



# Ilembe District Municipality

## Supply Chain Management Policy

*Adopted in terms of section 111 of the Municipal Finance Management Act,  
No.56 of 2003 and the Municipal Supply Chain Management Regulations*

**3<sup>rd</sup> Review December 2011**

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

**Date of adoption: 06 December 2011**

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

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## Definitions

1. In this Policy, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the Act has the same meaning as in the Act, and –

**“accredited prospective provider”** means a prospective supplier or provider of goods, works and/or services referred to in paragraph 14 of this Policy;

**“application of preferences”** means the application of the preferential points systems set out in the Preferential Procurement Policy Framework Act 5 of 2000, the Preferential Procurement Regulations, 2011 and the Broad-Based Black Economic Empowerment Act, 2003, as amended from time to time;

**“arrears”** means to be in arrears in respect of the payment of municipal service charges for a period of 90 days or more;

**“authorised officer”** means a member of staff of the Municipality who has been granted authority to authorise the purchase of assets, goods and services on behalf of the Municipality, to the value set out in such authorization;

**“Bid Box”** means the container located at the office of the Municipality in which competitive bids are deposited.

**“Bid Evaluation Report”** means a report prepared by the Bid Evaluation Committee for submission to the Bid Adjudication Committee;

**“Bid Specification”** means the specifications for goods or services prepared by the Bid Specification Committee in respect of goods or services required by the Municipality;

**“competitive bidding process”** means a competitive bidding process referred to in paragraph 12 (1) (d) of this Policy;

“**competitive bid**” means a bid in terms of a competitive bidding process;

“**Designated Officer : Supply Chain Management Unit**” means a member, or members, of the Supply Chain Management Unit of the Finance Directorate of the Municipality designated by the Chief Financial Officer to perform the various functions of a Designated Officer : Supply Chain Management Unit set out in these Rules;

“**Director**” means the head of a Directorate of the Municipality;

“**Directorate**” means a Department of the Municipality under the management and control of a Director;

“**Executive Committee**” means the Executive Committee of the Municipality;

“**Emergency**” referred to in subparagraph 36(1) (a) (i) of this policy means a deviation that is based on it being an emergency case that is reasonable/justifiable based on evidence that:

- Immediate action is necessary in order to avoid a dangerous or risky situation or misery;
- The time available would make it impossible/ impractical to go through a bidding process;
- The deviation is not as a result of the need for procurement being identified/agreed upon/budgeted/planned in the past but not attended to timeously and
- The deviation is not as a result of improper planning

“**final award**”, in relation to bids or quotations submitted for a contract, means the final decision on which bid or quote to accept;

**“formal written price quotation”** means quotations referred to in paragraph 12 (1) (c) of this Policy;

**“GCC”** means General Conditions of Contract

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

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

**“JBCC”** means a principal building agreement issued by the Joint Building Contracts Committee

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

**“list of accredited prospective providers”** means the list of accredited prospective providers which the municipality must keep in terms of paragraph 14 of this policy;

**“other applicable legislation”** means any other legislation applicable to municipal supply chain management, including –

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



(c) the Construction Industry Development Board Act, 2000 (Act No.38 of 2000);

**“Policy”** means the approved Supply Chain Management Policy of the Municipality and includes the Accounting Officers Standing Rules, Orders and Delegations relating to Supply Chain Management

**“Publish an invitation”** means:-

- (i) in the case of formal written price quotations, to publish the invitation on the Municipal Website and display the invitation on the Municipal Notice Board;  
and
- (ii) in the case of competitive bids, to publish the invitation in newspapers commonly circulating locally and on the Municipal Website and to display the invitation on the Municipal Notice Board;

**“Single provider”** referred to in subparagraph 36(1) (a) (ii) of this policy means a deviation that is based on it being an sole supplier/provider case that is reasonable/justifiable based on evidence that:

- A thorough analysis of the market was done and
- Where required, a transparent and equitable pre-selection process.

**“Treasury guidelines”** means any guidelines on supply chain management issued by the Minister in terms of section 168 of the Act;

**“the Act”** means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);

**“the Regulations”** means the Local Government: Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations published by Government Notice 868 of 2005;

**“Urgency”** referred to in subparagraph 22(1)(b)(2) of this policy means a deviation that is based on it being an urgency case that is reasonable/justifiable based on evidence that:

- The early delivery of the goods/services is of critical importance;
- The time available would make it impossible/ impractical to go through a bidding process;
- The deviation is not as a result of the need for procurement being identified/agreed upon/budgeted/planned in the past but not attended to timeously and
- The deviation is not as a result of improper planning

**“written or verbal quotations”** means quotations referred to in paragraph 12(1)(b) of this Policy.

## **CHAPTER 1**

### **IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY**

#### **Supply Chain Management Policy**

**2.(1) All officials and other role players in the Supply Chain Management System of the municipality must implement this Policy in a way that:**

- (a) gives effect to –
  - (i) section 217 of the Constitution; and
  - (ii) Part 1 of Chapter 11 and other applicable provisions of the 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; and
- (f) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.

