



**MUNICIPAL SUPPLY CHAIN
MANAGEMENT POLICY**

2021/2022 FINANCIAL YEAR



TABLE OF CONTENTS

1. Definitions

CHAPTER 1

IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

2. Supply chain management policy
3. Amendment of supply chain management policy
4. Delegation of supply chain management powers and duties
5. Sub-delegations
6. Oversight role of council
7. Supply chain management units
8. Training of supply chain management officials

CHAPTER 2

SUPPLY CHAIN MANAGEMENT SYSTEM

9. Format of supply chain management system

PART 1: DEMAND MANAGEMENT

10. System of demand management

PART 2: ACQUISITION MANAGEMENT

11. System of acquisition management
12. Range of procurement processes and supporting programs
13. General preconditions for consideration of written quotations or bids
14. Lists of accredited prospective providers
15. Petty cash purchases
16. Written or verbal quotations
17. Formal written price quotations

18. Procedures for procuring goods or services through written or verbal quotations and formal written price quotations
19. Competitive bidding process
20. Process for competitive bidding
21. Bid documentation for competitive bids
22. Public invitation for competitive bids
23. Procedure for handling, opening and recording of bids
24. Negotiations with preferred bidders
25. Two-stage bidding process
26. Committee system for competitive bids
27. Bid specification committees
28. Bid evaluation committees
29. Bid adjudication committees
30. Procurement of banking services
31. Procurement of IT related goods or services
32. Procurement of goods and services under contracts secured by other organs of state
33. Procurement of goods necessitating special safety arrangements
34. Remedies
35. Appointment of consultants
36. Deviation from, and ratification of minor breaches of procurement processes
37. Unsolicited bids
38. Combating of abuse of supply chain management system

PART 3: LOGISTICS, DISPOSAL, RISK AND PERFORMANCE MANAGEMENT

- 39. Logistics management
- 40. Disposal management
- 41. Risk management
- 42. Performance management

PART 4: OTHER MATTERS

- 43. Prohibition on awards to persons whose tax matters are not in order
- 44. Prohibition on awards to persons in the service of the state
- 45. Awards to close family members of persons in the service of the state
- 46. Ethical standards
- 47. Inducements, rewards, gifts and favours
- 48. Sponsorships
- 49. Objections and complaints
- 50. Resolution of disputes, objections, complaints and queries
- 51. Contracts providing for compensation based on turnover
- 52. Cost Containment
- 53. Commencement

Abbreviations:

MLM - Midvaal Local Municipality

1. 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 person appointed by the Municipality as the Municipal Manager of the Municipality in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), responsible and accountable in terms of section 55(2) of the Local Government : Municipal Systems Act 2000 (Act 32 of 2000) and includes any person acting in such position and to whom the Municipal Manager has delegated a power, function or duty. Accounting Officer also means Municipal Manager and vice versa.

“Competitive bidding process” means a competitive bidding process referred to in paragraph 20.1 of this policy;

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

“CIDB” means Construction Industry Development Board Act, Act 38 of 2000;

“EME” means an exempted micro enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

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

“Formal written price quotation” means quotations referred to in paragraph 17.1 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 Public Finance Management Act, 1999 (Act 1 of 1999);
- (e) a member of the accounting authority or 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 registered on the National Treasury Central Supplier Database (CSD) in terms of Section 14 of this policy;

“Database of restricted bidders” means the database of bidders restricted from doing business with a Municipality as set out in paragraph 14.1 of this policy as defined in Circulars 43, 46, 52 and 56 of National Treasury.

“Other applicable legislation” means any other legislation applicable to the municipal Supply Chain Management, including but not limited to –

- (a) the Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000), the PPPFA regulations, 2017 and all amendments; (attached to this policy as Annexure A)
- (b) The Broad Based Black Economic Empowerment Act, 2003 (Act 53 of 2003), the regulations and all amendments; and
- (c) The Construction Industry Development Board Act, 2000 (Act 38 of 2000), the regulations and all amendments.
- (d) The Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2003), the regulations and all amendments.
- (e) The Competition Act, 1998 (Act 89 of 1998), the regulations and all amendments.
- (f) The Promotion of Administrative Justice Act, 2000 (Act 3 of 2000)

“Petty Cash”, means a small amount for incidental purchases of low value goods and services

“QSE” means a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

“Single source”: refers to when the competition exists in the market, but only from a selected few supplier, due to technical capabilities and abilities, comply with the requirements of the municipality.

“Sole Supplier:” refers in instances where there is no competition and only one service provider exists in the market, with sole distribution rights and/or patent rights or being a sole manufacturer, supplier, or distributor of the goods or services required.

“Strip & quote:” When it is not certain what repairs and maintenance should be performed on equipment and vehicles and it becomes impractical to obtain quotations, the equipment or vehicle is sent to a supplier who disassembles (strip) it to determine what is wrong with it. Thereafter a quote is issued.

“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 56 of 2003);

“The Regulations” means the Local Government: Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations published by Government Gazette no. 27636, 30 May 2005 and all amendments;

“Municipal Cost Containment Regulations” means the Local Government: Municipal Finance Management Act, 2003, Municipal Cost Containment Regulations, 2019;

“Written or verbal quotations” means quotations referred to in paragraph 16.1 of this policy.

“The Council” means the Midvaal Local Municipality abbreviated to MLM.

CHAPTER 1

IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

2. SUPPLY CHAIN MANAGEMENT POLICY

- 2.1 All officials and other role players in the supply chain management system of the Midvaal Local Municipality must implement this Policy in a way that –
- (a) gives effect to –
 - section 217 of the Constitution; and
 - Part 1 of Chapter 11 and other applicable provisions of the Act;
 - (b) is fair, equitable, transparent, competitive and cost effective;
 - (c) complies with –
 - the Regulations; and
 - 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.
- 2.2 This Policy applies when the Midvaal Local Municipality –
- (a) procures goods or services;
 - (b) disposes of goods no longer needed;
 - (c) appoints 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) selects external mechanisms referred to in section 80 (1) (b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in section 83 of that Act.
- 2.3 This Policy, except where provided otherwise, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Act, including:

- (a) water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and
- (b) electricity from Eskom or another public entity, another municipality or a municipal entity.

