an appeal constitutes sufficient grounds for delay of procurement from the approved supplier, and if a delay is practical. If the Accounting Officer determines there are grounds for delay, the approved supplier will be advised in writing of the reasons for the delay.
  - (e) When a ruling on an appeal has been made, the Accounting Officer will advise the appellant in writing of the outcome.
- (2) The Accounting Officer, or another official designated by the Accounting Officer, is responsible for assisting the appointed person to perform his or her functions effectively.
- (3) The person appointed must –
- (a) strive to resolve promptly all disputes, objections, complaints or queries received; and
  - (b) submit monthly reports to the Accounting Officer on all disputes, objections, complaints or queries received, attended to or resolved.
- (4) A dispute, objection, complaint or query may be referred to the relevant Provincial Treasury if –
- (a) the dispute, objection, complaint or query is not resolved within 60 days; or
  - (b) no response is forthcoming within 60 days.
- (5) The Provincial Treasury may refer the query to the National Treasury for resolution.

**BITOU MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY INCORPORATING PREFERENTIAL PROCUREMENT**

---

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

### **51. Appeals**

- (1) A person whose rights are affected by a decision taken to award a tender by a municipality in terms of a power or duty delegated or sub-delegated by a delegating authority may appeal against that decision by giving written notice of the appeal and reasons to the Accounting Officer within 21 days of the date of the notification of the decision.
- (2) When the appeal is against a decision taken by a staff member or committee other than the Accounting Officer, the Accounting Officer must consider the appeal or refer it to the appeal authority when appropriate;
- (3) The Accounting Officer must promptly submit the appeal to the appropriate appeal authority.
- (4) The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- (5) An appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.
- (6) This Policy must not be read as affecting a person's rights to approach a court at any time.

### **52. Contracts and contract management**

- (1) A contract or agreement procured through the supply chain management system of the municipality must—
  - (1) be in writing;
  - (2) stipulate the terms and conditions of the contract or agreement, which must include provisions providing for—
    - (a) the termination of the contract or agreement in the case of non- or underperformance;
    - (b) dispute resolution mechanisms to settle disputes between the parties;
    - (c) a periodic review of the contract or agreement once every three years in the case of a contract or agreement for longer than three years; and
    - (d) any other matters that may be prescribed.
- (2) The accounting officer must—
  - (a) take all reasonable steps to ensure that a contract or agreement procured through the supply chain management policy of the municipality or municipal entity is properly enforced;
  - (b) monitor on a monthly basis the performance of the contractor under the contract or agreement;
  - (c) establish capacity in the administration of the municipality or municipal entity—
    - (i) to assist the accounting officer in carrying out the duties set out in paragraphs (a) and (b); and
    - (ii) to oversee the day-to-day management of the contract or agreement; and
  - (d) regularly report to the council of the municipality or the board of directors of the entity, as may be appropriate, on the management of the contract or agreement and the performance of the contractor.
- (3) A contract or agreement procured through the supply chain management policy of the municipality may be amended by the parties, but only after—
  - (a) the reasons for the proposed amendment have been tabled in the council of the municipality or, in the case of a municipal entity, in the council of its parent municipality; and
  - (b) the local community—

**BITOU MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY INCORPORATING PREFERENTIAL PROCUREMENT**

---

- (i) has been given reasonable notice of the intention to amend the contract or agreement; and
  - (ii) has been invited to submit representations to the municipality or municipal entity.
- (c) Amendments, expansion, variation of contracts may be considered by the Accounting Officer if the value does not exceed 15% of the value of the contract or 20% of the value of the contract for construction-related contracts.

**53. Contract Management**

- (1) The Accounting Officer must ensure that all bids and contracts are subject to the General Conditions of Contract and any Special Conditions of Contract, if specified;
- (2) All contracts must be based on the General Conditions of Contract, issued by the National Treasury. Any aspect not covered by the General Conditions of Contract must be dealt with in the Special Contract Conditions;
- (3) Matters such as attendance of compulsory site meetings, briefing sessions and special delivery conditions must be covered in the Special Conditions of Contract with the proviso that the standard wording of the General Conditions of Contract should not be amended;
- (4) The General Conditions of Contract, International Federation of Consulting Engineers (FIDIC) regulations and the Joint Building Contracts Committee (JBCC) guidelines issued by the Construction Industry Development Board are utilized in cases of bids related to the construction industry;
- (5) Where the Special Conditions of Contract is in conflict with the General Conditions of Contract, the Special Conditions of Contract will prevail;
- (6) These conditions must form an integral part of the bidding documents.