**(2) This Policy applies when the iLembe District Municipality:**

- (a) procures goods or services;
- (b) disposes goods no longer needed;
- (c) selects contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies,
- (d) selects 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; and
- (b) electricity from Eskom or another public entity, another municipality or a municipal entity.

### **Amendment of the Supply Chain Management Policy**

**3.(1) The Accounting Officer must –**

- (a) at least annually review the implementation of this Policy; and
- (b) when the accounting officer considers it necessary, submit proposals for the amendment of this Policy to the council

**(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 relevant provincial treasury.

(3) When amending this supply chain management policy the need for uniformity in supply chain practices, procedures and forms between organs of state in all spheres, particularly to promote accessibility of supply chain management systems for small businesses must be taken into account.

**(4) In cases where council adopt special programs to achieve set policy objectives and where the special programs impacts on the mechanism of supply chain the accounting officer must:**

- (a) Prepare a report setting out the arrangements for the project
- (b) Show the impact on supply chain management

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

#### **4.(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 accounting officers in terms of –
  - (i) Chapter 8 or 10 of the Act; and
  - (ii) this 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, favoritism and unfair and irregular practices in the implementation of this Policy; and
- (d) to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.

#### **(2) Sections 79 and 106 of the Act apply to the sub delegation of powers and duties delegated to an accounting officer in terms of subparagraph (1).**

(3) The accounting officer may not sub delegate any supply chain management powers or duties to a person who is not an official of the iLembe District Municipality or to a committee which is not exclusively composed of officials of the iLembe District Municipality

(4) This paragraph may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this Policy.

## Sub Delegations

5.(1) The accounting officer has in terms of section 79 or 106 of the Act sub delegated the following supply chain management powers and duties, including those delegated to him in terms of this Policy.

(2)(a) The authority of the Accounting Officer to requisition and make the final award for the provision of assets, goods and services is delegated:-

- (i) to Managers on the Staff Establishment of the Municipality up to a value of R6 000,00 (including VAT) provided that Budget provision exists for such purchase and that the Finance Department has certified that sufficient funds are available for such purchase;
- (ii) to Directors on the Staff Establishment of the Municipality up to a value of R200 000,00 (including VAT) provided that Budget provision exists for such purchase and that the Finance Department has certified that sufficient funds are available for such purchase;

(b) authority is delegated to the Bid Adjudication Committee to make the final award of any Bid submitted to it for adjudication up to a value of R10 000 000,00 (including VAT): provided that:-

- (i) Budget provision exists for such purchase and that the Finance Department has certified that sufficient funds exist for such purchase; and
- (ii) any two members of the Bid Adjudication Committee may, if they disagree with the decision of the Bid Adjudication Committee, require that the matter be referred to the Accounting Officer for determination, in which case this delegation shall not apply;

(c) authority is delegated to the Chief Financial Officer to authorise the acceptance of a quotation in circumstances where it is not possible to obtain at least three quotations for such goods or services;

- (d) the authority of the Accounting Officer to approve Bid Specifications is delegated to the Chief Financial Officer
  - (e) the authority of the Accounting Officer to authorise the closure of competitive bids within a period of less than 14 days in urgent or emergency cases remains with the accounting Officer;
  - (f) the authority of the Accounting Officer to negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders in terms of paragraph 24 is delegated to the Bid Adjudication Committee; and
  - (g) The authority to award bids in excess of R10 million remains with the Accounting Officer.
- (3) An official or bid adjudication committee to which the power to make final awards has been sub delegated in accordance with subparagraph (2) must within five days of the end of each month submit to the official referred to in subparagraph (4) 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 subparagraph (3) must be submitted –
- (a) to the accounting officer, in the case of an award by –
    - (i) the chief financial officer;
    - (ii) directors on the staff establishment of the iLembe District Municipality; or
    - (iii) a bid adjudication committee of which the chief financial officer or a director on the staff establishment of the iLembe District Municipality is a member; or

- (b) to the Chief Financial Officer or the directors on the staff establishment of the iLembe District Municipality responsible for the relevant bid, in the case of an award by –
  - (i) a manager referred to in subparagraph (2)(a)(i); or
  - (ii) a bid adjudication committee of which the chief Financial officer or a senior manager is not a member
- (5) Subparagraphs (3) and (4) of this policy do not apply to procurements out of the petty cash.
- (6) This paragraph may not be interpreted as permitting an official to whom in 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 paragraph 26 of this Policy.
- (7) No supply chain management decision-making powers may be delegated to an advisor or consultant.

### **Oversight Role of Council**

- 6. (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) (i) 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
  - (ii) 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.

### **Supply Chain Management Unit**

7. (1) A Supply Chain Management unit is hereby established 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.