3. AMENDMENT OF THE SUPPLY CHAIN MANAGEMENT POLICY

3.1 The accounting officer must –

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

3.2 If the accounting officer submits proposed amendments to the **council** that differ from the model policy issued by the National Treasury, the accounting officer must –

- (a) ensure that such proposed amendments comply with the Regulations; and
- (b) report any deviation from the model policy to the National Treasury and the Gauteng Provincial Treasury.

3.3 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.

3.4 The draft policy should be forwarded to the Gauteng Provincial Treasury: Policy, Norms and Standards component before tabling to the Municipal Council for approval.

4. DELEGATION OF SUPPLY CHAIN MANAGEMENT POWERS AND DUTIES

4.1 The **Council** hereby delegates all powers and duties to the accounting officer which are necessary to enable the accounting officer –

- (a) to discharge the supply chain management responsibilities conferred on accounting officers in terms of –
 - Chapter 8 or 10 of the Act; and
 - this Policy;
- (b) to maximise administrative and operational efficiency in the implementation of this Policy;

- (c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of this Policy; and
 - (d) to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.
- 4.2 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 (4.1).
- 4.3 The council or the accounting officer may not sub-delegate any supply chain management powers or duties to a person who is not an official of the Midvaal Local Municipality or to a committee which is not exclusively composed of officials of the Midvaal Local Municipality;
- 4.4 This paragraph may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this Policy.

5. SUB-DELEGATIONS

5.1 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 (5.2) of this paragraph, and paragraph 4 of this Policy as well as the as well as the Midvaal Local Municipality's Policy Document : Division of Legislative and Executive Functions And Delegations of Authority

5.2 The Accounting officer hereby sub-delegates the following and gives power to make a final award -

5.2.1 above R10 million (VAT included) may not be sub-delegated and is thus to be awarded by the Accounting Officer only;

5.2.2 above R200 000-00 (VAT included), but not exceeding R10 million (VAT included), is hereby sub-delegated to –

(a) The bid adjudication committee consisting of the following senior managers or persons acting in their stead:

- Deputy Municipal Manager
- Executive Director: Financial Services
- Executive Director: Development & Planning
- Executive Director: Community Services
- Director: Expenditure (and SCM)

5.2.3 not exceeding R200 000 (VAT inclusive) is hereby sub-delegated as follows:

- (a) The Chief Financial Officer to approve acquisitions above R30 000 up to R200 000 (All amounts are VAT inclusive);
- (b) The following is sub-delegated by the CFO to a manager directly accountable to the Chief Financial Officer:
- (i) The Director: Expenditure; Deputy Director: Supply Chain Management and Assistant Director: Supply Chain Management to approve acquisitions above R2 000 up to R30 000 (All amounts are VAT inclusive);
 - (ii) The Director: Expenditure; Deputy Director Supply Chain Management; Assistant Director: Supply Chain Management and the Assistant Director: Expenditure to approve acquisitions up to R2 000 (All amounts are VAT inclusive);
- 5.3 An official or the bid adjudication committee to which the power to make final awards has been sub-delegated in accordance with subparagraph (5.2.2 and 5.2.3) must within five (5) days of the end of each month submit to the official referred to in subparagraph (5.4) a written report containing particulars of each final award made by such committee or person during that month, including:
- the amount of the award;
 - the name of the person to whom the award was made; and
 - the reason why the award was made to that person.
- 5.4 A written report referred to in subparagraph 5.3 must be submitted –
- (a) to the accounting officer, in the case of an award by –
a bid adjudication committee; or
 - (b) to the chief financial officer, in the case of an award by –
a manager referred to in subparagraph (5.2.3) (a)(b)
- 5.5 Subparagraphs (5.3) and (5.4) of this policy do not apply to procurements made out of petty cash.
- 5.6 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 26 of this Policy.

5.7 No supply chain management decision-making powers may be delegated to an advisor or consultant. Advisors and consultants, who were either involved with drafting of specifications or technical evaluation of bids under their supervision as per their appointment, may attend bid specifications and bid evaluation committees in their professional capacity. Both Bid Specifications and Bid Evaluation Committees **do not** have decision-making or award powers, they can only recommend to the Bid Adjudication Committee.

6. OVERSIGHT ROLE OF COUNCIL

6.1 The council reserves its right to maintain oversight over the implementation of this Policy.

6.2 For the purposes of such oversight the accounting officer of MLM must:

6.2.1 Within 30 days of the end of each financial year, submit a report on the implementation of this Policy and the supply chain management policy of any municipal entity under the sole or shared control of MLM, to the council of the Midvaal Local Municipality; and

6.2.2 whenever there are serious and material problems in the implementation of this Policy, immediately submit a report to the council.

6.3 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.

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

7. SUPPLY CHAIN MANAGEMENT UNIT

7.1 A supply chain management unit is hereby established to implement this Policy.

7.2 The supply chain management unit operates under the direct supervision of the Chief Financial Officer or an official to whom this duty has been delegated in terms of section 82 of the Act.

8. TRAINING OF SUPPLY CHAIN MANAGEMENT OFFICIALS

The training of officials involved in implementing this Policy should be in accordance with National Treasury: Local Government: Municipal Finance Management Act: Municipal Regulations on Minimum Competency Levels dated 15/06/2007 and any other Treasury guidelines on supply chain management training.

CHAPTER 2

SUPPLY CHAIN MANAGEMENT SYSTEM

9. FORMAT OF SUPPLY CHAIN MANAGEMENT SYSTEM

This Policy provides systems for –

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

PART 1: DEMAND MANAGEMENT

10. SYSTEM OF DEMAND MANAGEMENT

The accounting officer must establish and implement an appropriate demand management system in order to ensure that the resources required by the **Midvaal Local Municipality** support its operational commitments and its strategic goals outlined in the Integrated Development Plan.