**54. Contract Administration**

- (1) Contract administration includes all administrative duties associated with a contract that has arisen through one of the acquisition/procurement processes described in this policy.
- (2) All contracts must be administered by a contract manager, who will be an internal official assigned to ensure the effective administration of the contract. The contract manager will typically be the internal project manager assigned to the project as a whole, but may also be a cost centre owner or other responsible official.
- (3) A contract manager must be assigned to each contract and, where possible, should be involved from the earliest stages of the acquisition process.
- (4) The contract manager's duties and powers shall be governed by the conditions of contract and the general law.
- (5) The contract manager shall take all reasonable steps to ensure that a contract procured through the provisions of this policy is properly enforced.
- (6) In administering a contract, the contract manager will be required to form opinions and make decisions which, while in the Municipality's best interests, must be fair to all parties concerned.
- (7) Departmental Heads shall be responsible for ensuring that contract managers:
  - (1) are assigned to all contracts within the Department Head's area of responsibility;
  - (2) are adequately trained so that they can exercise the necessary level of responsibility in the performance of their duties.
- (8) In discharging his duties, the contract manager shall:
  - (a) ensure that all the necessary formalities in signing up the contract and/or issuing the purchase order(s) are adhered to;

**BITOU MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY INCORPORATING PREFERENTIAL PROCUREMENT**

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- (b) ensure that contracts related to the procurement of goods and services are captured on the contract management system in the form of a price schedule;
- (c) ensure that all original contract documentation is lodged with the Supply Chain Management Unit for record purposes;
- (d) monitor, on a monthly basis, the performance of the contractor in order to ensure that all of the terms and conditions of the contract are met, including the contractor's obligations as regards Broad-Based Black Economic Empowerment, targeted labour and/or resources and local production and content, as applicable;
- (e) where necessary, take appropriate action where a contractor is underperforming or is in default or breach of the contract;
- (f) manage contract variation or change procedures;
- (g) administer disputes where necessary, in terms of this policy and the applicable Conditions of Contract;
- (h) conduct, as appropriate, post contract reviews;
- (i) maintain adequate records (paper and/or electronic) in sufficient detail on an appropriate contract file to provide an audit trail;
- (j) act with care and diligence and observe all accounting and legal requirements.

**55. Contracts providing for compensation based on turnover**

- (1) If a service provider acts on behalf of a municipality to provide any service or act as a collector of fees, service charges or taxes and the compensation payable to the service provider is fixed as an agreed percentage of turnover for the service or the amount collected, the contract between the service provider and the municipality must stipulate –
  - (a) a cap on the compensation payable to the service provider; and
  - (b) that such compensation must be performance based.

**56. Contracts having future budgetary implications**

- 1) A municipality may enter into a contract which will impose financial obligations on the municipality beyond a financial year, but if the contract will impose financial obligations on the municipality beyond the three years covered in the annual budget for that financial year, it may do so only if—
  - (a) the municipal manager, at least 60 days before the meeting of the municipal council at which the contract is to be approved—
    - (i) has, in accordance with section 21A of the Municipal Systems Act—
      - (aa) made public the draft contract and an information statement summarising the municipality's obligations in terms of the proposed contract; and
      - (bb) invited the local community and other interested persons to submit to the municipality comments or representations in respect of the proposed contract; and
    - (ii) has solicited the views and recommendations of—
      - (aa) the National Treasury and the relevant provincial treasury;
      - (bb) the national department responsible for local government; and
      - (cc) if the contract involves the provision of water, sanitation, electricity, or any other service as may be prescribed, the responsible national department;
  - (b) the municipal council has taken into account—

**BITOU MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY INCORPORATING PREFERENTIAL PROCUREMENT**

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- (i) the municipality's projected financial obligations in terms of the proposed contract for each financial year covered by the contract;
  - (ii) the impact of those financial obligations on the municipality's future municipal tariffs and revenue;
  - (iii) any comments or representations on the proposed contract received from the local community and other interested persons; and
  - (iv) any written views and recommendations on the proposed contract by the National Treasury, the relevant provincial treasury, the national department responsible for local government and any national department referred to in paragraph (a)(ii)(cc); and
- (c) the municipal council has adopted a resolution in which—
- (i) it determines that the municipality will secure a significant capital investment or will derive a significant financial economic or financial benefit from the contract;
  - (ii) it approves the entire contract exactly as it is to be executed; and
  - (iii) it authorises the municipal manager to sign the contract on behalf of the municipality.
- (2) The process set out in subsection (1) does not apply to—
- (a) contracts for long-term debt regulated in terms of section 46(3);
  - (b) employment contracts; or
  - (c) contracts—
    - (i) for categories of goods as may be prescribed; or
    - (ii) in terms of which the financial obligation on the municipality is below—
      - (aa) a prescribed value; or
      - (bb) prescribed percentage of the municipality's approved budget for the year in which the contract is concluded.
- (3) (a) All contracts referred to in subsection (1) and all other contracts that impose a financial obligation on a municipality—
- (i) must be made available in their entirety to the municipal council; and
  - (ii) may not be withheld from public scrutiny except as provided for in terms of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000).
- (b) Sub-Section (a)(i) does not apply to contracts in respect of which the financial obligation on the municipality is below a prescribed value.