### **Training of Supply Chain Management Officials**

8. 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**

#### **Format of Supply Chain Management System**

9. This 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**

### **System of Demand Management**

- 10.** (1) The Accounting Officer must establish and implement an appropriate demand management system in order to ensure that the resources required by the iLembe District Municipality 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) take into account an analysis of the past spending; and
  - (e) undertake appropriate industry analysis and research to ensure that innovations and technological benefits are maximized.

## Part 2: Acquisition Management

### System of Acquisition Management

11. (1) The Accounting Officer must implement the System of Acquisition Management set out in this Part in order to ensure –
- (a) that goods and services are procured by the iLembe District Municipality in accordance with authorised processes only;
  - (b) that expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the Act;
  - (c) that the threshold values for the different procurement processes are complied with;
  - (d) that the approval of the thresholds for supply chain officials are set and reviewed annually;
  - (e) that bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation;
- and
- (f) 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.

### Range of Procurement Processes

12. (1) Goods and services may only be procured by way of –
- (a) petty cash purchases, up to a transaction value of R2 000 (VAT included);

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

### **General Preconditions for Consideration of Written Quotations or Bids**

- 13.** 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 obtain a tax clearance from the South African Revenue Services that the provider's tax matters are in order; 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 subparagraph (ii) is in the service of the state, or has been in the service of the state in the previous twelve months.

### **Lists of Accredited Prospective Providers**

- 14.** (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; and

- (b) at least once a year through newspapers commonly circulating locally, the website and any other appropriate ways, invite prospective providers of goods or services to apply for evaluation and listing as accredited prospective providers;
  - (c) specify the listing criteria for accredited prospective providers; and
  - (d) disallow the listing of any prospective provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector.
- (2) 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.

### **Petty Cash Purchases**

15. The conditions for the procurement of goods by means of petty cash purchases referred to in paragraph 12 (1) (a) of this Policy, are as follows–
- (a) verbal 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 iLembe District Municipality, provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria set out in paragraph 14(1)(b) and (c) of this policy;
  - (b) If it is not possible to obtain at least three verbal quotations the reason must be recorded and reported quarterly to the Chief Financial Officer or another official designated by the accounting officer;
  - (c) the names of and prices quoted by the potential suppliers must be recorded and the order must only be placed against a written confirmation from the selected supplier

- (d) the Chief Financial Officer must set the maximum number of petty cash purchases or the maximum amounts per month for each manager and these numbers or amounts must be reviewed each month by the accounting officer;
- (e) the manager reporting directly to the Chief Financial Officer may delegate responsibility for the petty cash in writing to an official reporting directly to him; and
- (f) a monthly petty cash reconciliation report from each manager must be provided to the chief financial officer, including –
  - (i) the total amount of petty cash purchases for that month; and
  - (ii) receipts and appropriate documents for each purchase.
- (e) the accounting officer must review the monthly petty cash reconciliation regularly

### **Written or Verbal Quotations**

- 16.** The conditions for the procurement of goods or services through written or verbal quotations, are as follows:
- (a) 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 paragraph 14(1)(b) and (c) of this Policy;
  - (b) to the extent feasible, providers must be requested to submit such quotations in writing;
  - (c) if it is not possible to obtain at least three quotations, the reasons must be recorded and reported quarterly to the accounting officer or another official designated by the accounting officer;
  - (d) the accounting officer must record the names of the potential providers requested to provide such quotations with their quoted prices; and

- (e) if a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider.
- (f) a schedule of the accredited prospective providers of the municipality from whom the quotations were requested and the date of request must be kept and reviewed regularly by the Accounting officer against the overall list of the accredited prospective providers on the database to ensure that rotation of prospective suppliers is being done.

### **Formal Written Price Quotations**

17. (1) The conditions for the procurement of goods or services 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 paragraph 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.
  - (e) a schedule of the accredited prospective providers of the municipality from whom the quotations were requested and the date of request must be kept and reviewed regularly by the Accounting officer against the overall list of the accredited prospective providers on the database to ensure that rotation of prospective suppliers is being done
- (2) A designated official referred to in subparagraph (1) (c) must within three days of the end of each month report to the chief financial officer on any



approvals given during that month by that official in terms of that subparagraph.

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

18. 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 ongoing competition amongst providers by inviting providers to submit quotations on a rotation basis;
  - (b) all requirements in excess of R30 000 (VAT included) that are to be procured by means of formal written price quotations must, in addition to the requirements of paragraph 17, be advertised for at least seven days on the website and an official notice board of the municipality;
  - (c) offers received must be evaluated on a comparative basis taking into account unconditional discounts;
  - (d) the accounting officer or chief financial officer must on a monthly basis be notified in writing of all written or verbal quotations and formal written price quotations accepted by an official acting in terms of a sub delegation;
  - (e) offers below R30 000 (VAT included) must be awarded based on compliance to specifications and conditions of contract, ability and capability to deliver the goods and services and lowest price;
  - (f) acceptable offers, which are subject to the preference points system (PPPFA and associated regulations), must be awarded to the bidder who scored the highest points;
  - (g) all contracts awarded by the iLembe District Municipality must be recorded in a contracts register of the municipality detailing at least:
    - (i) the name of the selected provider;
    - (ii) the date of the award;
    - (iii) the duration of the contract;
    - (iv) retention percentage If applicable

- (v) Surety and or penalty amount

### **Competitive Bids**

- 19.** (1) Goods or services above a transaction value of R200 000 (VAT included) and long term contracts may only be procured through a competitive bidding process, subject to paragraph 11(2) of this Policy.
- (2) No requirement for goods or services above an estimated transaction value of R200 000 (VAT included), may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.