Demand management must be co-ordinated by SCM officials of the municipality in consultation with end-users. This includes a detailed analysis of the goods, works or services required, such as: -

- the scope of the work to be executed;
- the time required to complete the project; and
- the material, resources, equipment required to execute the project.

The outcome of this activity should be a detailed planning document that outlines what goods, works or services should be procured, the manner in which they should be procured as well as the timelines to execute the procurement functions.

Procurement planning should take place at the beginning of the financial year when the municipality's IDP, Service Delivery and Budget Implementation Plan (SDBIP) and annual budget have been approved. Procurement plans cannot be developed in isolation; it should instead form part of the municipality's and other functional strategies. The SCM Unit must perform hand-in-hand with user departments and directorates in the formulation of procurement plans.

Approved procurement plans containing all planned procurement for the financial year in respect of the procurement of goods, works and or services which exceed R200 000 (all applicable taxes included) must be submitted to Gauteng Provincial Treasury by not later than 31 July of each year.

10.1 The demand management system must –

- (a) include timely planning and management processes to ensure that all goods and services required by the Midvaal Local Municipality are quantified, budgeted for and timeously and effectively delivered at the right locations and at the critical delivery dates, and are of the appropriate quality and quantity at a fair cost;
- (b) take into account any benefits of economies of scale that may be derived in the case of acquisitions of a repetitive nature (such as long-term contracts);
- (c) provide for the compilation of the required specifications to ensure that its needs are met;
- (d) take into account past spending analysis;

- (e) undertake appropriate industry analysis and research to ensure that innovations and technological benefits are maximised to the extent appropriate and within the available resources.

PART 2: ACQUISITION MANAGEMENT

11. SYSTEM OF ACQUISITION MANAGEMENT

- 11.1 The accounting officer must implement the system of acquisition management in order to ensure –
- (a) that goods and services are procured by the Midvaal Local 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 and limits 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 applicable legislation;
 - (e) that any Treasury guidelines (as per the circulars issued) on acquisition management are properly taken into account.
- 11.2 When procuring goods or services contemplated in section 110(2) of the Act, the accounting officer must make public on the website the fact that such goods or services are procured otherwise than through the Midvaal Local Municipality's supply chain management system, including –
- (a) the kind of goods or services; and
 - (b) the name of the supplier.
- 11.3 Procurement of the following goods and services are exempted from normal procurement process as per Municipal SCM Framework 2018/2019 issued by Gauteng Provincial Treasury:
- (a) Water from the municipality or municipal entity;
 - (b) Electricity from the municipality or municipal entity;
 - (c) Membership fees paid to professional bodies;
 - (d) Subscription fees to professional bodies;
 - (e) Payments for and renewal of licence fees;
 - (e) Tuition or enrolment fees payable through bursaries.

12. RANGE OF PROCUREMENT PROCESSES

12.1 Goods and services may only be procured by way of –

- (a) Petty cash , up to a transaction value of R2 000 (vat inclusive). A valid tax invoice or cash slip must be handed in within 2 (two) days.
- (b) 3 written quotations for procurement of a transaction value over R2 000 up to R30 000 (vat inclusive);
- (c) Formal written price quotations process for procurement of a transaction value over R30 000 up to R200 000 (vat inclusive); and
- (d) a formal competitive bidding process for–
 - (i) procurement above a transaction value of R200 000 (VAT inclusive);
 - (ii) the procurement of long-term contracts.

12.2 The accounting officer may, in writing-

- (a) Lower, but not increase, the different threshold values specified in subparagraph (12.1); or
- (b) Direct that –
 - (i) written quotations be obtained for any specific procurement of a transaction value lower than R2 000;
 - (ii) formal written price quotations be obtained for any specific procurement of a transaction value lower than R30 000; or
 - (iii) a competitive bidding process be followed for any specific procurement of a transaction value lower than R200 000.

12.3 Splitting of works and services

NB! 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, or to circumvent the requirements of the procurement processes. 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.

13. GENERAL PRECONDITIONS FOR CONSIDERATION OF WRITTEN QUOTATIONS OR BIDS

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

13.1 has furnished the provider's –

- (a) full name;
- (b) identification number or company or other registration number; and
- (c) tax reference number and VAT registration number, if any;

13.2 tax status on the central supplier database reflects as compliant and/or the supplier has authorised Midvaal Local Municipality via a tax pin to confirm with the South African Revenue Services that their tax status is compliant, and

13.3 has indicated –

- (a) 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;
- (b) 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;
- (c) whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in subparagraph (ii) is in the service of the state, or has been in the service of the state in the previous twelve months;

14. LISTS OF ACCREDITED PROSPECTIVE PROVIDERS

a.1 The accounting officer must –

- (a) In terms of MFMA Circular 81, transact only with vendors registered on the National Treasury central supplier database. Vendors not registered on the National Treasury central supplier database will be barred from transacting with Midvaal for transactions above the petty cash threshold.
- (b) 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;
- (c) The Municipal Supply Chain Management Regulation 38(1)(c) requires a supply chain management policy to provide measures for combating abuse of the supply chain management system and must enable the accounting

officer to check the National Treasury Central Supplier database prior to awarding any contract.

14.2 When a municipality intends to establish a list of pre-qualified bidders it must furnish Gauteng Provincial Treasury with detailed reasons for establishing such a list. Gauteng Provincial Treasury will consider the submission and advise accordingly within 14 days.

15. PETTY CASH AMOUNTS UP TO R2 000

15.1 The conditions for the procurement of goods by means of petty cash purchases referred to in paragraph 12 (1) (a) of this Policy, are as follows –

- (a) Petty cash requests not exceeding R2 000 VAT inclusive, per transaction may be issued by the approved officials.
- (b) Petty cash purchases are restricted to emergency cases where the necessity is required within 1 day to a maximum of R2 000 VAT inclusive that could not have been foreseen.
- (c) A monthly reconciliation must be prepared.