**57. Commencement**

This Policy takes effect on date of approval.

## **BITOU MUNICIPALITY**

### **PREFERENTIAL PROCUREMENT POLICY**

**PREFERENTIAL PROCUREMENT POLICY** adopted in terms of section 2 of the Preferential Procurement Policy Framework Act, No. 5 of 2000 and the Preferential Procurement Regulations, 2011

#### **PREAMBLE**

**WHEREAS** the Bitou Municipality aims to improve the quality of life of the local community and to free the potential of each person within a framework of facilitating service delivery, through effective governance and the Council takes into account the need for transparent procedures that give the effect to the principle of preferential procurement;

**AND WHEREAS** local economic development plays a crucial role in creating a prosperous, equitable, stable and democratic society and the overall national vision of economic development is one of decent work and living standards for all in the context of qualitative improved equality in ownership, skills and access to opportunities;

**NOW THEREFORE** the Council of the Bitou Municipality resolves in terms of Section 2 of the Preferential Procurement Policy Framework Act, No. 5 of 2000 that the principles embodied in the Preferential Procurement Regulations, 2011 are herewith adopted to form the basis of the evaluation criteria for quotations and competitive bids.

<b>VERSION CONTROL</b>					
<b>POLICY OWNER:</b>			Bitou Municipality Supply Chain Management Unit		
<b>POLICY EFFECTIVE DATE:</b>			01 July 2015		
<b>Version</b>	<b>Date</b>	<b>Revision</b>	<b>Section</b>	<b>Page</b>	<b>Reason for change</b>
1	31 March 2015	New	All	All	New Policy Section

## **TABLE OF CONTENTS**

### **PART ONE**

#### **DEFINITIONS, APPLICATION, OBJECTIVES AND GENERAL REQUIREMENTS**

1. Definitions
2. Application, Objectives & General Requirements

### **PART TWO**

#### **PLANNING AND STIPULATION OF PREFERENCE POINT SYSTEM TO BE UTILIZED, EVALUATION OF BIDS ON FUNCTIONALITY, PREFERENCE POINT SYSTEM AND BROAD-BASED BLACK ECONOMIC EMPOWERMENT STATUS, AWARD OF CONTRACTS TO TENDERERS NOT SCORING THE HIGHEST NUMBER OF POINTS AND THE CANCELLATION AND RE-INVITATION OF BIDS**

3. Planning and stipulation of preference point system to be utilized
4. Evaluation of bids based on functionality
5. The 80/20 preference point system for the acquisition of goods, works
6. and / or services up to a Rand value of R1,0 million
7. The 90/10 preference point system for the acquisition of goods, works
8. and / or services with a Rand value above R1,0 million
9. Award of contracts to bids not scoring the highest number of points
10. Cancellation and re-invitation of bids

### **PART THREE**

#### **LOCAL PRODUCTION AND CONTENT, B-BBEE STATUS LEVEL CERTIFICATES, CONDITIONS, DECLARATIONS, REMEDIES, TAX CLEARANCE, MECHANISMS TO SUPPORT PREFERENTIAL PROCUREMENT AND SHORT TITLE**

11. Local Production and Content
12. Broad-Based Black Economic Empowerment Status Level Certificates
13. Conditions
14. Declarations
15. Remedies
16. Tax Clearance
17. Mechanisms to support preferential procurement
18. Short title

**BITOU MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY INCORPORATING PREFERENTIAL PROCUREMENT**

**Part One**

**DEFINITIONS AND APPLICATION**

**1 Definitions**

- 1) In this policy, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Act bears the same meaning, and:

<b>"Act"</b>	means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);
<b>"all applicable taxes"</b>	includes Value-Added Tax, Pay-as-you-Earn, Income Tax, Unemployment Insurance Fund Contributions and Skills Development Levies;
<b>"B-BBEE"</b>	means Broad-Based Black Economic Empowerment as defined in Section 1 of the Broad-Based Black Economic Empowerment Act;
<b>"B-BBEE status level of contributor"</b>	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, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
<b>"Broad-Based Black Economic Empowerment Act" (B-BBEEA)</b>	means the Broad-Based Black Economic Empowerment Act, 2003 (Act No.53 of 2003);
<b>"Comparative price"</b>	means the price after the factors of a non-firm price and all unconditional discounts that can be utilised have been taken into consideration;
<b>"Consortium or Joint Venture"</b>	means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract;
<b>"Contract"</b>	means the agreement that results from the acceptance of a bid by the Bitou Municipality;
<b>"designated sector"</b>	means a sector, sub-sector or industry that has been designated by the Department of Trade and Industry in line with national development and industrial policies for local production, where only locally produced services, works or goods or locally manufactured goods meet the stipulated minimum threshold for local production and content;
<b>"Firm price"</b>	is the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy, or tax, which, in terms of a law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract;
<b>"Functionality"</b>	means the measurement according to predetermined norms, as set out in the tender documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and



**BITOU MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY INCORPORATING PREFERENTIAL PROCUREMENT**

	durability of a service and the technical capacity and ability of a tenderer;
<b>"imported content"</b>	means that portion of the tender price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or its subcontractors) and which costs are inclusive of the costs abroad, plus freight and direct importation costs, such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African port of entry;
<b>"local content"</b>	means that portion of the tender price which is not included in the imported content, provided that local manufacture does take place;
<b>"Micro-Enterprise"</b>	means a very small business, often involving only the owner, some family members and at the most one or two paid employees. They usually lack `formality` in terms of business licences, value-added tax (VAT) registration, formal business premises, operating permits, operating permits and accounting procedures. Most of them have a limited capital base and only rudimentary technical or business skills among their operators. However, many micro-enterprises advance into viable small businesses. Earning levels of micro-enterprises differ widely, depending on the particular sector, the growth phase of the business and access to relevant support.
<b>"Non-firm prices"</b>	means all prices other than "firm" prices;
<b>"Person"</b>	includes reference to a juristic person;
<b>"Rand value"</b>	means the total estimated value of a contract in South African currency, calculated at the time of bid invitations and includes all applicable taxes and excise duties;
<b>"stipulated minimum threshold"</b>	means that portion of local production and content as determined by the Department of Trade and Industry;
<b>"Sub-Contract"</b>	means the primary contractor's assigning or leasing or making out work to, or employing, another person to support such primary contractor in the execution of part of a project in terms of the contract;
<b>"Tender"</b>	means a written offer in a prescribed or stipulated form in response to an invitation by the Bitou Municipality for the provision of services, works or goods, through price quotations, advertised competitive bidding processes or proposals;
<b>"Total revenue"</b>	bears the same meaning assigned to this expression as in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act, 2003 and promulgated in the Government Gazette on 9 February 2007;
<b>"Trust"</b>	means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person; and
<b>"Trustee"</b>	means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.

**2 Application, Objectives & General Requirements**

- 1) Application
  - a) The Municipality must, unless the Minister of Finance has directed otherwise, only apply a preferential procurement system which is in accordance with the Regulations.
- 2) Objectives
  - a) The objectives of Councils' policy are to:
    - i) Provide clarity on the municipality's approach to procurement, particularly with regards to requirements of preferential procurement;
    - ii) Provide access to contracts for historical disadvantaged individuals;
    - iii) Promote participation by SMMEs as defined in Annexure D and as amended from time to time;
    - iv) Promote capacity development and skills transfer;
    - v) Promote Local Economic Development.
- 3) General requirements
  - a) Any specific goal required for consideration in the bidding process must be clearly determined by the Bid Specification Committee and be defined in the bid documentation, taking into account prescriptions of the Construction Industry Development Board [CIDB] in respect of construction related contracts.
  - b) Outputs required will be quantified and will form part of the contractual arrangement upon awarding of the contract.

**Part Two**

**PREFERENCE POINT SYSTEM AND BROAD-BASED BLACK ECONOMIC EMPOWERMENT STATUS, EVALUATION OF BIDS ON FUNCTIONALITY, AWARD OF CONTRACTS TO BIDDERS NOT SCORING THE HIGHEST NUMBER OF POINTS AND THE CANCELLATION AND RE-INVITATION OF BIDS**

**3 Planning and stipulation of preference point system to be utilized**

- 1) The Municipality must, prior to making an invitation for bids -
  - a) properly plan for, and, as far as possible, accurately estimate the costs of the provision of services, works or goods for which an invitation for bids is to be made; and
  - b) determine and stipulate the appropriate preference point system to be utilized in the evaluation and adjudication of the bids.
  - c) determine whether the services, works or goods for which an invitation is to be made has been designated for local production and content in terms of Section 9.