### **Process for Competitive Bidding**

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

## **Bid Documentation for Competitive Bids**

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

- (a) take into account –
  - (i) the general conditions of contract and any special conditions of contract, if specified;
  - (ii) any Treasury guidelines on bid documentation; and
  - (iii) the requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;
- (b) include the preference points system to be used , goals as contemplated in the Preferential Procurement Regulations and evaluation and adjudication criteria, including any criteria required by other applicable legislation;
- (c) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;
- (d) if the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish–
  - (i) if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements –
    - (aa) for the past three years; or
    - (bb) since their establishment if established during the past three years;
  - (ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;
  - (iii) particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
  - (iv) a statement indicating whether any portion of the goods or services are expected to

be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality or municipal entity is expected to be transferred out of the Republic; and

- (e) 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.
- (f) all bids must be submitted in writing on the prescribed bid documentation in a sealed marked envelope and must be deposited by the bidders themselves or their appointed representatives into the designated bid box by no later than the date and time stipulated in the bid documentation.
- (g) The iLembe District Municipality may disqualify any offer or bid submitted for the following reasons:
  - (i) the bidder failed to comply with all submission requirements as stated in the tender document;
  - (ii) the entity or one of its directors are listed on National Treasury's database as a person prohibited from doing business with the public sector;
  - (iii) there are outstanding municipal rates and taxes or service charges from any municipality by the entity or any of its directors that are in arrears for longer than 3 months unless credit arrangements have been made in terms of council policies;
  - (iv) the entity has failed to perform satisfactory on previous contracts with any municipality or other organ of the state, after that entity was given written notice that performance was unsatisfactory;
    - (v) any of the directors committed a corrupt or fraudulent act in competing for a particular contract or in the execution of a contract;
    - (vi) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of a contract that benefited the entity or any of its directors;
    - (vii) the entity or any its directors abused the supply chain management system or committed any improper conduct in relation to such system;

- (viii) any director has been convicted for fraud or corruption during the last 5 years;
- (ix) the entity or any of its directors has willfully neglected, reneged on or failed to comply with any government municipal or other public sector contract during the last 5 years;
- (x) the entity or any of its directors has misrepresented facts or information in the tender document submitted;
- (xi) the entity or any of its directors has submitted two tender documents (from the same company) unless the other tender document is an alternative offer;
- (xii) any persons whose tax matters have not been declared as being in order by the South African Revenue Services for awards in excess of R15 000 including Vat;
- (xiii) the entity or any of its directors has failed to submit with the bid documentation, an original, valid tax clearance certificate
- (h) The iLembe District Municipality may give preference to local suppliers and/or service providers
- (i) The iLembe District Municipality may reject all bids if and when deemed necessary i.e. when there is a lack of effective competition or bids are not substantially responsive.

### **Public Invitation for Competitive Bids**

- 22.** (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 (VAT included), or which are of a long term nature, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to subparagraph (2) of this policy;
  - (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.
- (4) Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies.

### **Procedure for Handling, Opening and Recording of Bids**

**23.** 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 subparagraph (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.

### **Negotiations with Preferred Bidders**

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

### **Two-stage Bidding Process**

- 25.** (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;
  - (d) projects where evaluation of bids is based on functionality as a criterion;
  - (e) projects where evaluation of bids is based on a stipulated threshold for local production and content.
- (2) In the first stage:
- (a) projects referred to in subparagraphs (1)(a) to (c), technical proposals or bids on conceptual design or performance specifications should be invited, subject to technical as well as commercial clarifications and adjustments;
  - (b) projects referred to in subparagraphs (1) (d), proposals or bids must be invited and evaluated in terms of the functionality evaluation criteria embodied in the bid documents
  - (c) projects referred to in subparagraphs (1) (e), proposals or bids must be evaluated in terms of the stipulated minimum threshold for local production and content.
- (3) In the second stage:
- (a) Projects referred to in subparagraphs (1) (a) to (c), final technical proposals and priced bids should be invited;
  - (b) Projects referred to in subparagraphs (1) (d) to (e), only proposals or bids that achieve the minimum qualifying score/percentage for functionality and minimum stipulated threshold for local production and content respectively must be evaluated further in accordance with the 80/20 or 90/10 preference point systems prescribed in Preferential Procurement Regulations 5 and 6.