16. WRITTEN QUOTATIONS (ABOVE R2 000 UP TO R10 000 INCLUDING VAT)

16.1 The conditions for the procurement of goods or services through written quotations for amounts above R2 000 up to R10 000 (Amounts inclusive of VAT) are as follows:

- (a) Written quotations must be obtained preferably from, **but not limited to**, providers whose names appear on the list of accredited prospective providers of the Midvaal Local Municipality as well as the National Treasury Central Supplier Database;
- (b) That if it is not possible to obtain at least three quotations, the reasons must be recorded and reported monthly to the accounting officer or another official designated by the accounting officer.

17. FORMAL WRITTEN PRICE QUOTATIONS (ABOVE R10 000 UP TO R30 000 INCLUDING VAT)

17.1 The conditions for the procurement of goods or services through formal written price quotations for amounts above R10 000 up to R30 000 (amounts inclusive of VAT) are as follows:

- (a) quotations must be obtained in writing from at least three different providers whose names appear on the list of accredited prospective providers of the Midvaal Local Municipality as well as the National Treasury Central Supplier Database;

- (b) if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the accounting officer or an official designated by the accounting officer; and
- (c) the accounting officer must record the names of the potential providers requested to provide such quotations with their quoted prices.

17.2 A designated official referred to in subparagraph (17.1) (c) must within three days of the end of each month report to the accounting officer on any approvals given during that month by that official in terms of that subparagraph.

18. PROCEDURES FOR PROCURING GOODS OR SERVICES THROUGH FORMAL WRITTEN PRICE QUOTATIONS ABOVE R30 000 UP TO R200 000 (AMOUNTS INCLUSIVE OF VAT)

18.1 The procedure for the procurement of goods or services through formal written price quotations above R30 000 up to R200 000 (amounts inclusive of VAT) is as follows:

- (a) All requirements above R30 000 (VAT included) that are to be procured by means of formal written price quotations must, in addition to the requirements of paragraph 17, be advertised for at least seven days on the website and an official notice board of the Midvaal Local Municipality;
- (b) When using the list of accredited prospective providers, the accounting officer must promote on-going competition amongst providers;
- (c) The accounting officer must take all reasonable steps to ensure that the procurement of goods and services through written quotations or formal written price quotations is not abused;
- (d) The accounting officer or chief financial officer must on a monthly basis be notified in writing of all written quotations and formal written price quotations accepted by an official acting in terms of a sub-delegation;
- (e) Offers must be awarded based on compliance to specifications, ability and capability to deliver the goods and services;
- (f) The municipality may apply the pre-qualification criteria for preferential procurement as per regulation 4 of the Preferential Procurement Regulations of 2017 as follows:
 - i. Tenderer having a B-BBEE status level of 1 (one); and/ or
 - ii. An EME
- (g) Evaluation of offers are subject to the preference point system in terms of section 6 of the Preferential Procurement Regulations 2017 and is awarded

to the bidder who scored the highest procurement points, whereas a formula will be applied to calculate the points out of 80 for price in respect of a tender with a Rand value equal to or above R30 000 and up to a Rand value of R200 000, inclusive of all applicable taxes.

(h) The following formula will be applied:

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

Where-

P_s = Points scored for price of tender under consideration;

P_t = Price of tender under consideration; and

P_{\min} = Price of lowest acceptable tender.

- (i) Thereafter, price points will be added to the B-BBEE points in order to ascertain the highest procurement points scorer.
- (j) Record of approved specifications, minutes of the evaluation and approval memos must be kept on file for audit purposes.

19. COMPETITIVE BIDS ABOVE R200 000 (INCLUSIVE OF VAT)

19.1 Goods or services above a transaction value of R200 000 (VAT included) and long-term contracts may only be procured through a competitive bidding process, subject to paragraph 11(2) of this policy.

19.2 No requirement for goods or services above an estimated transaction value of R200 000 (VAT included), may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.

20. PROCESS FOR COMPETITIVE BIDDING

20.1 The procedures for a competitive bidding process are as follows:

- (a) Compilation of bidding documentation;
- (b) Public invitation of bids;
- (c) Site meetings or briefing sessions, if applicable;
- (d) Handling of bids submitted in response to public invitation;
- (e) Evaluation of bids;

- (f) Awarding of contracts;
- (g) Administration of contracts
- (h) Proper record keeping

21. **BID DOCUMENTATION FOR COMPETITIVE BIDS**

21.1 The criteria for which bid documentation for a competitive bidding process must comply, 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 the preference points system to be used, goals as contemplated in the Preferential Procurement Policy Framework Act, Regulations and evaluation and adjudication criteria, including any criteria required by other applicable legislation;

The municipality may decide to apply pre-qualifying criteria to advance certain designated groups, that specific tender must be advertised with a specific tender condition that, only one or more of the following tenderers may respond:

- i. a tenderer having a stipulated minimum B-BBEE status level of contributor;
- ii. an EME or QSE;
- iii. a tenderer subcontracting a minimum of 30% to:
 - a. an EME or QSE which is at least 51% owned by black people who are women;
 - b. an EME or QSE which is at least 51% owned by black people with disabilities;
 - c. an EME or QSE which is 51% owned by black people living in rural or underdeveloped areas or townships;
 - d. a cooperative which is at least 51% owned by black people;
 - e. an EME or QSE.
- iv. A tender that fails to meet any pre-qualifying criteria stipulated in the tender documents is an unacceptable tender.