**4 Evaluation of bids based on functionality**

- 1) The Municipality must in the bid documents indicate if, in respect of a particular bid invitation, bids will also be evaluated on functionality;
- 2) The evaluation criteria for measuring functionality must be
  - a) objective and
  - b) clearly indicated in the bid documents.
- 3) When evaluating bids on functionality, the-
  - a) evaluation criteria for measuring functionality,
  - b) the weight of each criterion,
  - c) the applicable values; as well as
  - d) the minimum qualifying score for functionality,
- 4) A bid must be disqualified if it fails to achieve the minimum qualifying score for functionality as indicated in the bid documents; and
- 5) Bids that have achieved the minimum qualification score for functionality must be evaluated further in terms of the preference point systems prescribed in Section 5 and 6.

**5 The 80/20 preference point system for acquisition of goods, works and / or services up to a Rand value of R1,0 million**

- 1) The following formula must be used to calculate the points for price in respect of competitive bids / price quotations with a Rand value equal to, or above R 30 000 and up to a Rand value of R1 000 000 (all applicable taxes included):

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

Where;

*P<sub>s</sub>* = Points scored for comparative price of bid / offer under consideration

*P<sub>t</sub>* = Comparative price of bid / offer under consideration

*P<sub>min</sub>* = Comparative price of lowest acceptable bid / offer.

**BITOU MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY INCORPORATING PREFERENTIAL PROCUREMENT**

- b) The Municipality may, however, apply this formula for price quotations with a value less than R 30 000, if and when appropriate.
- 2) A maximum of 20 points must be awarded to a bidder for attaining the B-BBEE status level contemplated in the B-BBEE Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act, 2003 and promulgated in the Government Gazette on 9 February 2007, as amended.
- 3) Points must be awarded to a bidder on the following basis:

B-BBEE Status Level of Contributor	Number of Points
1	20
2	18
3	16
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

- 4) The points scored by a bidder in respect of B-BBEE contribution contemplated in sub-regulation (3) must be added to the points scored for price.
- 5) Only the bid with the highest number of points scored may be selected.

**6 The 90/10 preference point system for acquisition of goods, works and / or services with a Rand value above R1,0 million**

- 1) The following formula must be used to calculate the points for price in respect of bids with a Rand value above R1,000,000 (all applicable taxes included):

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

Where

*P<sub>s</sub>* = Points scored for comparative price of tender or offer under consideration;

*P<sub>t</sub>* = Comparative price of tender or offer under consideration; and

*P<sub>min</sub>* = Comparative price of lowest acceptable tender or offer.

- 2) Subject to sub-Section (3), points must be awarded to a tenderer for attaining their B-BBEE status level of contributor in accordance with the table below:

B-BBEE Status Level of Contributor	Number of Points
1	10
2	9
3	8
4	5
5	4
6	3
7	2
8	1
Non-compliant contributor	0

- 3) A maximum of 10 points be allocated in accordance with sub-Section (2).

**BITOU MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY INCORPORATING PREFERENTIAL PROCUREMENT**

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- 4) The points scored by a tenderer in respect of the level of B-BBEE contribution contemplated in sub-Section (2) must be added to the points scored for price as calculated in accordance with sub-Section (1).
- 5) Subject to regulation 7, the contract must be awarded to the tenderer who scores the highest total number of points.

**7 Award of contracts to bids not scoring the highest number of points**

A contract may be awarded to a tenderer that did not score the highest total number of points if objective criteria in addition to specific goals justify the award to another tenderer.

**8 Cancellation and re-invitation of bids**

- 1) In the event that, in the application of the 80/20 preference point system as stipulated in the tender documents:
  - a) all tenders received exceed the estimated Rand value of R1,000,000, the tender invitation must be cancelled.
  - b) If one or more of the acceptable tenders received are within the prescribed threshold of R1,000,000, all tenders received must be evaluated on the 80/20 preference point system.
- 2) In the event that, in the application of the 90/10 preference point system as stipulated in the tender documents,
  - a) all tenders received are equal to, or below R1,000,000 the tender must be cancelled.
  - b) If one or more of the acceptable tenders received are above the prescribed threshold of R1,000,000 all tenders received must be evaluated on the 90/10 preference point system.
- 3) In the event that the Municipality has cancelled a tender invitation as contemplated in sub-Section (1)(a) and 2(a), tenders must be re-invited and the tender documents must stipulate the correct preference point system to be applied.
- 4) The Municipality may, prior to the award of a tender, cancel a tender if:
  - a) due to changed circumstances, there is no longer a need for the services, works or goods requested, or
  - b) funds are no longer available to cover the total envisaged expenditure; or
  - c) no acceptable tenders are received.
- 5) The decision to cancel a tender in terms of sub-Section (4) must be published in the media in which the original tender invitation was advertised.