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

- 26.** (1) A committee system for competitive bids is hereby established, consisting of the following committees for each procurement or cluster of procurements as the accounting officer may determine:
- (a) a bid specification committee;
  - (b) a bid evaluation committee; and
  - (c) a bid adjudication committee;
- (2) The accounting officer appoints the members of each committee, taking into account section 117 of the Act; and
- (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) paragraph 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.

### **Bid Specification Committees**

- 27.** (1) A bid Specification Committee must compile the specifications for each procurement of goods or services by the municipality.
- (2) Specifications –
- (a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;

- (b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organisation, or an authority accredited or recognised by the South African National Accreditation System with which the equipment or material or workmanship should comply;
  - (c) must, where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;
  - (d) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labeling of conformity certification;
  - (e) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the word “equivalent”;
  - (f) must stipulate the appropriate preference point system to be utilized in the evaluation and adjudication of bids in terms of the points system set out in the Preferential Procurement Regulations 2011; and
  - (g) must be approved by the accounting officer prior to publication of the invitation for bids in terms of paragraph 22 of this Policy.
- (3) A bid Specification Committee must be composed of one or more officials of the municipality preferably the manager responsible for the function involved, and may, when appropriate, include external specialist advisors.

- (4) No person, advisor or corporate entity involved with the bid specification committee, or director of such a corporate entity, may bid for any resulting contracts.

### **Bid Evaluation Committees**

- 28.** (1) A Bid Evaluation committee must –
- (a) evaluate bids in accordance with –
    - (i) the specifications for a specific procurement; and
    - (ii) the points system set out in terms of paragraph 27(2)(f).
  - (b) evaluate each bidder's ability to execute the contract;
  - (c) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears, and;
  - (d) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.
- (2) A Bid Evaluation committee must as far as possible be composed of-
- (a) officials from departments requiring the goods or services; and
  - (b) at least one supply chain management practitioner of the municipality.

### **Bid Adjudication Committees**

- 29.** (1) A Bid Adjudication Committee must –
- (a) consider the report and recommendations of the bid evaluation committee; and
  - (b) either –
    - (i) depending on its delegations, make a final award or a recommendation to the accounting officer to make the final award; or
    - (ii) make another recommendation to the accounting officer how to proceed with the relevant procurement.

- (2) A Bid Adjudication Committee must consist of at least four senior managers of the 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) Neither a member of a Bid Evaluation Committee, nor an advisor or person assisting the evaluation committee, may be a member of a bid adjudication committee.
- (5)(a) If the Bid Adjudication Committee decides to 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, and;
  - (ii) notify the Accounting Officer.
- (b) The Accounting Officer may –
- (i) after due consideration of the reasons for the deviation, ratify or reject the decision of the Bid Adjudication Committee referred to in paragraph (a); and

- (ii) if the decision of the Bid Adjudication Committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.
- (6) The Accounting Officer may at any stage of a bidding process, refer any recommendation made by the evaluation committee or the adjudication committee back to that committee for reconsideration of the recommendation.
- (7) The Accounting Officer must comply with section 114 of the Act within 10 working days

### **Procurement of Banking Services**

- 30.** (1) A contract for banking services –
- (a) must be procured through competitive bids;
  - (b) must be consistent with section 7 or 85 of the Act; and
  - (c) may not be for a period of more than five years at a time.
- (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 paragraph 22(1). Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

### **Procurement of IT related goods or services**

- 31.** (1) The Accounting Officer may request the State Information Technology Agency (SITA) to assist with the acquisition of IT related goods or services through a competitive bidding process.

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

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

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

- (2) Subparagraphs (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.

### **Procurement of goods necessitating special safety arrangements**

- 33.** (1) The acquisition and storage of goods in bulk (other than water), which necessitate special safety arrangements, including gasses 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.

### **Proudly SA Campaign**

- 34.** The iLembe District Municipality supports the Proudly SA Campaign to the extent that, all things being equal, preference is given to procuring local goods and services from:
- Firstly – suppliers and businesses within the municipality or district;
  - Secondly – suppliers and businesses within the relevant province;
  - Thirdly – suppliers and businesses within the Republic.

### **Appointment of consultants**

- 35.** (1) The Accounting Officer may procure consulting services provided that any Treasury guidelines in respect of consulting services are taken into account when such procurements are made.

- (2) Consultancy services must be procured through competitive bids if
  - (a) the value of the contract exceeds R200 000 (VAT included); or
  - (b) the duration period of the contract exceeds one year.
  
- (3) In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish particulars of –
  - (a) all consultancy services provided to an organ of state in the last five years; and
  - (b) any similar consultancy services provided to an organ of state in the last five years.
  
- (4) The Accounting Officer must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, thing, system or process designed or devised, by a consultant in the course of the consultancy service is vested in the municipality.