- (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 –
 - for the past three years; or
 - since their establishment if established during the past three years;
 - If the bidder is not required by law to prepare audited financial statements, then the unaudited financial statements for the past three years or since inception if established during the past three years
 - (ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;
 - (iii) particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
 - (iv) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality or municipal entity is expected to be transferred out of the Republic; and
- (e) stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law.
- (f) Tenders in respect of goods or services that have been designated for local production and content by the Department of Trade and Industry (DTI), must contain a specific tender condition that only locally produced goods or services with a stipulated minimum threshold for local production and content will be considered. The designated sectors and the minimum thresholds can be found on the DTI website. Procurement Practitioners need to ensure they know which materials have been designated in order to align with legislation.

The tender invitations must stipulate that the exchange rate to be used for the calculation of local content (local content and local production are used interchangeably) must be the exchange rate published by the SARB at 12:00 on the date, one week (7 calendar days) prior to the closing date of the bid.

21.2 The Midvaal Local Municipality intends to promote small businesses and create a competitive environment, therefore by ensuring that:

- a. No supplier may be awarded more than one long-term contract per financial year.
- b. The Accounting Officer may waive this restriction if there are no other bidders who qualify for the tender.

22. PUBLIC INVITATION FOR COMPETITIVE BIDS

22.1 The procedure for the invitation of competitive bids, is as follows:

- (a) Any invitation to prospective providers to submit bids must be by means of a public advertisement in newspapers commonly circulating locally, the website of the municipality or any other appropriate ways (which may include an advertisement in the government Tender bulletin): and
- (b) the information contained in a public advertisement, must include –
 - (i) the closure date for the submission of bids, which may not be less than 30 days in the case of transactions over R10 million (VAT included), or which are of a long-term nature, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to sub paragraph (22.2);
 - (ii) a statement that bids may only be submitted on the bid documentation provided by the Midvaal Local Municipality. Bid documents may not be re-typed and no bids where correction fluid is used in critical areas of the bid document, such as the pricing schedule and/or regulatory compliance documents will be accepted. Any corrections are to be crossed out and initialled. Non-initialled corrections will render the bid invalid; and
 - (iii) date, time and venue of any proposed site meetings or briefing sessions are applicable. Where applicable, briefing/site meetings are compulsory in MLM to ensure clarity and that all bidders are treated fairly and equitably. As these are compulsory site inspections, no bids will be accepted if the contractor (who is considered to be a technical representative) has not attended this session and documents will only be accepted from contractors whose names appear on the attendance register.

22.2 The accounting officer may determine a closure date for the submission of bids which is less than the 30 or 14 days requirement, any shorter period may only be approved if it 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.

22.3 Bids submitted must be sealed and should be marked clearly with the bid number and description.

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

22.5 Pre-qualifying criteria must be stipulated in the advertisement.

22.6 The bid document must always make reference to Section 21.2 (a) of this policy.

23. PROCEDURE FOR HANDLING, OPENING AND RECORDING OF BIDS

The procedures for the handling, opening and recording of bids, are as follows:

23.1 Bids—

- (a) must be opened in public by at least two SCM officials in the presence of the bidders;
- (b) must be opened at the same time and as soon as possible after the period for the submission of bids has expired; and
- (c) received after the closing time, will not be considered and returned unopened immediately.

23.2 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;

23.3 No information, except the provisions in **subparagraph 23.2**, relating to the bid should be disclosed to bidders or other persons until the successful bidder is notified of the award;

23.4 The accounting officer must –

- (a) record in a register all bids received in time;
- (b) make the register available for public inspection;
- (c) publish the entries in the register and the bid results on the website.

24. NEGOTIATIONS WITH PREFERRED BIDDERS

24.1 The accounting officer only may negotiate on bids above R10 million VAT Included) and may delegate the BAC to negotiate for awards above R200 000 up to R10 million VAT Included, the final terms of a contract with bidders identified through a competitive bidding process as a preferred bidder, 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.

24.2 Minutes and an attendance register of such negotiations must be kept for record purposes.

24.3 In terms of the Preferential Procurement regulations 2017, the following will apply to price negotiations:

If the price offered by a tenderer scoring the highest points is not market-related, the organ of state may not award the contract to that tenderer. The municipality may-

- (k) negotiate a market-related price with the tenderer scoring the highest points or cancel the tender;
- (ii) if the tenderer does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the second highest points or cancel the tender;
- (iii) if the tenderer scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the third highest points or cancel the tender.

If a market-related price is not agreed as envisaged in paragraph (iii) above, the organ of state must cancel the tender.

25. TWO STAGE BIDDING PROCESS

25.1 Two Stage bidding process:

A two-stage bidding process is allowed for –

- (a) large or complex projects;
- (b) projects where it may be undesirable or impractical to prepare complete detailed technical specifications; or
- (c) long term projects with a duration period exceeding three years

25.2 Process of two stages:

- (a) In the first stage technical proposals on conceptual design or performance specifications are invited, subject to technical as well as commercial clarifications and adjustments.
- (b) In the second stage final technical proposals and priced bids are invited from only the bidders who submitted proposals.

26. COMMITTEE SYSTEM FOR COMPETITIVE BIDS

26.1 A committee system for competitive bids is hereby established, consisting of at least the following committees for all procurement or cluster of procurements as the accounting officer may determine:

- (a) a bid specification committee;
- (b) a bid evaluation committee; and
- (c) a bid adjudication committee;

26.2 The Accounting Officer is to appoint members for each bid spec and bid evaluation committee based on expertise and knowledge required, taking into account section 117 of the Act which excludes Councillors from serving on any SCM committee; and

26.3 A neutral or independent observer, appointed by the accounting officer, may attend or oversee a committee when this is appropriate for ensuring fairness and promoting transparency.

26.4 The accounting officer may co-opt members to assist with the technical evaluation of bids, such members can only make recommendations.

26.4 The committee system must be consistent with –

- (a) Paragraph 27, 28 and 29 of this Policy; and

- (b) Any other applicable legislation.

27. BID SPECIFICATION COMMITTEES

27.1 A bid specification committee must compile the specifications for each procurement of goods or services by the Midvaal Local Municipality.