**Part Three**

**LOCAL PRODUCTION AND CONTENT, B-BBEE STATUS LEVEL CERTIFICATES, CONDITIONS, DECLARATIONS, REMEDIES, AND TAX CLEARANCE**

**9 Local Production and Content**

- 1) The Municipality must, in the case of designated sectors, where in the award of tenders local production and content is of critical importance, advertise such tenders with a specific tendering condition that only locally produced goods, services or works or locally manufactured goods, with a stipulated minimum threshold for local production and content will be considered.
- 2) The National Treasury will issue instructions, circulars and guidelines to all organs of state, with specific report mechanisms to ensure compliance with sub-Section (1).
- 3) Where there is no designated sector, the Municipality may include, as a specific tendering condition, that only locally produced services, works or goods or locally manufactured goods with a stipulated minimum threshold for local production and content, will be considered, on condition that such prescript and threshold(s) are in accordance with the specific directives issued for this purpose by the National Treasury in consultation with the Department of Trade and Industry.
- 4) Every tender issued in terms of Section 9 must be measurable and audited.
- 5) Where necessary, tenders referred to in sub-Section (1) and (3), a two-stage tendering process may be followed, where the first stage involves functionality and minimum threshold for local production and content and the second price and B-BBEE with the possibility of price negotiations only with the short listed tenderer/s.

**10 Broad –Based Black Economic Empowerment Status Level Certificates**

- 1) Tenders with annual total revenue of R5 million or less qualify as Exempted Micro Enterprises (EMEs) in terms of the Broad-Based Black Economic Empowerment Act, and must submit a certificate issued by a registered auditor, Accounting Officer (as contemplated in section 60(4) of the Close Corporation Act, 1984 (Act No.69 of 1984) or an accredited verification agency.
- 2) Tenders other than exempted Micro-Enterprises (EMEs) must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating.
- 3) The submission of such certificates must comply with the requirements of instructions and guidelines issued by the National Treasury and be in accordance with notices published by the Department of Trade and Industry in the Government Gazette.
- 4) B-BBEE status level verification certificates may be issued by SANAS accredited agencies or approved auditors registered with IRBA.
- 5) The B-BBEE status level attained by the tenderer must be used to determine the number of points contemplated in regulations 5(2) and 6(2).
- 6) Points must be awarded to an Exempted Micro Enterprises (EMEs) as follows:

<b>Black Ownership of EME</b>	<b>Deemed B-BBEE Status</b>	<b>Number of Points</b>
> 50%	3	8
≤ 50%	4	5

**11 Conditions**

- 1) Only a tenderer who has completed and signed the declaration part of the tender documentation may be considered.
- 2) The Municipality must, when calculating comparative prices, take into account any discounts which have been offered unconditionally.

**BITOU MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY INCORPORATING PREFERENTIAL PROCUREMENT**

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- 3) A discount which has been offered conditionally must, despite not being taken into account for evaluation purposes, be implemented when payment is processed.
- 4) Points scored must be rounded off to the nearest 2 decimals places.
- 5) In the event that two or more tenders have scored equal total points, the successful tender must:
  - a) be the one scoring the highest number of preference points for B-BBEE;
  - b) however, when functionality is part of the evaluation process and two or more tenders have scored equal points including equal preference points for B-BBEE, the successful tender must be the one scoring the highest score for functionality;
  - c) should two or more tenders be equal in all respects, the award shall be decided by the drawing of lots.
- 6) A trust, consortium or joint venture will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate.
- 7) A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate tender.
- 8) A person must not be awarded points for B-BBEE status level if it is indicated in the tender documents that such a tenderer intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a tenderer qualifies for, unless the intended sub-contractor is an exempted micro enterprise that has the capability and ability to execute the sub-contact.
- 9) A person awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an exempted micro enterprise that has the capability and ability to execute the sub-contract.
- 10) A person awarded a contract in relation to a designated sector, may not sub-contract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.
- 11) When the Municipality is in need of a service provided by only tertiary institutions, such services must be procured through a tendering process from the identified tertiary institutions.
- 12) Tertiary institutions referred to in sub-Section (11) will be required to submit their B-BBEE status in terms of the specialized scorecard contained in the B-BBEE Codes of Good practice.
- 13) Should the Municipality require a service that can be provided by one or more tertiary institutions or public sector, the appointment of a contractor must be
  - a) done by means of a tendering process;
  - b) Public entities will be required to submit their B-BBEE status in terms of the specialised scorecard contained in the B-BBEE Codes of Good Practice.

## **12 Declarations**

- 1) A tender must, in the manner stipulated in the document, declare that-
  - a) the information provided is true and correct;
  - b) the signatory to the tender document is duly authorised; and
  - c) documentary proof regarding any tendering issue will, when required, be submitted to the satisfaction of the Municipality.