### **Deviation from, and ratification of minor breaches of, procurement processes**

- 36.** (1) The Accounting Officer may –
- (a) dispense with the official procurement processes established by this Policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only –
    - (i) in an emergency;
    - (ii) if such goods or services are produced or available from a single provider only;
    - (iii) for the acquisition of special works of art or historical objects where specifications are difficult to compile;



- (iv) acquisition of animals for zoos and/or nature and game reserves; or
    - (v) in any other exceptional case where it is impractical or impossible to follow the official procurement processes; and
  - (b) ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature.
- (2) The Accounting Officer must record the reasons for any deviations in terms of subparagraphs (1)(a) and (b) of this policy and report them to the next meeting of the council and include as a note to the annual financial statements.
- (3) Subparagraph (2) does not apply to the procurement of goods and services contemplated in paragraph 11(2) of this policy.

### **Unsolicited Bids**

- 37.** (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 subparagraph (2) of this policy, the decision must be made public in accordance with section 21A of the Municipal Systems Act, together with –
  - (a) reasons as to why the bid should not be open to other competitors;
  - (b) an explanation of the potential benefits if the unsolicited bid were accepted; and
  - (c) an invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.
- (4) The Accounting Officer must submit all written comments received pursuant to subparagraph (3), including any responses from the unsolicited bidder, to the National Treasury and the relevant provincial treasury for comment.
- (5) The adjudication committee must consider the unsolicited bid and may award the bid or make a recommendation to the accounting officer, depending on its delegations.
- (6) A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.
- (7) When considering the matter, the adjudication committee must take into account –
  - (a) any comments submitted by the public; and
  - (b) any written comments and recommendations of the National Treasury or the relevant provincial treasury.
- (8) If any recommendations of the National Treasury or provincial treasury are rejected or not followed, the accounting officer must submit to the Auditor

General, the relevant provincial treasury and the National Treasury the reasons for rejecting or not following those recommendations.

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

### **Combating of abuse of Supply Chain Management System**

- 38.** (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, favoritism, unfair or irregular practices or failure to comply with this Policy, and when justified –
    - (i) take appropriate steps against such official or other role player; or
    - (ii) report any alleged criminal conduct to the South African Police Service;
  - (c) check the National Treasury’s database prior to awarding any contract to ensure that no recommended bidder, or any of its directors, is listed as a person prohibited from doing business with the public sector;
  - (d) reject any bid from a bidder–
    - (i) if any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the municipality, or to any other municipality or municipal entity, are in arrears for more than three months; or
    - (ii) who during the last five years has failed to perform satisfactorily on a previous contract with the municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;

- (e) reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;
  - (f) cancel a contract awarded to a person if –
    - (i) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
    - (ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and
  - (g) reject the bid of any bidder if that bidder or any of its directors –
    - (i) has abused the supply chain management system of the municipality or has committed any improper conduct in relation to such system;
    - (ii) has been convicted for fraud or corruption during the past five years;
    - (iii) has willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
    - (iv) has been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).
- (2) The Accounting Officer must inform the National Treasury and relevant provincial treasury in writing of any actions taken in terms of subparagraphs (1)(b)(ii), (e) or (f) of this policy.

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

### **Logistics Management**

- 39.** 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.

### **Disposal Management**

- 40.** (1) The criteria for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the Act, are as follows:

- (i) the Accounting Officer must establish and implement an appropriate disposal management system in order to ensure that the disposal or letting of assets, including unserviceable, redundant or obsolete assets is in terms of the MFMA;
  - (ii) the disposal management system must include the disposal plan, market assessment, disposal method, how to execute the disposal and the updating of the procurement plan and asset register.
- (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 asset
  - (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.
- (5) 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 annually reviewed;
  - (f) where assets are traded in for other assets, the highest possible trade-in price is negotiated; and

- (g) in the case of the free disposal of computer equipment, the provincial department of education is first approached to indicate within 30 days whether any of the local schools are interested in the equipment.

## Risk Management

41. (1) The criteria for the identification, consideration and avoidance of potential risks in the supply chain management system, are as follows:
- (a) the Chief Financial Officer must;
- (i) assess the nature and extent of the risks associated with the municipality's operation
  - (ii) decide the degree of tolerance or an acceptable level of loss or degree of failure
  - (iii) decide how to manage or minimize the risks identified
  - (iv) monitor, report and from time to time reassess the level and implication of the risk exposure
  - (v) maintain a risk register that identifies and assesses all known risks and the action taken to manage those risks
- (c) the risk register must be regularly updated and the outcome reported to the Executive committee
- (d) risks can be classified as high, medium or low by reference to the chart below: -

A Risk is.....	Occurrence	Severity
.....High if	The chances of the risk materializing is greater than 75%	The financial cost of the risk is equal or exceeds the project estimate
.....Medium if	The chances of the risk materializing is between 26 % and 74%	The financial cost of the risk is between 11% and 99% of the project estimate
.....Low if	The chances of the risk materializing is less than 25%	The financial cost of the risk is less than 10% of the project estimate

