

SUPPLY CHAIN MANAGEMENT POLICY



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The Supply Chain Management Policy is meant to be a “Living” Document and will be subject to regular reviews.

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1. FOREWORD

This policy reflects and represents the context of a specific government policy, that finds expression within the provisions of the Municipal Finance Management Act of 2003 and SCM regulations, read in tandem with other like- legislative prescripts inter alia:-

- The Constitution of the Republic of South Africa Act 108 of 1996.
- The Preferential Procurement Policy Framework Act Act 5 2000 and its associated regulations.
- The Broad-Based Black Economic Empowerment Act, 2003 (Act 53 of 2003) BBEEA, and it provides for at least the following :-
 - a) demand management;
 - b) acquisition management (including contract and contract management)
 - c) logistics management
 - d) disposal management
 - e) risk management and regular assessment of supply chain performance.

2. OBJECTIVES OF THE POLICY

The principal objective of the policy is to provide, promote and implement , theoretical guidelines , governing processes and procedures within the supply chain management when

- Procuring goods or services;
- Disposal of goods, assets and immovable property no longer needed;

3 DEFINITIONS

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 –

“Accounting Officer ” means the Municipal Manager of the Hibiscus Coast Municipality

“Chief Financial Officer ” means the Chief Financial Officer of the Hibiscus Coast Municipality

“competitive bidding process” means a competitive bidding process referred to in paragraph 18 of this policy;

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

“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) (b) of this policy;

“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;

“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 a municipality or municipal entity must keep in terms of paragraph 16 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);

“Regulation” means the Local Government: Municipal Supply Chain Management Regulations

“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);

“written quotations” means quotations referred to in paragraph 14(1)(b) of this policy.

CHAPTER 1
ESTABLISHMENT AND 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 Hibiscus Coast Municipality must implement this Policy in a way that - resolves in terms of section 111 of the Act 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 regulatory framework prescribed in Chapter 2 of 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) 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) in the case of a municipality, selecting external mechanisms referred to in section 80 (b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in section 83 of that Act.

- (3.) Subparagraphs (1) and (2) of this policy do not apply in the circumstances described in section 110 (2) of the Act except where specifically provided otherwise in this policy.

5. ADOPTION AND 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.
- (2) If the Accounting Officer submits a draft policy to the council that differs from the model policy, the Accounting Officer must ensure that such draft policy complies with the Regulations. The Accounting Officer must report any deviation from the model policy to the National Treasury and the relevant provincial treasury.
- (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) The Accounting Officer of a municipality must in terms of section 62(1)(f)(iv) of the Act, take all reasonable steps to ensure that the municipality has and implements this supply chain management policy.

6. DELEGATION OF SUPPLY CHAIN MANAGEMENT POWERS AND DUTIES

- (1) The council hereby delegates in terms of Section 117 of the MFMA, to manage the Supply Chain Management Policy to the Accounting Officer so as 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) the supply chain management policy;
 - (b) to maximise administrative and operational efficiency in the implementation of the supply chain management policy;
 - (c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of the supply chain management policy; and

- (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) of this policy.
- (3) The council or Accounting Officer may not delegate or sub delegate any supply chain management powers or duties to a person who is not an official of the municipality **or** to a committee which is not exclusively composed of officials of the municipality.
- (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 27 of this policy.

7. SUB DELEGATIONS

- (1) The Accounting Officer may in terms of section 79 or 106 of the Act sub delegate any supply chain management powers and duties, including those delegated to the Accounting Officer in terms of this policy, but any such sub delegation must be consistent with subparagraph (2) and paragraph 4 of this policy.
- (2) The power to make a final award –
 - (a) above R2 million (VAT included) may not be sub delegated by the Accounting Officer; to comply with this requirement the Accounting Officer may either chair the Bid Adjudication Committee or consider recommendations of the Bid Adjudication Committee to make a final award for bids above R2 million inclusive of VAT
 - (b) up to R2 million (VAT included), but not exceeding R2 million (VAT included), may be sub delegated but only to –
 - (i) the Chief Financial Officer;
 - (ii) a senior manager directly accountable to the Chief Financial Officer or
 - (iii) 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 subparagraph (2) of this policy must within five days of the end of each month submit to the official referred to in subparagraph (4) of this policy 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) of this policy 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; or
 - (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) of this policy; 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 petty cash.
- (6) This paragraph may not be interpreted as permitting an official to whom the power to make final awards has been sub delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 27 of this policy.
- (7) No supply chain management decision-making powers may be delegated to an advisor or consultant.

(NOTE) Delegation of Powers is contained in annexure “A”

8. OVERSIGHT ROLE OF COUNCIL

- (1) The council must maintain oversight over the implementation of this supply chain management 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 the supply chain management policy of the Hibiscus Coast Municipality and of any municipal entity under its sole or shared control, to the council of the Hibiscus Coast Municipality,
 - (ii) whenever there are serious and material problems in the implementation of the supply chain management 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.

9. SUPPLY CHAIN MANAGEMENT UNIT
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- (1) The Accounting Officer must establish a supply chain management unit to implement this supply chain management policy.
- (2) The supply chain management unit must, where possible, operate under the direct supervision of the Chief Financial Officer or an official to whom this duty has been delegated in terms of section 82 of the Act.

10. TRAINING OF SUPPLY CHAIN MANAGEMENT OFFICIALS
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The training of officials involved in implementing the supply chain management policy should be in accordance with any Treasury guidelines on supply chain management training.

CHAPTER 2
FRAMEWORK FOR SUPPLY CHAIN MANAGEMENT

11. FORMAT OF SUPPLY CHAIN MANAGEMENT

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

12. SYSTEM OF DEMAND MANAGEMENT

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

PART 2: ACQUISITION MANAGEMENT

13. SYSTEM OF ACQUISITION MANAGEMENT

- (1) The Accounting Officer must establish, though operational procedures, an effective system of acquisition management in order to ensure –
 - (a) that goods and services are procured by the Hibiscus Coast Municipality in accordance with authorised processes only;
 - (b) that expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the Act;

- (c) that the threshold values for the different procurement processes are complied with;
 - (d) that bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation; and
 - (e) that any Treasury guidelines on acquisition management are properly taken into account.
- (2) This supply chain management policy, except where provided otherwise in the policy, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Act, including –
- (a) water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and
 - (b) electricity from ESKOM or another public entity, another municipality or a municipal entity.
- (3) The following information must be made public wherever goods or services contemplated in section 110(2) of the Act are procured other than through the supply chain management system –
- (a) the kind of goods or services; and
 - (b) the name of the supplier.

<p>14. RANGE OF PROCUREMENT PROCESSES</p>
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- (1) The procurement of goods and services through this policy is provided by way of –
- (a) petty cash purchases, up to a transaction value of R1 000 (VAT included);
 - (b) formal written quotations for procurements of a transaction value over R1 000 up to R120 000 (VAT included);
 - (c) a competitive bidding process for–
 - (i) procurements above a transaction value of R120 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 no (1); or
- (b) direct that –
 - (i) written quotations be obtained for any specific procurement of a transaction value lower than R1 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 R120 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.