### **13 Remedies**

- 1) The Municipality must, upon detecting that-
  - a) The B-BBEE status level of contribution has been claimed or obtained on a fraudulent basis; or
  - b) any of the conditions of the contract have not been fulfilled, act against the tenderer or person awarded the contract.
- 2) The Municipality may, in addition to any other remedy it may have against the person contemplated in sub-Section (1) -
  - a) disqualify the person from the tendering process;
  - b) recover all costs, losses or damages it has incurred or suffered as a result of that person's conduct;
  - c) cancel the contract and claim any damages it has suffered as a result of having to make less favourable arrangements due to such cancellation;
  - d) restrict the tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
  - e) forward the matter for criminal prosecution.

### **14 Tax clearance**

No tender may be awarded to any person whose tax matters have not been declared by the South African Revenue Services to be in order.

### **15 Mechanisms to support preferential procurement**

- 1) Determination of bid requirements in relation to bid value  
The municipality will set targets for the supply of goods and services, and link specific requirements relating to enterprise with HDI ownership and/or SMME status.
- 2) Establishment/maintain a database of SMME service providers  
The municipality will establish a database of HDI, SMME and other service providers in order to track their records of services to the municipality.
- 3) Identification of Business Opportunities.
  - a) Joint venture opportunities between HDI owned enterprises and SMMEs, and other business entities, will be identified and be described in the bid requirements.
  - b) Sub-contracting opportunities for HDI owned enterprises will be supported.
- 4) **Creation of an enabling environment:**  
The municipality will create an enabling environment to enable SMMEs to become part of the supply chain management process. Steps to be taken include, but are not limited to:
  - a) Surety Requirements  
See the SCM Policy, Section 21(1)(f) regarding the lesser extent that sureties are called for.
  - b) Access to Bidding Information  
Bidding and related information will, where possible and practical, be made available in a simplified and uncomplicated format to assist new and emerging enterprises and any business or organisation bidding for municipal business.
  - c) Bidding Advice Centre



**BITOU MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY INCORPORATING PREFERENTIAL PROCUREMENT**

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Assistance will, where practically possible, be provided by the SCM Unit to increase SMME awareness and share in the supply chain and procurement process. Assistance will be provided for new and emerging SMMEs in any of the three languages of the Western Cape.

d) Sub-Contracting

The procurement of goods and services for any project or other requirement of the municipality should cater for the engagement of sub-contractors. This will provide opportunities for smaller businesses to increase their share in public sector procurement. Therefore the appointment of service providers for all major construction-related projects must be subject to the inclusion of business with local, SMME sub-contractors of not less than 20% of the value of the tender, as far as possible.

e) Proposed Process

- i) Bids shall be packaged into suitably sized segments of subcontractors to target SMMEs wherever possible.
- ii) A review of all term (period) contracts shall be undertaken to assess the viability of packaging these into smaller sub-contracts. These bids should be issued in smaller manageable sub-contracts so that preference can be given to local SMMEs.
- iii) Appropriate standards, specifications, delivery dates and related contractual obligations shall be employed to help smaller businesses to cope and compete.

f) Simplification of Tender Documentation

- i) Bid submission documents will be rationalised and simplified to make it easier for small businesses to deal with the paperwork involved in tendering.
- ii) All bid submission forms shall be regularly reviewed and the various bid/contractual documents shall be standardised as far as possible.
- iii) Essential information shall be consolidated and bid forms reformatted in line with the aims of this policy.

g) Retention

- i) Retention on Major contracts should be limited to 5% of the tender sum. Where the value of the surety required has been reduced, or even waived, the usual 10% retention shall apply. The value of retention deducted will therefore be as follows:
  - (i) Micro and Minor: 10% of the value of work carried out with no limit, reducing to 5% for the duration of the maintenance period.
  - (ii) Major: 10% of the value of the work carried out, up to a limit of 5% of the tender sum, with no reduction for the duration of the maintenance period.
- ii) The retention amount in respect of the procurement of goods and services will not generally be called for, but where required, will be in accordance with the limits described above.
- iii) For turnkey/design and construction projects, the above retention limits may be reviewed by the Municipality's Director: Infrastructure and Planning.

h) Bid Advertising

- i) In order to reach the largest number of HDI owned and SMME service providers possible, the Municipality will advertise invitations to bid through a range of media.
- ii) The Municipality will provide an appropriate time period within which bidders can request additional clarification and will be sensitive to the issues of language in this regard.

5) Debriefing of Unsuccessful Bidders

- a) The Supply Chain Management Unit must provide bidders with the opportunity of a debriefing session where the shortcomings if any of the bidder may be discussed.