- (2) Risk Management must include –
- (a) the identification of risks on a case-by-case basis;
  - (b) the allocation of risks to the party best suited to manage such risks;
  - (c) acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;
  - (d) the management of risks in a pro-active manner and the provision of adequate cover for residual risks; and
  - (e) the assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.
  - (f) the Finance Managers must effect all insurance cover and maintain a record of all policy details for noted financial risks
  - (g) the Directors are responsible for implementing the risk management policy, including financial risks within their directorate
  - (h) projects sureties must be determined according to affordability and risk for different categories of contracts as per the GCC or JBCC, whichever is appropriate.
  - (i) the minimum for retention monies held from a contractor during the construction period must be determined according to affordability and risk for different categories of contracts as per the GCC or JBCC, whichever is appropriate.
  - (j) payments for small and micro projects must be made within 14 days after submission of a valid tax invoice which has been approved by the iLembe District Municipality's Representative or as specified in the municipality's Special Conditions of Contracts
  - (k) the municipality shall at its discretion, accept signed cessions by Small Medium Enterprises to suppliers so that payments are made directly to suppliers for the supply of materials as a form of assisting Small Medium



Enterprises. All cessions shall be in terms of the GCC or JBCC, whichever is appropriate

- (l) the service provider may not cede or assign a contract or any monies due or that may become due to it, without the prior written consent of the Executive Supply Chain Management or in terms of the conditions of the contract.
- (m) penalties on late completion of work shall be as per the GCC or JBCC or as specified in the tender documents
- (n) the Finance Managers with the assistance from relevant Directorate Managers shall carry out all negotiations with insurers, in respect of insurance claims, where necessary.
- (o) the value and the responsibility for specific insurances required by contractors and service providers shall be specified in the tender documents
- (p)
  - (i) in some instances it may be in the best interest of the municipality to allow price adjustments due to escalation.
  - (ii) a careful analysis of escalation clauses and formulas should be taken into account to ensure that the best interests of the municipality are served.
  - (iii) if the accounting officer resolves to allow escalation, this must be specified in the bid documents, including the formula and the time frames at which intervals such price adjustments will be considered.
- (q)
  - (i) exchange rate fluctuations must be considered when items are imported or have imported component.
  - (ii) the future fluctuations of the rand are particularly important if the contract period is over a specific period or if delivery is due at a date some time in the future.
  - (iii) the accounting officer must make a decision as whether or not the municipality will take risk or whether suppliers will be allocated the risk.
  - (iv) The standard approach is that the bidder must arrange for forward cover.
- (r)
  - (i) extra works or variations to a contract shall be authorized in writing by the appropriate manager or duly authorized official

- (ii) any variation that would result in an increase in the amount of an accepted tender or approved budget shall be reported to the adjudication committee and will require the approval of the Adjudication Committee and/or Accounting Officer before any payment is made.
- (s) Contracts may be varied or expanded by not more than 15% or R15 million (including all applicable taxes) for construction related goods, works and/or services and 10% or R10 million (including all applicable taxes) for all other goods, works and/or services of the original value of the contract, whichever is the lower amount.
- (t) The iLembe District Municipality may, prior to the award of the bid, cancel the bid if:
  - (i) due to changed circumstances there is no longer a need the goods or services for which the bids were solicited;
  - (ii) funds are no longer available to cover the total envisaged expenditure; or
  - (iii) no acceptable bids were received
- (u) The iLembe District Municipality may reject all bids if and when deemed necessary.
- (v) Any person lodging written objection or complaint in terms of paragraph 49 of this policy shall provide in a form acceptable to the Accounting Officer, security for the costs of the prosecution of such objection or complaint
- (w) The amount to be provided under subparagraph 41(2)(v) of this policy shall be determined by the Accounting Officer having regard to the value of the bid, the complexity of the issues and the costs to the municipality of appointing the person referred to in paragraph 50 (1) of this policy.
- (x) Any person aggrieved by the amount of security determined by the Accounting Officer in terms of 41(2)(w) of this policy shall notify the Accounting Officer accordingly and the Accounting Officer shall refer the matter to the Chief Magistrate, KwaDukuza, who shall determine the amount of the security to be provided and the decision of the Chief Magistrate shall be final

## **Performance Management**

- 42. (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) In the monitoring of supply chain management performance, the Accounting Officer together with the Chief Financial Officer, must set goals and performance criteria for SCM officials against which performance can be measured,

(3) Issues that need to be included in the relevant reviews include:

- (a) achievement of goals
- (b) compliance to norms and standards
- (c) savings generated
- (d) Stores efficiency
- (e) cost variances per item and across business units
- (f) contract management
- (g) cost efficiency of the procurement process
- (h) supply chain management objectives in line with the provisions of the CIDB Act and regulations
- (i) principles of co-operative governance as expounded in the Constitution are observed
- (j) regional economic disparities are being addressed and promoted.

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

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

**43.** (1) No award above R15 000 may be made in terms of this Policy to a person whose tax matters have not been declared by the South African Revenue Service to be in order.

(2) Before making an award to a person the accounting officer must first check with SARS whether that person's tax matters are in order.