15. GENERAL PRECONDITIONS FOR CONSIDERATION OF WRITTEN QUOTATIONS OR BIDS
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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 Hibiscus Coast 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

(iv) is in the service of the state, or has been in the service of the state in the previous twelve months.

16. 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 of the through written or 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.

17. PETTY CASH PURCHASES

The Accounting Officer must establish the conditions for the procurement of goods by means of petty cash purchases referred to in paragraph 12 (1) (a) of this policy, which must include conditions –

- (a) determining the terms on which a manager may delegate responsibility for petty cash to an official reporting to the manager;
- (b) limiting the number of petty cash purchases or the maximum amounts per month for each manager;

- (c) excluding any types of expenditure from petty cash purchases, where this is considered necessary; and
- (d) requiring monthly reconciliation reports from each manager 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.

18. FORMAL WRITTEN PRICE QUOTATIONS
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- (1) The Accounting Officer must establish the conditions for the procurement of goods or services through formal written price quotations, which must include conditions stating –
 - (a) that quotations must be obtained in writing from at least three different providers whose names appear on the list of accredited prospective providers of the Hibiscus Coast Municipality ;
 - (b) that quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria in the supply chain management policy required by paragraph 16(1)(b) and
 - (c) that 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) that the Accounting Officer must record the names of the potential providers and their written quotations.
- (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.

19. PROCEDURES FOR PROCURING GOODS OR SERVICES THROUGH FORMAL WRITTEN PRICE QUOTATIONS

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

- (a) that 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 18, be advertised for at least seven days on the website and an official notice board of the Hibiscus Coast Municipality
- (b) that when using the list of accredited prospective providers the Accounting Officer must promote ongoing competition amongst providers, including by inviting providers to submit quotations on a rotation basis;
- (c) that the Accounting Officer must take all reasonable steps to ensure that the procurement of goods and services through formal written price quotations is not abused;
- (d) that the Accounting Officer or Chief Financial Officer must on a monthly basis be notified in writing of all formal written price quotations accepted by an official acting in terms of a sub delegation, and;
- (e) requirements for proper record keeping.

20. COMPETITIVE BIDDING PROCESS

- (1) Goods or services above a transaction value of R120 000 (VAT included) and long term contracts may only be procured through a competitive bidding process, subject to paragraph 11(2) of this policy; and
- (2) No requirement for goods or services above an estimated transaction value of R120 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.

21. PROCESS FOR COMPETITIVE BIDDING

The Accounting Officer must establish procedures for a competitive bidding process for each of the following stages:

- (a) the compilation of bidding documentation;
- (b) the public invitation of bids;
- (c) site meetings or briefing sessions, if applicable;

- (d) the handling of bids submitted in response to public invitation;
- (e) the evaluation of bids;
- (f) the award of contracts;
- (g) the administration of contracts; and
- (h) proper record keeping.

22. BID DOCUMENTATION FOR COMPETITIVE BIDS

The Accounting Officer must establish the criteria to which bid documentation for a competitive bidding process must comply, which in addition to paragraph 13 of this policy, the bid documentation must –

- (a) take into account –
 - (i) the general conditions of contract;
 - (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 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 Hibiscus Coast 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.

23. PUBLIC INVITATION FOR COMPETITIVE BIDS

The Accounting Officer must determine the procedure for the invitation of competitive bids, which must stipulate that:

- (1)
 - (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 Hibiscus Coast 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; and
 - (ii) a statement that bids may only be submitted on the bid documentation provided by the Hibiscus Coast Municipality.
- (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.

24. PROCEDURE FOR HANDLING, OPENING AND RECORDING OF BIDS

The Accounting Officer must determine the procedures for the handling, opening and recording of bids, which must stipulate that:

- (a) Bids–
 - (i) must be opened only in public; and
 - (ii) must be opened at the same time and as soon as possible after the period for the submission of bids has expired;
- (b) Any bidder or member of the public has the right to request that the names of the bidders who submitted bids in time must be read out and, if practical, also each bidder's total bidding price; and
- (c) The Accounting Officer must –
 - (i) record in a register all bids received in time;
 - (ii) make the register available for public inspection; and
 - (iii) publish the entries in the register and the bid results on the website.

25. 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.

26. 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.

27. COMMITTEE SYSTEM FOR COMPETITIVE BIDS
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- (1) The Accounting Officer is required to –
- (a) establish a committee system for competitive bids consisting of at least –
 - (i) a bid specification committee;
 - (ii) a bid evaluation committee; and
 - (iii) a bid adjudication committee;
 - (b) appoint the members of each committee, taking into account section 117 of the Act; and
 - (c) provide for an attendance or oversight process by a neutral or independent observer, appointed by the Accounting Officer, when this is appropriate for ensuring fairness and promoting transparency.
- (2) The committee system must be consistent with –
- (a) paragraph 28, 29 and 30 of this policy; and
 - (b) any other applicable legislation.
- (3) The Accounting Officer may apply the committee system to formal written price quotations.

28. BID SPECIFICATION COMMITTEES

- (1) The bid specification committee must compile the specifications for each procurement of goods or services by the Hibiscus Coast 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) where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;
 - (d) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labeling of conformity certification;
 - (e) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the words “equivalent”;
 - (f) must indicate each specific goal for which points may be awarded in terms of the points system set out in the Preferential Procurement Regulations 2001; 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) The bid specification committee must be composed of one or more officials of the Hibiscus Coast 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.

29. BID EVALUATION COMMITTEES

- (1) The bid evaluation committee must –
- (a) evaluate bids in accordance with –
 - (i) the specifications for a specific procurement; and
 - (i) 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) The bid evaluation committee must as far as possible be composed of –
- (a) officials from departments requiring the goods or services; and
 - (b) at least one supply chain management practitioner of the Hibiscus Coast Municipality.

<p>30. BID ADJUDICATION COMMITTEES</p>

- (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 Hibiscus Coast Municipality or municipal entity which must include –
- (i) 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
 - (ii) at least one senior supply chain management practitioner who is an official of the Hibiscus Coast Municipality ; and
 - (iii) 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.

31. PROCUREMENT OF BANKING SERVICES
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- (1) Banking services –
- (a) must be procured through competitive bids;
 - (b) must be consistent with section 7 or 85 of the Act; and
 - (c) may not be for a period of more than five years at a time.
- (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).

32. PROCUREMENT OF INFORMATION TECHNOLOGY (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) If SITA comments on the submission and the Hibiscus Coast Municipality disagree with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the council, the National Treasury, the relevant provincial treasury and the Auditor General.

33. 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.
- (2) Subparagraph (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.

34. 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.

35. SPECIFIC GOALS

The Accounting Officer by EXCO resolution may from time to time set tender specifications or tender documents to achieve specific goals. These goals may include but not be limited to the following:

- Contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender or disability.
- The promotion of SMMEs.
- The promotion of enterprises located in a specific municipal area for work to be done or services to be rendered in the area.
- The promotion of enterprises located in rural areas.
- The empowerment of the work force by standardising the level of skill and
- Knowledge of workers.