**16 SHORT TITLE**

This policy is called the Preferential Procurement Policy of the Bitou Municipality.



## **CODE OF CONDUCT FOR SUPPLY CHAIN MANAGEMENT PRACTITIONERS AND OTHER ROLE PLAYERS**

The purpose of this Code of Conduct is to promote mutual trust and respect and an environment where business can be conducted with integrity and in a fair and reasonable manner.

### **1 General Principles**

- 1) The municipality commits itself to a policy of fair dealing and integrity in the conducting of its business. Officials and other role players involved in supply chain management (SCM) are in a position of trust, implying a duty to act in the public interest. Officials and other role players should not perform their duties to unlawfully gain any form of compensation, payment or gratuities from any person, or provider/contractor for themselves, their family or their friends.
- 2) Officials and other role players involved in SCM should ensure that they perform their duties efficiently, effectively and with integrity, in accordance with the relevant legislation, policies and guidelines. They should ensure that public resources are administered responsibly.
- 3) Officials and other role players involved in SCM should be fair and impartial in the performance of their functions. They should at no time afford any undue preferential treatment to any group or individual or unfairly discriminate against any group or individual. They should not abuse the power and authority vested in them.

### **2 Conflict of interest**

- 1) An official or other role player involved with supply chain management –
  - a) must treat all providers and potential providers equitably;
  - b) may not use his or her position for private gain or to improperly benefit another person;
  - c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350;
  - d) must declare to the Accounting Officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;
  - e) must declare to the Accounting Officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process, or in any award of a contract by the municipality;
  - f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;
  - g) must declare any business, commercial and financial interests or activities undertaken for financial gain that may raise a possible conflict of interest;
  - h) should not place him/herself under any financial or other obligation to outside individuals or organizations that might seek to influence them in the performance of their official duties; and

**BITOU MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY INCORPORATING PREFERENTIAL PROCUREMENT**

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- i) should not take improper advantage of their previous office after leaving their official position.

### **3 Accountability**

- 1) Practitioners are accountable for their decisions and actions to the public.
- 2) Practitioners should use public property scrupulously.
- 3) Only Accounting Officers or their delegates have the authority to commit the municipality to any transaction for the procurement of goods and / or services.
- 4) All transactions conducted by a practitioner should be recorded and accounted for in an appropriate accounting system.
- 5) Practitioners should not make any false or misleading entries into such a system for any reason whatsoever.
- 6) Practitioners must assist the Accounting Officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system.
- 7) Practitioners must report to the Accounting Officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including:
  - a) any alleged fraud, corruption, favouritism or unfair conduct;
  - b) any alleged contravention of the policy on inducements, rewards, gifts and favours to municipalities or municipal entities, officials or other role players; and
  - c) any alleged breach of this code of conduct.
- 8) Any declarations made must be recorded in a register which the Accounting Officer must keep for this purpose.
- 9) Any declarations made by the Accounting Officer must be made to the mayor who must ensure that such declaration is recorded in the register.

### **4 Openness**

Practitioners should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only if it is in the public interest to do so.

### **5 Confidentiality**

- 1) Any information that is the property of the municipality or its providers should be protected at all times. No information regarding any bid / contract / bidder / contractor may be revealed if such an action will infringe on the relevant bidder's / contractor's personal rights.
- 2) Matters of confidential nature in the possession of officials and other role players involved in SCM should be kept confidential unless legislation, the performance of duty or the provisions of law requires otherwise. Such restrictions also apply to officials and other role players involved in SCM after separation from service.

### **6 Bid Specification / Evaluation / Adjudication Committees**

- 1) Bid specification, evaluation and adjudication committees should implement supply chain management on behalf of the municipality in an honest, fair, impartial, transparent, cost-effective and accountable manner.
- 2) Bid evaluation / adjudication committees should be familiar with and adhere to the prescribed legislation, directives and procedures in respect of supply chain management in order to perform effectively and efficiently.

**BITOU MUNICIPALITY**  
**SUPPLY CHAIN MANAGEMENT POLICY INCORPORATING PREFERENTIAL PROCUREMENT**

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- 3) All members of Bid Adjudication Committees should be cleared by the Accounting Officer at the level of "CONFIDENTIAL" and should be required to declare their financial interest annually.
- 4) No person should –
  - a) interfere with the supply chain management system of the municipality; or
  - b) amend or tamper with any price quotation / bid after its submission.

**7 Combative Practices**

- 1) Combative practices are unethical and illegal and should be avoided at all cost. They include but are not limited to:
  - a) Suggestions to fictitious lower quotations;
  - b) Reference to non-existent competition;
  - c) Exploiting errors in price quotations / bids;