27.2 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 of 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 labelling of conformity certification;
- (e) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the word “equivalent” unless this is impractical; or the municipality has taken a decision to standardise on a specific type of commodity for cost efficiencies;
- (f) must indicate each specific goal for which points may be awarded in terms of point system set out in the Preferential Procurement Regulations 2017;

80/20 preference point system for acquisition of goods or services for Rand value equal to or above R30 000 and up to R50 million; or

90/10 preference point system for acquisition of goods or services with Rand value above R50 million

- (g) must be approved by the accounting officer prior to publication of the invitation for the bids in terms of paragraph 22.

27.3 A bid specification committee must be composed of one or more officials of the Midvaal Local Municipality including the manager / delegate responsible for the function involved, a SCM representative, officials from other departments within

MLM who may have valid input/experience relating to the specifications or end result, and may when appropriate, include internal/external specialist advisors.

27.4 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.

27.5 Quorum for Bid Specification Committee meetings consists of 50% plus one of its total membership with voting power (rounded to the nearest whole number)

28. BID EVALUATION COMMITTEES

28.1 A bid evaluation committee must –

- (a) evaluate bids in accordance with –
 - (i) the specifications for the specific procurement;
 - (ii) the point system as prescribed in terms of paragraph 27.2 (f) and as prescribed in terms of the Preferential Procurement Policy Framework Act;
- (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 for more than three months; and
- (d) Verify if the recommended bidder is not in the employ of the state through the National Treasury's Central Supplier Database.
- (e) submit to the bid adjudication committee a report and recommendations regarding the award of the bid or any other related matter.

28.2 B-BBEE Status Level

- (a) A tenderer must submit proof of its B-BBEE status level of contributor. A tenderer failing to submit proof of B-BBEE status level of contributor or is a non-compliant contributor to B-BBEE **may not be disqualified**, but scores 0 points for B-BBEE.

- (b) A tenderer may not be awarded points for B-BBEE status level of contributor if the tender documents indicate that the tenderer intends subcontracting more than 25% of the value of the contract to any other person not qualifying for at least the points that the tenderer qualifies for, unless the intended subcontractor is an EME that has the capability to execute the subcontract.
- (c) The points scored must be rounded off to the nearest two decimal places.
- (d) The contract must be awarded to the tenderer scoring the highest points. If the price offered by a tenderer scoring the highest points is not market related, the organ of state may not award the contract to that tenderer.
- (e) A contract may be awarded to a tenderer that did not score the highest points only in accordance with section 2(1)(f) of the Preferential Procurement Policy Framework Act 5 of 2000, provided that the objective criteria was stipulated in the tender documents.

28.3 A bid evaluation committee must as far as possible be composed of-

- (a) the officials from the department requiring goods and services; and
- (b) at least one supply chain management practitioner of the Midvaal Local Municipality.

28.4 Quorum for Bid Evaluation Committee meetings consists of 50% plus one of its total membership with voting power (rounded to the nearest whole number)

29. BID ADJUDICATION COMMITTEES

29.1 A bid adjudication committee must –

- (a) Study and 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.

29.2 A bid adjudication committee must consist of at least four senior managers of the Midvaal Local Municipality which must include –

- (a) the chief financial officer or, if the chief financial officer is not available, another manager in the budget and treasury office reporting directly to the chief financial officer and designated by the chief financial officer; and

- (b) at least one senior supply chain management practitioner who is an official of the Midvaal Local Municipality; and
- (c) a technical expert in the relevant field who is an official or an external service provider/expert for clarity reasons may be invited to clarify any queries raised by the Bid Adjudication Committee members, if such an expert exists and has been involved in the specifications and or evaluation process.

Should the bid committee member have been involved in the evaluation of the item under consideration, they must recuse themselves from the decision-making process and be recorded in the minutes as such.

29.3 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.

29.4 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.

29.5 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 –

- (a) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears for more than three months, and
- (c) notify the accounting officer.

29.6 Criteria for breaking deadlock in scoring

- (a) If two or more tenderers score an equal total number of points, the contract must be awarded to the tenderer that scored the highest points for B-BBEE.
- (b) If functionality is part of the evaluation process and two or more tenderers score equal total points and equal preference points for B-BBEE, the contract must be awarded to the tenderer that scored the highest points for functionality.
- (c) If two or more tenderers score equal total points in all respects, the award must be decided by the drawing of lots.

29.7 The accounting officer may –

- (a) after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in paragraph 29.5; and
- (b) if the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.

29.8 The accounting officer may at any stage of a bidding process, refer any recommendation made by the evaluation committee or the adjudication committee back to that committee for reconsideration of the recommendation.

29.8 The accounting officer must comply with section 114 of the Act within 10 working days.

30. PROCUREMENT OF BANKING SERVICES

30.1 A contract for banking services –

- (a) must be procured through competitive bids;
- (b) must be consistent with section 7 or 85 of the Act; and
- (c) may not be for a period of more than five years at a time.

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

30.3 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 94 of 1990).

31. PROCUREMENT OF IT RELATED GOODS OR SERVICES

- 31.1 The accounting officer may request the State Information Technology Agency (SITA) to assist with the acquisition of IT related goods or services through a competitive bidding process.
- 31.2 The parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to, SITA.
- 31.3 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).
- 31.4 Should SITA comment on the submission and the Midvaal Local Municipality disagrees with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the council, the National Treasury, the Gauteng Provincial Treasury and the Auditor General.

32. PROCUREMENT OF GOODS AND SERVICES UNDER CONTRACTS SECURED BY OTHER ORGANS OF STATE

- 32.1 The accounting officer may procure goods or services under a contract secured by another organ of state, but only if –
- (a) the contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;
 - (b) there is no reason to believe that such contract was not validly procured;
 - (c) there are demonstrable discounts or benefits to do so; and
 - (d) that other organ of state and the provider have consented to such procurement in writing.
- 32.2 Subparagraphs (32.1) (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.
- 32.3 Solicit the views of Gauteng Provincial Treasury on the intention to participate in a contract secured by another organ of state in terms of regulation 32.