The section on specific goals will be done in compliance with the Preferential Procurement Act and Regulations.

36. 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 when required must be procured through competitive bids if –
 - (a) the value of the contract exceeds R120 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 Hibiscus Coast Municipality .

37. 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 –
 - (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.

38. 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 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) All written comments received pursuant to subparagraph (3), including any responses from the unsolicited bidder, must be submitted 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 Hibiscus Coast Municipality to the bid may be entered into or signed within 30 days of the submission.

39. COMBATING OF ABUSE OF SUPPLY CHAIN MANAGEMENT SYSTEM

The Accounting Officer must establish measures for the combating of abuse of the supply chain management system, which must stipulate the following:

- (1) The Accounting Officer must–
 - (a) take all reasonable steps to prevent abuse of the supply chain management system;
 - (b) investigate any allegations against an official or other role player of fraud, corruption, favouritism, unfair or irregular practices or failure to comply with this supply chain management policy, and when justified –

- (i) take appropriate steps against such official or other role player; or
 - (ii) report any alleged criminal conduct to the South African Police Service;
- (c) check the National Treasury's database prior to awarding any contract to ensure that no recommended bidder, or any of its directors, is listed as a person prohibited from doing business with the public sector;
- (d) reject any bid from a bidder–
 - (i) if any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the Hibiscus Coast 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 Hibiscus Coast 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 Hibiscus Coast 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 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**

40. LOGISTICAL MANAGEMENT

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

41. DISPOSAL MANAGEMENT

- (1) The Accounting Officer must establish an effective system of disposal management for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the Act, which must stipulate the following:
- (2) The disposal of assets must–
 - (a) be by one of the following methods –
 - (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;
 - (b) provided that –
 - (i) immovable property may be sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
 - (ii) movable assets may be sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous;
 - (iii) in the case of the free disposal of computer equipment, the provincial department of education must first be

approached to indicate within 30 days whether any of the local schools are interested in the equipment; and

- (iv) in the case of the disposal of firearms, the National Conventional Arms Control Committee has approved any sale or donation of firearms to any person or institution within or outside the Republic;
 - (c) furthermore ensure that –
 - (i) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise; and
 - (ii) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed; and
 - (d) ensure that where assets are traded in for other assets, the highest possible trade-in price is negotiated.
- (3) Disposal of land and improvements-
- (a) all land and improvement sales should be done in terms of the Supply Chain Management regulations;
 - (b) the methods of disposal should be in terms of section 41(2) of this policy; and
 - (c) the award of the tender shall be dealt with in accordance to sub-delegation (section 7 of this policy).

42. RISK MANAGEMENT

- (1) The Accounting Officer must establish an effective system of risk management for the identification, consideration and avoidance of potential risks in the supply chain management system.
- (2) 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.

43. PERFORMANCE MANAGEMENT

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

PART 4: OTHER MATTERS

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

- (1) The Accounting Officer must ensure that, irrespective of the procurement process followed, no award above R30 000 is given to a person/company 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/company the accounting person must first check with SARS whether that person's/company's tax matters are in order.
- (3) If SARS does not respond within 7 days such person's/company's tax matters may for purposes of subparagraph (1) be presumed to be in order.

45. PROHIBITION ON AWARDS TO PERSONS IN THE SERVICE OF THE STATE

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

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

46. AWARDS TO CLOSE FAMILY MEMBERS OF PERSONS IN THE SERVICE OF THE STATE

The notes to the annual financial statements must disclose particulars of any award of more than 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.

47. ETHICAL STANDARDS

- (1) A code of ethical standards is hereby established, in accordance with subparagraph (2), for officials and other role players in the supply chain management system in order to promote-
 - (a) mutual trust and respect; and
 - (b) an environment where business can be conducted with integrity and in a fair and reasonable manner.
- (2) An official or other role player involved in the implementation of the supply chain management policy –
 - (a) must treat all providers and potential providers equitably;
 - (b) may not use his or her position for private gain or to improperly benefit another person;
 - (c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350;
 - (d) notwithstanding subparagraph (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 Hibiscus Coast 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 Hibiscus Coast Municipality ;
 - (h) must assist the Accounting Officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system; and
 - (i) must report to the Accounting Officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including –
 - (i) any alleged fraud, corruption, favouritism or unfair conduct;
 - (ii) any alleged contravention of paragraph 47(1) of this policy; or
 - (iii) any alleged breach of this code of ethical standards.
- (3) Declarations in terms of subparagraphs (2)(d) and (e) -
- (a) must be recorded in a register which the Accounting Officer must keep for this purpose;
 - (b) by the Accounting Officer must be made to the mayor of the Hibiscus Coast Municipality who must ensure that such declarations are recorded in the register.
- (4) The National Treasury’s code of conduct must also be taken into account by supply chain management practitioners and other role players involved in supply chain management.
- (5) Hibiscus Coast Municipality or municipal entity adopts the National Treasury’s code of conduct for supply chain management practitioners and other role players involved in supply chain management, which code of conduct becomes binding on all officials and other role players involved in the implementation of the supply chain management policy of the Hibiscus Coast Municipality or municipal entity. A copy of the National Treasury code of conduct is available on the website **www.treasury.gov.za/mfma** located under “legislation”.
- (6) A breach of the code of conduct adopted by the Hibiscus Coast Municipality must be dealt with in accordance with schedule 2 of the Systems Act.

48. 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 Hibiscus Coast Municipality for or in connection with the award of a contract; or
 - (b) any reward, gift, favour or hospitality to –
 - (i) any official; or
 - (ii) any other role player involved in the implementation of the supply chain management policy.
- (2) 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.

49. SPONSORSHIPS

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

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

50. 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.

51. 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 Hibiscus Coast 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.
- (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.

52. CONTRACTS PROVIDING FOR COMPENSATION BASED ON TURNOVER

If a service provider acts on behalf of a Hibiscus Coast 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 Hibiscus Coast Municipality must stipulate –

- (a) a cap on the compensation payable to the service provider; and
- (b) that such compensation must be performance based.

53. COMMENCEMENT

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

**PREFERENTIAL PROCUREMENT REGULATIONS, 2001
PERTAINING TO THE PREFERENTIAL PROCUREMENT POLICY
FRAMEWORK ACT: NO 5 OF 2000**

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REGULATIONS

The Minister of Finance has, in terms of section 5 of the Preferential Procurement Policy Framework Act, 2000 (Act No 5 of 2000), made the regulations contained in the Schedule.