- (3) If SARS does not respond within 7 days such person's tax matters may for purposes of subparagraph (1) be presumed to be in order.

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

**44.** Irrespective of the procurement process followed, no award may be made to a person in terms of this Policy–

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

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

**45.** 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.

### **Ethical standards**

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

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

## (2) General Principles

- (a) the municipality commits itself to a policy of fair dealing and integrity in the conducting of its business. Officials and other role players involved in Supply Chain Management (SCM) are in a position of trust, implying a duty to act in the public interest. 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.
- (a) 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.
- (b) 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.

## (3) *Conflict of interest*

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

#### *(4) Accountability*

- (a) Practitioners are accountable for their decisions and actions to the public.
- (b) Practitioners should use public property scrupulously.
- (c) Only accounting officers or their delegates have the authority to commit the municipality to any transaction for the procurement of goods and / or services.
- (d) All transactions conducted by a practitioner should be recorded and accounted for in an appropriate accounting system. Practitioners should not make any false or misleading entries into such a system for any reason whatsoever.
- (e) Practitioners must assist the accounting officer in combating fraud, corruption,

(f) favoritism and unfair and irregular practices in the supply chain management system.

(g) 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

- (i) any alleged fraud, corruption, favoritism or unfair conduct;
- (ii) any alleged contravention of the policy on inducements, rewards, gifts and favours to municipalities or municipal entities, officials or other role players; and
- (iii) any alleged breach of this code of conduct.

(h) Any declarations made must be recorded in a register which the accounting officer must keep for this purpose. Any declarations made by the accounting officer must be made to the mayor who must ensure that such declaration is recorded in the register.

#### (4) *Openness*

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

#### (5) *Confidentiality*

(a) Any information that is the property of the municipality or its providers should be protected at all times. No information regarding any bid / contract / bidder / contractor may be revealed if such an action will infringe on the relevant bidder's / contractor's personal rights.

(b) Matters of confidential nature in the possession of officials and other role players involved in SCM should be kept confidential unless legislation, the performance of duty or

the provisions of law requires otherwise. Such restrictions also apply to officials and other role players involved in SCM after separation from service.

(6) *Bid Specification / Evaluation / Adjudication Committees*

(a) Bid specification, evaluation and adjudication committees should implement supply chain management on behalf of the municipality in an honest, fair, impartial, transparent, cost-effective and accountable manner.

(b) Bid evaluation / adjudication committees should be familiar with and adhere to the prescribed legislation, directives and procedures in respect of supply chain management in order to perform effectively and efficiently.

(c) All members of bid adjudication committees should be cleared by the accounting officer at the level of "CONFIDENTIAL" and should be required to declare their financial interest annually.

(d) No person should-

- (i) interfere with the supply chain management system of the municipality; or
- (ii) amend or tamper with any price quotation / bid after its submission.

(7) *Combative Practices*

(a) Combative practices are unethical and illegal and should be avoided at all cost. They include but are not limited to:

- (i) Suggestions to fictitious lower quotations;
- (ii) Reference to non-existent competition;



- (iii) Exploiting errors in price quotations / bids;
- (iv) Soliciting price quotations / bids from bidders / contractors whose names appear on the Register for Tender Defaulters.

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

- (a) in the case of an employee, in terms of the disciplinary procedures of the municipality envisaged in section 67(1)(h) of the Municipal Systems Act;
  - i. in the case a role player who is not an employee, through other appropriate means in recognition of the severity of the breach.
  - ii. In all cases, financial misconduct must be dealt with in terms of chapter 15 of the Act.

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

**47.** (1) No person who is a provider or prospective provider of goods or services, or a recipient or prospective recipient of goods disposed or to be disposed of may either directly or through a representative or intermediary promise, offer or grant –

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

(2) The accounting officer must promptly report any alleged contravention of subparagraph (1) to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the public sector.

(3) Subparagraph (1) does not apply to gifts less than R350 in value.

### **Sponsorships**

**48.** The Accounting Officer must promptly disclose to the National Treasury and the relevant provincial treasury any sponsorship promised, offered or granted, whether directly or through a representative or intermediary, by any person who is –

- (a) a provider or prospective provider of goods or services; or
- (b) a recipient or prospective recipient of goods disposed or to be disposed.

### **Objections and Complaints**

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

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

**50.** (1) The Accounting Officer must appoint an independent and impartial person, not directly involved in the supply chain management processes –

- (a) to assist in the resolution of disputes between the municipality and other persons regarding -
  - (i) any decisions or actions taken in the implementation of the supply chain management system; or
  - (ii) any matter arising from a contract awarded in the course of the supply chain management system; or
- (b) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.
- (c) On conclusion of the process referred to in (a) and (b) above, make an appropriate Order as to the costs of the objection or complaint.

- (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) If the provincial treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.
- (6) This paragraph must not be read as affecting a person's rights to approach a court at any time.

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

**51.** If a service provider acts on behalf of iLembe District 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.

**Commencement**

**52.** This Policy takes effect on 1 December 2011