Correspondence in terms of the aforementioned requirement must be addressed and submitted to the Head of Department and the municipality may proceed with the relevant procurement if no response is forthcoming from treasury after 14 days of submission to treasury.

32.4 Must ensure full compliance with the issued National Treasury Regulations, relating to MFMA Municipal SCM Regulation 32.

33. PROCUREMENT OF GOODS NECESSITATING SPECIAL SAFETY ARRANGEMENTS

33.1 The acquisition and storage of goods in bulk (other than water), which necessitate special safety arrangements, including gasses and fuel, should be avoided where ever possible.

33.2 Where the storage of goods in bulk is justified, such justification must be based on sound reasons, including the total cost of ownership, cost advantages and environmental impact and must be approved by the accounting officer.

34. REMEDIES

34.1 Upon detecting that a tenderer submitted false information regarding its BBEE status level of contributor, local production and content, or any other matter required in terms of these Regulations which will affect or has affected the evaluation of a tender, or where a tenderer has failed to declare any subcontracting arrangements, the organ of state must-

- (a) inform the tenderer accordingly;
- (b) give the tenderer an opportunity to make representations within 14 days as to why-
 - (i) the tender submitted should not be disqualified or, if the tender has already been awarded to the tenderer, the contract should not be terminated in whole or in part; and
 - (ii) the tenderer should not be restricted by the National Treasury from conducting any business for a period not exceeding 10 years with any organ of state.
- (c) if the successful tenderer subcontracted a portion of the tender to another person without disclosing it, the tenderer should be penalised up to a maximum of 10 percent of the value of the contract;
- (d) if it concludes, after considering the representations referred to in sub regulation (1)(b), that-
 - (i) such false information was submitted by the tenderer-

(aa) disqualify the tenderer or terminate the contract in whole or in part;
and

(bb) if applicable, claim damages from the tenderer;

34.2 (a) An organ of state must-

- (i) inform the National Treasury, in writing, of any actions taken in terms of sub regulation (1);
- (ii) provide written submissions as to whether the tenderer should be restricted from conducting business with any organ of state; and
- (iii) submit written representations from the tenderer as to why that tenderer should not be restricted from conducting business with any organ of state.

(b) The National Treasury may request an organ of state to submit further information pertaining to sub regulation (1) within a specified period.

34.3 The National Treasury must-

- (a) after considering the representations of the tenderer and any other relevant information, decide whether to restrict the tenderer from doing business with any organ of state for a period not exceeding 10 years; and
- (b) maintain and publish on its official website a list of restricted suppliers.

35. APPOINTMENT OF CONSULTANTS

35.1 The accounting officer may procure consulting services provided that any Treasury guidelines in respect of consulting services are taken into account when such procurements are made.

35.2 Consultancy services must be procured through competitive bids if:

- (a) the value of the contract exceeds R200 000 (VAT included); or
- (b) the duration period of the contract exceeds one year.

35.3 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.

35.4 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 Midvaal Local Municipality.

36. DEVIATION FROM, AND RATIFICATION OF MINOR BREACHES OF, PROCUREMENT PROCESSES

36.1 The accounting officer may –

- (a) dispense with the official procurement processes established by this Policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only –
 - (i) in an emergency (breakages after hours, situations that may lead to health, safety hazards or death, serious hampering of official service delivery to the community);
 - (ii) if such goods or services are produced or available from a single source or sole provider only (e.g. agents/manufacturer/patent holder or items under guarantee);
 - (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 or case of urgency where it is impractical or impossible to follow the official procurement processes (such as strip and quote on rotation basis (36.4), appointment of specialised service providers);
- (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.

36.2 The accounting officer must record the reasons for any deviations in terms of subparagraphs 36.1(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.

36.3 Subparagraph 36.2 does not apply to the procurement of goods and services contemplated in paragraph 11(2) of this policy.

37. UNSOLICITED BIDS

37.1 In accordance with section 113 of the Act there is no obligation to consider unsolicited bids received outside a normal bidding process.

37.2 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.

37.3 If the accounting officer decides to consider an unsolicited bid that complies with subparagraph 37.2 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.

37.4 The accounting officer must submit all written comments received pursuant to subparagraph 37.3, including any responses from the unsolicited bidder, to the National Treasury and the Gauteng Provincial Treasury for comment.

37.5 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.

37.6 A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.

37.7 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 Gauteng Provincial Treasury.

37.8 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 Gauteng Provincial Treasury and the National Treasury the reasons for rejecting or not following those recommendations.

37.9 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 Midvaal Local Municipality to the bid may be entered into or signed within 30 days of the submission.

38. COMBATING OF ABUSE OF SUPPLY CHAIN MANAGEMENT SYSTEM

38.1 The accounting officer must–

- (a) take all reasonable steps to prevent abuse of the supply chain management system;
- (b) investigate any allegations against an official or other role player of fraud, corruption, favouritism, unfair or irregular practices or failure to comply with this Policy, and when justified –
 - (i) take appropriate steps against such official or other role player; or
 - (ii) report any alleged criminal conduct to the South African Police Service;
- (c) check the recommended bidder on the National Treasury's Central Supplier Database prior to awarding any contract so as to ensure that the recommended bidder, or any of its directors, is/are not listed as a person(s) prohibited or restricted 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 Midvaal Local 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 Midvaal Local 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 Midvaal Local Municipality or has committed any improper conduct in relation to such system;
 - (ii) has been convicted for fraud or corruption during the past five years;
 - (iii) has wilfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
 - (iv) has been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (12 of 2004) or Data base of restricted suppliers.

38.2 The accounting officer must inform the National Treasury and Gauteng Provincial Treasury in writing of any actions taken in terms of sub paragraph 38.1(b)(ii), (e) or (f) of this policy.