SCHEDULE

PART ONE

DEFINITIONS AND APPLICATION

1. DEFINITIONS

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

- (a) **“Act”** means the Preferential Procurement Policy Framework Act, 2000 (Act No 5 of 2000);
- (b) **“Agent”** means a person mandated by another person (“the principal”) to do business for and on behalf of, or to represent in a business transaction, the principal, and thereby acquire rights for the principal against an organ of state and incur obligations binding the principal in favour of an organ of state;
- (c) **“Comparative price”** means the price after the factors of a non-firm price and all unconditional discounts that can be utilised have been taken into consideration;
- (d) **“Consortium or Joint Venture”** means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract;
- (e) **“Contract”** means the agreement that results from the acceptance of a tender by an organ of state;
- (f) **“Disability”** means, in respect of a person, a permanent impairment of a physical, intellectual, or sensory function, which results in restricted, or lack of, ability to perform an activity in the manner, or within the range, considered normal for a human being;
- (g) **“Firm price”** 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;
- (h) **“Historically Disadvantaged Individual (HDI)”** means a South African citizen –

- (1) who, due to the apartheid policy that had been in place, had no franchise in national elections prior to the introduction of the Constitution of the Republic of South Africa, 1983 (Act No 110 of 1983) or the Constitution of the Republic of South Africa, 1993 (Act No 200 of 1993) (“the Interim Constitution”); and / or
 - (2) who is a female; and / or
 - (3) who has a disability: Provided that a person who obtained South African citizenship on or after the coming to effect of the Interim Constitution, is deemed not to be an HDI;
- (i) **“Management”** in relation to an enterprise or business, means an activity inclusive of control and performed on a daily basis, by any person who is a principal executive officer of the company, by whatever name that person may be designated, and whether or not that person is a director;
 - (j) **“Non-firm prices”** means all prices other than “firm” prices;
 - (k) **“Person”** includes reference to a juristic person;
 - (l) **“Rand value”** means the total estimated value of a contract in Rand denomination which is calculated at the time of tender invitations and includes all applicable taxes and excise duties;
 - (m) **“Small, Medium and Micro Enterprises (SMMEs)”** bears the same meaning assigned to this expression in the National Small Business Act, 1996 (Act No102 of 1996);
 - (n) **“Sub-Contracting”** 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;
 - (o) **“Tender”** means a written offer or bid in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of services or goods;
 - (p) **“Trust”** means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person;
 - (q) **“Trustee”** means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.

2. APPLICATION

- (1) Despite anything to the contrary contained in any law, these regulations apply to organs of state as contemplated in section 1(iii) of the Act.
- (2) An organ of state contemplated in sub-regulation (1) must, unless the Minister of Finance has directed otherwise, only apply a preferential procurement system which is in accordance with the Act and these regulations.
- (3) An organ of state may deviate from the framework contemplated in section 2 of the Act in respect of a pre-determined tariff based professional appointments.

PART TWO

PREFERENCE POINT SYSTEM, EVALUATION OF TENDERS, AWARDING OF TENDERS NOT SCORING HIGHEST POINTS, CANCELLATION AND RE-INVITATION OF TENDERS

3. THE 80/20 PREFERENCE POINT SYSTEM

- (1) The following formula must be used to calculate the points for price in respect of tenders / procurement with a Rand value equal to, or above R30 000 and up to a Rand value of R500 000. Organs of state may, however, apply this formula for procurement with a value less than R30000, if and when appropriate:

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

Where

P_s = Points scored for price of tender under consideration

P_t = Rand value of offer tender consideration

P_{\min} = Rand value of lowest acceptable tender

- (2) A maximum of 20 points may be awarded to a Tenderer for being an HDI and / or subcontracting with an HDI and / or achieving any of the specified goals stipulated in regulation 17.
- (3) The points scored by a Tenderer in respect of the goals contemplated in sub-regulation (2) must be added to the points scored for price.
- (4) Only the tender with the highest number of points scored may be selected.

4. THE 90/10 PREFERENCE POINT SYSTEM

- (1) The following formula must be used to calculate the points for price in respect of tenders / procurement with a Rand value above R500 000:

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

Where

Ps = Points scored for price of tender under consideration

Pt = Rand value of tender under consideration

Pmin = Rand value of lowest acceptable tender

- (2) A maximum of 10 points may be awarded to a Tenderer for being an HDI and / or subcontracting with an HDI and / or achieving any of the specified goals stipulated in regulation 17.
- (3) The points scored by a Tenderer in respect of the goals contemplated in sub-regulation (2) must be added to the points scored for price.
- (4) Only the tender with the highest number of points scored may be selected.

5. THE 80/20 PREFERENCE POINT SYSTEM FOR THE SALE AND LETTING OF ASSETS.

- (1) The following formula must be used to calculate the points for price in respect of tenders with a Rand value equal to, or above R 30 000 and up to a Rand value of R500 000 and which relate to the sale and letting of assets. Organs of State may, however, apply this formula for sales and letting of assets with a rand value less than R30 000, if and when appropriate:

$$Ps=80 \left(1+ \frac{Pt- Ph}{Ph} \right)$$

Where

Ps = Points scored for price of tender under consideration

Pt = Rand value of tender under consideration

Ph = Rand value of highest acceptable tender

- (2) A maximum of 20 points may be awarded to a Tenderer for being an HDI and / or subcontracting with an HDI and / or achieving any of the specified goals stipulated in regulation 17.
- (3) The points scored by a Tenderer in respect of the goals contemplated in sub-regulation (2) must be added to the points scored for price.
- (4) Only the tender with the highest number of points scored may be selected.

6. THE 90/10 PREFERENCE POINT SYSTEM FOR THE SALE AND LETTING OF ASSETS

- (1) The following formula must be used to calculate the points for price in respect of tenders with a Rand value above R500 000 and which relate to the sale and letting of assets:

$$P_s = 90 \left(1 + \frac{P_t - P_h}{P_h} \right)$$

Where

P_s = Points scored for price of tender under consideration

P_t = Rand value of tender under consideration

P_h = Rand value of highest acceptable tender

- (2) A maximum of 10 points may be awarded to a Tenderer for being an HDI and / or subcontracting with an HDI and / or achieving any of the specified goals stipulated in regulation 17.
- (3) The points scored by a Tenderer in respect of the goals contemplated in sub-regulation (2) must be added to the points scored for price.
- (4) Only the tender with the highest number of points scored may be selected.

7. STIPULATION OF PREFERENCE POINT SYSTEM TO BE USED

An organ of state must, in the tender documents, stipulate the preference point system which will be applied in the adjudication of tenders.

8. EVALUATION OF TENDERS ON FUNCTIONALITY AND PRICE

- (1) An organ of state must, in the tender documents, indicate if, in respect of a particular tender invitation, tenders will be evaluated on functionality and price.
- (2) The total combined points allowed for functionality and price may, in respect of tenders with an estimated Rand value equal to, or below, R500 000, not exceed 80 points.

- (3) The total combined points allowed for functionality and price may, in respect of tenders with an estimated Rand value above R500 000, not exceed 90 points.
- (4) When evaluating the tenders contemplated in this item, the points for functionality must be calculated for each individual Tenderer.
- (5) The conditions of tender may stipulate that a Tenderer must score a specified minimum number of points for functionality to qualify for further adjudication.
- (6) The points for price, in respect of a tender which has scored the specified number of points contemplated in sub-regulation (5) must, subject to the application of the evaluation system for functionality and price contemplated in this regulation, be established separately and be calculated in accordance with the provisions of regulations 3 and 4.
- (7) Preferences for being an HDI and / or subcontracting with an HDI and / or achieving specified goals must be calculated separately and must be added to the points scored for functionality and price.
- (8) Only the tender with the highest number of points scored may be selected.

9. AWARD OF CONTRACT TO TENDER NOT SCORING THE HIGHEST NUMBER OF POINTS
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Despite regulations 3.(4), 4.(4), 5.(4), 6.(4) and 8.(8), a contract may, on reasonable and justifiable grounds, be awarded to a tender that did not score the highest number of points.

10. CANCELLATION AND RE-INVITATION OF TENDERS
--

- (1) In the event that, in the application of the 80/20 preference point system as stipulated in the tender documents, all tenders received exceed the estimated Rand value of R500 000, the tender invitation must be cancelled.
- (2) In the event that, in the application of the 90/10 preference point system as stipulated in the tender documents, all tenders received are equal to, or below R500 000, the tender must be cancelled.
- (3) An organ of state which has cancelled a tender invitation as contemplated in sub-regulations (1) and (2) must re-invite tenders

and must, in the tender documents, stipulate the preference point system to be applied.

- (4) An organ of state may, prior to the award of a tender, cancel a tender if-
 - (a) due to changed circumstances, there is no longer need for the goods or services tendered for; or
 - (b) funds are no longer available to cover the total envisaged expenditure; or
 - (c) no acceptable tenders are received.

PART THREE

DUTY TO PLAN, GENERAL CONDITIONS, PRINCIPLES, DECLARATIONS, PENALTIES, TAX CLEARANCES AND TENDER GOALS

11. DUTY TO PLAN FOR INVITATION OF TENDERS

An organ of state must, prior to making an invitation for tenders-

- (a) properly plan for, and, as far as possible, accurately estimate the costs of, the provision of services or goods for which an invitation for tenders is to be made;
- (b) determine the appropriate preference point system to be utilised in the evaluation of the tenders; and
- (c) determine the deliverables or performance indicators in terms of which a person awarded a contract will be assessed.

12. GENERAL CONDITIONS

- (1) An organ of state may, in the adjudication of tenders, give particular consideration to procuring locally manufactured products. Preferences in this regard may be accommodated within the ambit of the Act's 80/20 or 90/10 point systems. For specific industries (identified by the Department of Trade and Industry), where the award of tenders to local manufacturers are of critical importance, such tenders may be advertised with a specific tendering condition that only locally manufactured products will be considered. Should preference points be awarded for local manufacturing and/or content, the award of such points must be clearly specified in the tendering conditions.
- (2) Only a Tenderer who has completed and signed the declaration part of the tender documentation may be considered for preference points.
- (3) An organ of state may, before a tender is adjudicated or at anytime, require a Tenderer to substantiate claims it has made with regard to preference.
- (4) An organ of state must, when calculating comparative prices, take into account any discounts which have been offered unconditionally.

- (5) A discount which has been offered conditionally must, despite not being taken into account for evaluation purposes, be implemented when payment is effected.
- (6) In the event that different prices are tendered for different periods of a contract, the price for each period must be regarded as a firm price if it conforms to the definition of a “firm price”.
- (7) Points scored must be rounded off to the nearest 2 decimals.
- (8) In the event that two or more tenders have scored equal total points, the successful tender must be the one scoring the highest number of preference points for specified goals. Should two or more tenders be equal in all respects, the award shall be decided by the drawing of lots.

13. PRINCIPLES

- (1) Preference points stipulated in respect of a tender must include preference points for equity ownership by HDIs.
- (2) The equity ownership contemplated in sub-regulation (1) must be equated to the percentage of an enterprise or business owned by individuals or, in respect of a company, the percentage of a company’s shares that are owned by individuals, who are actively involved in the management of the enterprise or business and exercise control over the enterprise, commensurate with their degree of ownership at the closing date of the tender.
- (3) In the event that the percentage of ownership contemplated in sub regulation (2) changes after the closing date of the tender, the Tenderer must notify the relevant organ of state and such Tenderer will not be eligible for any preference points.
- (4) Preference points may not be claimed in respect of individuals who are not actively involved in the management of an enterprise or business and who do not exercise control over an enterprise or business commensurate with their degree of ownership.
- (5) Subject to sub-regulations (1), (2), (3) and (4), all claims made for equity ownership by an HDI must be considered according to the following criteria:
 - (a) Equity within private companies must be based on the percentage of equity ownership;

- (b) Preference points may not be awarded to public companies and tertiary institutions;
- (c) The following formula must be applied to calculate the number of points for equity ownership by an HDI:

$$\text{NEP} = \frac{\text{EP}}{100} \times \text{NOP}$$

Where

NEP = Points awarded for equity ownership by an HDI

NOP= The maximum number of points awarded for equity ownership by an HDI

EP = The percentage of equity ownership by an HDI within the enterprise or business, determined in accordance with sub-regulations (1), (2), (3) and (4).

- (6) Equity claims for a Trust may only be allowed in respect of those persons who are both trustees and beneficiaries and who are actively involved in the management of the Trust.
- (7) Documentation to substantiate the validity of the credentials of the trustees contemplated in sub-regulation (6) must be submitted to the relevant organ of state.
- (8) A Consortium or Joint Venture may, based on the percentage of the contract value managed or executed by their HDI members, be entitled to equity ownership in respect of an HDI.
- (9) The number of points scored for a Consortium or Joint Venture must be added to the number of points scored for achieving specified goals.
- (10) The points contemplated in sub-regulation (9) must be added to the points scored for price, in order to establish the total number of points scored.
- (11) Subject to regulations 9 and 10, the contract must be awarded to the tender which scores the highest points.
- (12) A person awarded a contract as a result of preference for contracting with, or providing equity ownership to, an HDI, may not subcontract more than 25% of the value of the contract to a person who is not an HDI or does not qualify for such preference.

14. DECLARATIONS

A Tenderer must, in the stipulated manner, 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 relevant organ of state.

15. PENALTIES

- (1) An organ of state must, upon detecting that a preference in terms of the Act and these regulations has been obtained on a fraudulent basis, or any specified goals are not attained in the performance of the contract, act against the person awarded the contract.
- (2) An organ of state may, in addition to any other remedy it may have against the person contemplated in sub-regulations (1)-
 - (a) recover all costs, losses or damages it has incurred or suffered as a result of that person's conduct;
 - (b) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
 - (c) impose a financial penalty more severe than the theoretical financial preference associated with the claim which was made in the tender; and
 - (d) restrict the contractor, its shareholders and directors from obtaining business from any organ of state for a period not exceeding 10 years.

16. TAX CLEARANCE CERTIFICATE

No contract may be awarded to a person who has failed to submit an original Tax Clearance Certificate from the South African Revenue

Service ("SARS") certifying that the taxes of that person to be in order or that suitable arrangements have been made with SARS.