PART 3: LOGISTICS, DISPOSAL, RISK AND PERFORMANCE MANAGEMENT

39. Logistics management

The accounting officer must, *where applicable*, establish and implement an effective system of logistics management, which must include –

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

40. Disposal management

40.1 The criteria for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the Act, will be determined for each situation.

40.2 Assets may be disposed of by –

- (a) transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;
- (b) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
- (c) selling the asset; or

- (d) destroying the asset.

40.3 The accounting officer must ensure that –

- (a) immovable property is sold only at market related prices except when the public interest or the plight of the poor demands otherwise and in collaboration with the Local Government MFMA – Municipal Asset Transfer Regulations (Gazette No 3146 dated 22/08/2008;

Only council resolved items will be accepted by the SCM unit for the tender/auction process. These resolutions and valuations should not be older than **12 months**. The copy of the valuation certificate, zoning certificate and council resolution and all other documents pertaining to the sale of land must accompany the request for the sale of the mentioned land/property.

The bid is awarded to the bidder who submitted the highest offer and who accepted all the conditions of the bid.

- (b) movable assets are sold once council has declared the items redundant, either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous and sold to the bidder who submitted the highest price.
- (c) firearms are not sold or donated to any person or institution within or outside the Republic unless approved by the National Conventional Arms Control Committee;
- (d) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise;
- (e) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed;
- (f) where assets are traded in for other assets, the highest possible trade-in price is negotiated; and
- (g) in the case of the free disposal of computer equipment, the provincial department of education is first approached to indicate within 30 days whether any of the local schools are interested in the equipment.

41. RISK MANAGEMENT

41.1 The criteria for the identification, consideration and avoidance of potential risks in the supply chain management system, will be determined for each situation.

41.2 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.

42. PERFORMANCE MANAGEMENT

The accounting officer must establish and implement an internal monitoring system in order to determine, on the basis of a retrospective analysis, whether the authorised supply chain management processes were followed and whether the objectives of this Policy were achieved.

PART 4: OTHER MATTERS

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

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

43.2 Before making an award to a person the accounting officer must first check with National Treasury central supplier database or validate with tax pin on SARS e-filing whether that person's tax matters are in order,

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

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

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

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

The accounting officer must ensure that the notes to the annual financial statements disclose particulars of any award of more than R2 000 (VAT Included) to a person who is a spouse, child or parent of a person in the service of the state, or has been in the service of the state in the previous twelve months, including –

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

46. ETHICAL STANDARDS

46.1 A code of ethical standards as set out in **sub regulation (2) of the “National Treasury’s code of conduct for supply chain management practitioners and other role players involved in supply chain management”** is hereby established for officials and other role players in the supply chain management system of the Midvaal Local Municipality in order to promote –

- (a) mutual trust and respect; and

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

46.2 A breach of the code of ethics must be dealt with as follows –

- (a) in the case of an employee, in terms of the disciplinary procedures of the Midvaal Local Municipality envisaged in section 67(1)(h) of the Municipal Systems Act;
- (b) in the case a role player who is not an employee, through other appropriate means in recognition of the severity of the breach.
- (c) in all cases, financial misconduct must be dealt with in terms of chapter 15 of the Act.
- (d) A municipal official or other role player involved in the implementation of this Policy–
 - (i) must treat all providers and potential providers equitably;
 - (ii) may not use his or her position for private gain or to improperly benefit another person;
- (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 Midvaal Local 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 Midvaal Local 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.

46.3 Midvaal Local Municipality adopts National Treasury's code of conduct for supply chain management practitioners and other role players involved in supply chain management.

46.4 A breach of the code of ethics must be dealt with in accordance with Schedule 2 of the Municipal Systems Act

NOTE: The “POLICY OF THE ACCEPTANCE OF GRANTS, GIFTS, DONATIONS AND SPONSORSHIPS” is applicable to sections 46, 47 and 48 of this policy and must be adhered to at all times.

47. INDUCEMENTS, REWARDS, GIFTS AND FAVOURS TO MUNICIPALITIES, OFFICIALS AND OTHER ROLE PLAYERS

47.1 No person who is a provider or prospective provider of goods or services, or a recipient or prospective recipient of goods disposed or to be disposed of may either directly or through a representative or intermediary promise, offer or grant –

(a) any inducement or reward to the or in connection with the award of a contract; or

(b) any reward, gift, favour or hospitality to –

(i) any official; or

(ii) any other role player involved in the implementation of this Policy.

47.2 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.

47.3 Section 47(1) does not apply to gifts less than R350 per annum.

48. SPONSORSHIPS

The accounting officer must promptly disclose to the National Treasury and the Gauteng Provincial Treasury any sponsorship promised, offered or granted, whether directly or through a representative or intermediary, by any person who is –

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

49. OBJECTIONS AND COMPLAINTS

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

50. RESOLUTION OF DISPUTES, OBJECTIONS, COMPLAINTS AND QUERIES

50.1 The accounting officer must appoint an independent and impartial person, not directly involved in the supply chain management processes –

- (a) to assist in the resolution of disputes between the Midvaal Local 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.

50.2 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.

50.3 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.

50.4 A dispute, objection, complaint or query may be referred to the Gauteng 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.

50.5 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.

50.6 This paragraph must not be read as affecting a person's rights to approach a court at any time.

51. CONTRACTS PROVIDING FOR COMPENSATION BASED ON TURNOVER

If a service provider acts on behalf of a Midvaal Local Municipality to provide any service or act as a collector of fees, service charges or taxes and the compensation payable to the service provider is fixed as an agreed percentage of turnover for the service or the amount collected, the contract between the service provider and the Midvaal Local Municipality must stipulate –

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

52. COST CONTAINMENT

This policy must be read in conjunction with the cost containment regulations of National Treasury and the Cost Containment Policy of the Midvaal Local Municipality

53. COMMENCEMENT

This Policy takes effect from 1 July 2021.