17. SPECIFIC GOALS

- (1) The tendering conditions may stipulate that specific goals, as contemplated in section 2(1)(d)(ii) of the Act , be attained.
- (2) The stipulation contemplated in sub-regulations (1) must include the method to be used to calculate the points scored for achieving specific goals.
- (3) Over and above the awarding of preference points in favour of HDIs, the following activities may be regarded as a contribution towards achieving the goals of the RDP (published in *Government Gazette* No. 16085 dated 23 November 1994):
 - (a) The promotion of South African owned enterprises;
 - (b) The promotion of export orientated production to create jobs;
 - (c) The promotion of SMMEs;
 - (d) The creation of new jobs or the intensification of labour absorption;
 - (e) The promotion of enterprises located in a specific province for work to be done or services to be rendered in that province;
 - (f) The promotion of enterprises located in a specific region for work to be done or services to be rendered in that region;
 - (g) The promotion of enterprises located in a specific municipal area for work to be done or services to be rendered in that municipal area;
 - (h) The promotion of enterprises located in rural areas;
 - (i) The empowerment of the work force by standardising the level of skill and knowledge of workers;
 - (j) The development of human resources, including by assisting in tertiary and other advanced training programmes, in line with key indicators such as percentage of wage bill spent on education and training and improvement of management skills; and

- (k) The upliftment of communities through, but not limited to, housing, transport, schools, infrastructure donations, and charity organisations.
- (4) Specific goals must be measurable and quantifiable and organs of state must monitor the execution of the contract for compliance with such goals.

17. SHORT TITLE

These regulations are called the Preferential Procurement Regulations, 2001.

T A MANUEL, MP
MINISTER OF FINANCE

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THE NATIONAL TREASURY, THE HIBISCUS COAST MUNICIPALITY AND ALL MUNICIPAL ENTITIES

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

In accordance with regulation 46(4) and 46(5) of the Local Government Municipal Finance Management Act, 2003: Municipal Supply Chain Management Regulations, the supply chain management policy of a municipality or municipal entity is required to take into account the National Treasury's code of conduct for supply chain management practitioners and other role players. Alternatively a municipality or municipal entity may adopt the National Treasury code of conduct. When adopted, such code of conduct becomes binding on all officials and other role players involved in the implementation of the supply chain management policy of the municipality or municipal entity.

The Council adopted the *National Treasury code of conduct* on 28 July 2005 for the municipality and all entities as part of the Supply Chain Management Policy ethical standards set out in clause 46(4) of the policy.

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

1.1 The municipality **and all municipal entities** commit 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.

1.2 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.

1.3 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

2.1 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 and all municipal entities**;
- (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.

3 Accountability

3.1 Practitioners are accountable for their decisions and actions to the public.

- 3.2 Practitioners should use public property scrupulously.
- 3.3 Only Accounting Officers or their delegates have the authority to commit the **municipality and all municipal entities** to any transaction for the procurement of goods and / or services.
- 3.4 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.
- 3.5 Practitioners must assist the Accounting Officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system.
- 3.6 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, favouritism 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.
- 3.7 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 and /or the board of directors** in case of a municipal entity *who* must ensure that such declaration is recorded in the register.

4 Openness

- 4.1 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

- 5.1 Any information that is the property of the **municipality and /or the municipal entity** 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 / contractors personal rights.
- 5.2 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

6.1 Bid specification, evaluation and adjudication committees should implement supply chain management on behalf of the **municipality and /or the municipal entity** in an honest, fair, impartial, transparent, cost-effective and accountable manner.

6.2. 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.

6.3 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

6.4 No person should-

6.4.1 interfere with the supply chain management system of the **municipality and /or the municipal entity**; or

6.4.2 amend or tamper with any price quotation / bid after its submission.

7 Combative Practices

7.1 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.



**HIBISCUS COAST MUNICIPALITY
SUPPLY CHAIN MANAGEMENT
DELEGATIONS FRAMEWORK
01/02/2007**

The Municipal Finance Management Act, Act 56 of 2003 (MFMA) was approved by National Parliament to regulate financial management at Local Government level, to ensure all revenue, expenditure, assets and liabilities of the local government sphere are managed efficiently and effectively and to provide for the responsibilities of persons entrusted with financial management in Local Government.

In terms of Section 115 of the MFMA, it is the responsibility of the Accounting Officer of a municipality to implement the supply chain management policy of the municipality. The implementation of Supply Chain Management took effect from 1 October 2005. The objective is to create a more efficient and effective system of procurement, and to vest full procurement authority and accountability in the Accounting Officers of Municipalities.

Sub delegations in accordance with section 79(1) of the MFMA were implemented and came into effect from the 01 May 2006. The amended delegations set out below aim to provide an efficient and effective delegation framework for Bid Committees and Municipal Officials with due consideration given to the financial threshold values of the Supply Chain Management Policy of the Hibiscus Coast Municipality. The changes are for operational reasons and control purposes and ties in with legislative requirements and reporting

procedures. The delegations grant authority from the Municipal Manager to Heads of Departments, the Supply Chain Management Manager and the Bid Adjudication Committee to make certain decisions.

All delegations are detailed in the document. The powers and duties which, according to the SCM Policy cannot be delegated from the Accounting Officer include unsolicited bids, emergencies and financial transactions over R2 million in value.

These delegation of powers are granted subject to the provisions of another Act of Parliament, as amended from time to time.

Delegated powers contained herein must be applied strictly in accordance with the Preferential Procurement Policy Framework Act, Act 5 of 2000.

The following extract from the MFMA relates to delegations:

79(1) *The Accounting Officer of a municipality-*

- (a) *must, for the proper application of this Act in the municipality's administration, develop and appropriate system of delegation that will both maximise administrative and operational efficiency and provide adequate checks and balances in the municipality's financial administration;***
- (b) *may, in accordance with that system, delegate to a member of the municipality's top management referred to in Section 77 or any other official of the municipality-***
 - i) any of the powers or duties assigned to an accounting officer in terms of the Act, or***
 - ii) any powers or duties reasonably necessary to assist the accounting officer in complying with a duty which requires the accounting officer to take reasonable or appropriate steps to ensure the achievement of the aims of a specific provision of this Act; and***
- (c) *must regularly review delegations issued in terms of paragraph (b) and, if necessary, amend or withdraw any of those delegations.***

- (2) *The accounting officer may not delegate to any political structure or political office-bearer of the municipality any of the powers or duties assigned to accounting officers in terms of this Act*
- (a) *must be in writing;*
 - (b) *is subject to such limitations and conditions as the accounting officer may impose in a specific case;*
 - (c) *may either be to a specific individual or to the holder of a specific post in the municipality;*
 - (d) *may, in the case of a delegation to a member of the municipality's top management in terms of subsection (1)(b), authorise that member to sub-delegate the delegated power or duty to an official or the holder of a specific post in that member's area of responsibility; and*
 - (e) *does not divest the accounting officer of the responsibility concerning the exercise of delegated power or the performance of the delegated duty.*
 - (f) *The accounting officer may confirm, vary or revoke any decision take in consequence of a delegation or sub-delegation in terms of this section, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.*

Section 79 and 106 of the MFMA empowers the accounting officer of a Municipality to develop an appropriate system of delegation that will both maximise administration and operational efficiency with adequate control systems in place. The Table below indicates the minimum post level, the maximum value and conditions applicable to the delegation:

ABBREVIATIONS NOTE

AO : ACCOUNTING OFFICER
HOD : HEADS OF DEPARTMENTS
CFO : CHIEF FINANCIAL OFFICER
SCM MANAGER: SUPPLY CHAIN MANAGEMENT OFFICE MANAGER
BAC : BID ADJUDICATION COMMITTEE
SCM : SUPPLY CHAIN MANAGEMENT

DELEGATION NUMBER	SCOPE OF DELEGATION	MINIMUM POST LEVEL	CONTRACT VALUE	CONDITIONS APPLICABLE TO DELEGATION
1	LEVEL 1: INVITATION AND ACCEPTANCE OF VERBAL (TELEPHONIC) QUOTATIONS FOR A VALUE OF UP TO R1 000 PER CASE.	AO HOD	R 0.00 to R 1 000	<ul style="list-style-type: none"> • End User obtains telephonic quotes. • End User completes prescribed form, and attaches completed requisition. • Head of Department signs requisition. • End User Department issues manual order. • Service/Product procured. • Manual Order submitted to SCM Office who ensures electronic capturing.
2	LEVEL 2: INVITATION AND ACCEPTANCE OF WRITTEN QUOTATIONS FOR AN VALUE OF MORE THAN R1 001 UP TO R30 000	AO HOD	R 1 001 to R30 000	<ul style="list-style-type: none"> • End User compiles specifications. • End User completes pro-forma invitation to quote form and forwards it to 3 Service Providers from the database. • End User obtains 3 written quotations. • End User completes requisition, memorandum and attaches quotations. • Head of Department signs the requisition, and approval of recommendation. • End User Department issues manual order number, and appoints Service Provider. • End User Department forwards manual order to

DELEGATION NUMBER	SCOPE OF DELEGATION	MINIMUM POST LEVEL	CONTRACT VALUE	CONDITIONS APPLICABLE TO DELEGATION
				SCM Office who electronically captures it.
3	<p>LEVEL 3: INVITATION AND ACCEPTANCE OF WRITTEN QUOTATIONS FOR A VALUE OF MORE THAN R30 001 UP TO R120 000</p>	<p>AO CFO SCM MANAGER</p>	<p>R30 001 to R120 000</p>	<ul style="list-style-type: none"> • End User compiles specifications. • End User completes requisition with detailed specifications. • Head of Department /delegated official signs the requisition • End User forwards the requisition and specifications to the SCM office Margate • SCM office completes pro-forma invitation to quote form and forwards it to 3 Service Providers from the database. • SCM offices ensure and record rotation of the service providers. • SCM office obtains 3 written quotations • SCM office evaluates and awards quotes • SCM office ensures placement of awards on local notice board and website for a period of 7 days. • SCM office addresses any responses to awards. • SCM office issues Official order number, and appoints Service Provider. • SCM office forwards Official order to End user department. • End User forwards Official order to service provider

CONDITIONS ATTACHED TO DELEGATIONS OF 4 ABOVE

- (a) Bids may be called for, based on a requisition approved by the Head of Department.
- (b) The stipulated monetary limit per consolidated requirement must be taken into account before bids are invited, NBA supply or service may not be purposely sub-divided in order to bring the estimated value within the threshold limit for quotations.
- (c) When it is known that a specific requirement of the Municipality over a period of time, will make it uneconomical and inefficient to follow the standards SCM procedure for every individual requirement, contracts may be arranged for the supply over a period that may not exceed three years (to promote competition), provided that it is proven to be cost-effective, competitive and fair to arrange a period contract.
- (d) Before a bid may be invited, the Bid Specification Committee must approve the specification of the bid document
- (e) Bids must be invited in a format that includes but not restricted to the price, delivery basis, delivery period, percentage bid price preference, the closing time and date, the validity period and the address to which bids must be sent.
- (f) Where a bid is invited from a sole agent or supplier, provision must be made in the bid documents for the inclusion of particulars in order to determine the reasonableness of the price.
- (g) Notices of bid invitations should be published in the relevant local media or any other system of advertisement i.e. Notice Board and website.
- (h) The closing date and time must be strictly adhered. Where extension of the closing date is requested and considered appropriate, there must be sufficient time to give written notice to all prospective bidders.
- (i) Bids must be opened in public as soon as possible after the closing time, but no later than the close of business on the closing date, and the names of the bidders must be read out, including the bid prices, except where the number of items or the complexity of the bid makes it impractical
- (j) Sole supplier bids may be accepted, provided it complies with the specification and that the prices are proved to be and certified as fair and reasonable.
- (k) Proof of reasonableness of prices where only one bid is received, must be available for audit purposes.

- (l) Bids must be duly scheduled and brought to a comparative basis and submitted by the Bid Evaluation Committee together with a motivated recommendation to the Bid Adjudication Committee for consideration.
- (m) Bids must be accepted, before expiry of validity, by means of a letter of acceptance. If this is not possible, extension of validity must be requested timeously from the relevant bidders. If the bid cannot be finalised within the validity period, the letter of acceptance or order must be held in abeyance until such time as the extension is confirmed in writing.
- (n) Minutes must be taken of all the decisions of the Bid Adjudication Committee and confirmed by the signature of the chairperson. Copies of the submissions to the Committees, their minuted decisions as well as copies of letters of acceptance must be placed on record for audit purposes.
- (o) In addition to the of acceptance where further documentation is to be signed as an agreement, it is then defined as a formal contract. Formal contracts are concluded only where this is stated as a requirement in the bid document.
- (p) The written acceptance of a bid constitutes a legal and binding contract if no appeals are lodged. This may be by letter or the placing of an order.
- (q) The Legal Officer must approve the contract prior to signature.
- (r) All reporting requirements stipulated by legislation must be complied with.

EXCLUSIONS TO THE DELEGATION OF AUTHORITY

- (a) All Departmental Capital will be delegated to the Chief Financial Officer.
- (b) The specifications of similar items will be determined standardised and approved as part of the Capitalisation policy
- (c) All Computer and IT related specifications will be supplied by the IT section to ensure compatibility and uniformity.
- (d) All departments/ HOD's will be required to submit a detailed Procurement Plan for all Departmental Capital as part of the budget process.
- (e) No delegation for Departmental Capital will form part of the SCM delegation in accordance with section 79(1) pf the MFMA.

AUTHORITY REMAINS WITH THE ACCOUNTING OFFICER

DEL. NO.	SCOPE OF DELEGATION	MIN POST LEVEL	CONTRACT VALUE	CONDITIONS APPLICABLE TO DELEGATION
5.	URGENT AND EMERGENCY CASES			
	Supplies and/or services may be procured, in cases where early delivery is of critical importance or in emergencies where immediate action is necessary in order to avoid a dangerous or risky situation, misery or want, and the invitation of competitive bids is either impossible or impractical.	AO	Unlimited	<ul style="list-style-type: none"> • The reasons for the urgency or emergency and the losses or consequences that will follow if action was not taken, must be placed on record for audit purposes. • Where only one quotation is received and accepted, and taking the circumstances into account, all reasonable steps must be taken to ensure that a fair (market related) price is obtained.
6	UNSOLICITED BIDS	AO	Any amount	
	In terms of section 113(2) of the MFMA and Municipal SCM regulations 37(1), a municipality may, but not obliged to accept or consider unsolicited bids that are not within the normal bidding process, provided that such is contained in the SCM Policy.			
	Consideration of unsolicited bids,			<ul style="list-style-type: none"> • The product or service offered must be demonstrable or a proven unique innovative concept; • Have exceptional cost advantages. • The bidder must be a sole provider of the product or service; and • The accounting officer must accept the reasons for not procuring through the normal bidding process. • Reasons for non-compliance with the normal bidding processes and acceptance must be documented for audit purposes. • The bid documents must be made public for thirty days allowing the community and other potential suppliers to submit comments. • The public comments received must be submitted to National and Provincial Treasuries for further comments and recommendations. • The meeting of the bid Adjudication Committee must be open for public observation for the consideration of the unsolicited bids. The comments received must be considered at the meeting. • The accounting officer must submit within seven days to the Auditor General, national and Provincial Treasuries reasons for rejecting or not following National and Provincial Treasuries recommendations. • The accounting officer or delegated authority may not sign or enter into any contract within thirty days of the submission to the Auditor General, National and Provincial Treasuries.
7.	FINANCIAL VALUE OVER R2 MILLION	AO	Contracts over R2 million value.	<ul style="list-style-type: none"> • The scm process as per policy, and procedures to be followed. • The BAC makes a recommendation to the AO.

SUPPLY CHAIN MANAGEMENT FLOWCHART ANNEXURE A

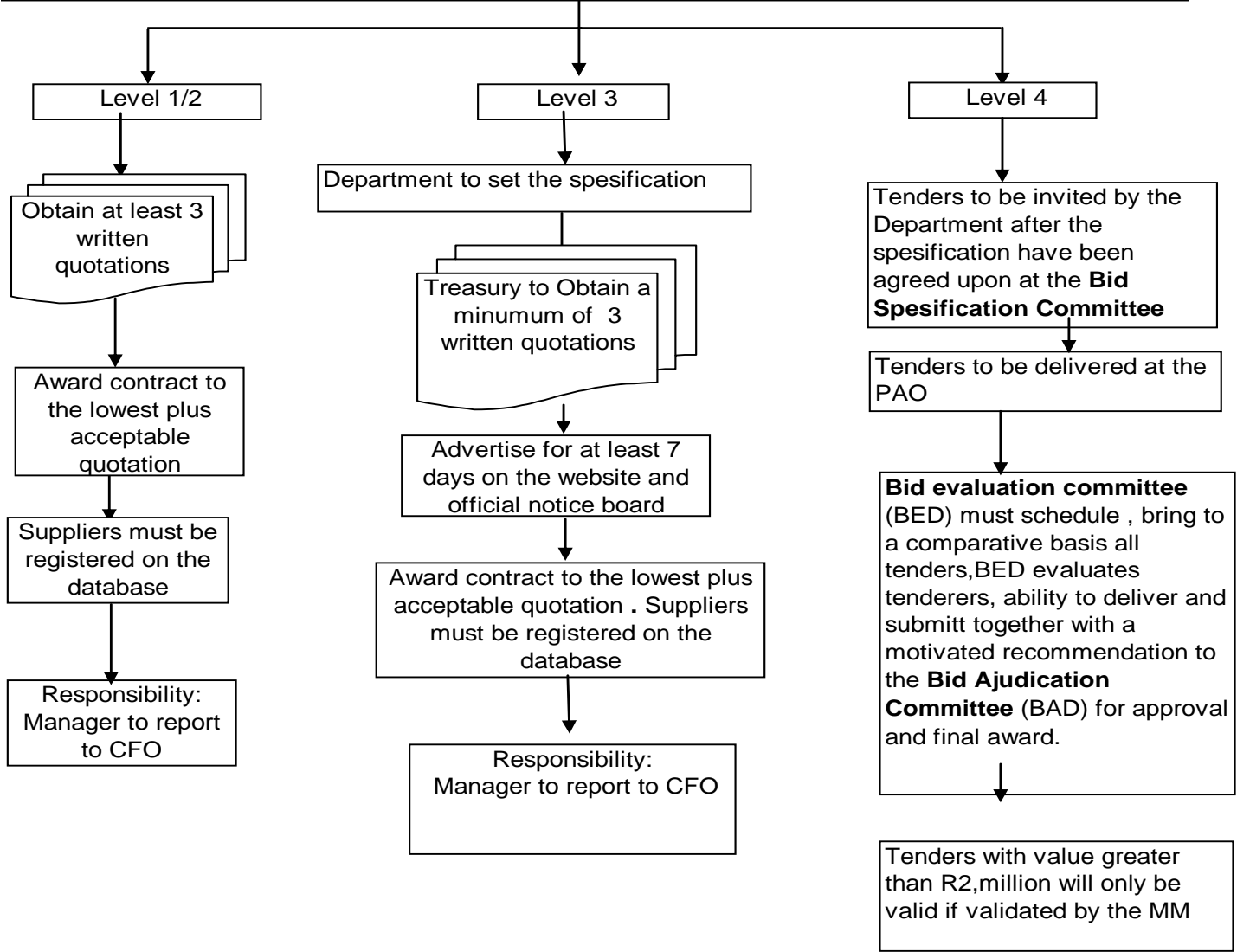
In terms of the Supply Chain Management Delegations there are five levels of delegations:

Level 1: Items from 0 to R1,000 may be purchased from Petty Cash subject to the provisions of the policy and obtaining three written quotation(Departmental)

Level 2: Contract value R 1,000 - R 30,000(Departmental)

Level 3: Contract value R30,000 - R120,000(Treasury)

Level 4: Exceeding R120,000(Bid Process)



DRAFT POLICY REVIEW FOR COMMENT & APPROVAL.

MUNICIPAL SUPPLY CHAIN MANAGEMENT POLICY

NOTICE:

The attached policy was adopted by the Hibiscus Coast Municipality on 20th September 2005 resolution EX241/09/2005 in terms of section 111 of the Municipal Finance Management Act, 2003 (Act No. 56 of 2003) to comply with the supply chain regulations published in Gazette 27636 on 30 May 2005 for adoption by municipalities and municipal entities in terms of section 111 of the Municipal Finance Management Act, No 56 of 2003.

Instructions:

1. This Review of the policy is to ensure it meet the needs and requirements of the municipality or entity and has been amended where required.
2. Municipal entities should be advised to implement the changes to this policy and have it adopted by their Board of Directors .
3. The Accounting Officer is responsible for implementing and reviewing the policy on a regular basis and must ensure that it is submitted to Council or the board of directors for adoption.