

## **1. OBJECT OF THE SUPPLY CHAIN MANAGEMENT POLICY**

- | The object of this policy is to provide for efficient, fair, equitable, transparent, competitive and cost-effective supply chain operations when sourcing and procuring goods, services and works as well as the sale and letting of assets that conforms to constitutional and legislative principles;
- | To provide for maximization of the benefits from the municipality's consolidated buying power in the market place.
- | To ensure the efficient, fair, equitable, transparent and uniform disposal of assets through compliant procurement process.
- | To ensure that Ngwathe Local Municipality shall manage its financial and administrative resources in such a manner that it meets and sustain its supply chain goals.
- | To provide for a preferential procurement system that will encourage, promote and achieve social-economic objectives and good governance.

## **2. LEGISLATIVE CONTEXT**

### **2.1 The Constitution**

Section 217(1) of the Constitution provides that when an organ of state in the national, provincial or local sphere of Government, or any other institution identified in national legislation, contracts for goods and services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost-effective.

## **2.1 Municipal Finance Management Act 2006, Act 56 of 2003**

Section 111 of Municipal Finance Management Act requires that each municipality and each municipal entity must have and implement a supply chain management policy which gives effect to the provisions of this Part.

Furthermore, section 112 requires that the supply chain management policy of a municipality or municipal entity must be fair, equitable, transparent, competitive and cost-effective and comply with a prescribed regulatory framework for municipal supply chain management.

## **3. THE SUPPLY CHAIN MANAGEMENT SYSTEM**

The supply chain management system of Ngwathe Local Municipality is as an integrated system, taking into account suppliers, clients, information and inventory flow and which provides for the following:

- | Demand management.
- | Acquisition management.
- | Logistics management
- | Disposal management.
- | Risk management.
- | Performance management.

This supply chain management policy, except where provided otherwise in the policy, shall not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Municipal Finance Management Act, including:

- a) Water from the Department of Water Affairs or a public entity, another municipality or a municipal entity.
- b) Electricity from Eskom or another public entity, another municipality or a municipal entity.

## 4. RANGE OF PROCUREMENT PROCESSES

### 4.1 GENERAL

The procurement of goods and services through this policy is provided by way of:

- a) **Two written price quotations** for procurements of a transaction value of up to R 2 000 (VAT included).
- b) **Three written price quotations** for procurements of transaction value over R 2 001 up to R 30 000 (VAT included).
- c) **A competitive bidding process for:**
  - | procurements for transaction value over R 30 001 (VAT included); and
  - | procurement of long-term contracts.

The Accounting Officer may, in writing, lower but not increase the different threshold values specified in subparagraph (a) and (b) above.

Goods and services may not deliberately be split into parts or items of a lesser value merely to avoid following 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.

### 4.2 WRITTEN QUOTATIONS: ESTIMATED VALUE R0 to R 2 000 (VAT included)

The Accounting Officer or duly delegated official may procure goods and services to an estimated value of R 2 000 (VAT included) by requesting quotations from different providers preferably from, but not limited to, providers whose names appear on the list of accredited prospective providers of the municipality, provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria in the supply chain management policy to the extent feasible, providers must be requested to submit such quotations in writing.

If it is not possible to obtain at least two quotations, the reasons must be recorded and reported quarterly to the Accounting Officer or another official designated by the Accounting Officer. The names of the potential suppliers and their quoted prices must be recorded. The order should always be placed against written confirmation from the selected supplier by way of quotation.

#### **4.3 WRITTEN PRICE QUOTATIONS: ESTIMATED VALUE R 2 001 to R 30 000 (VAT included)**

The Accounting Officer or duly delegated official shall invite and accept written price quotations for goods and services from above R 2 001 (VAT included) to R 30 000 (VAT included) from as many suppliers as possible, preferably from, but not limited to, providers whose names appear on the list of accredited prospective providers of the municipality, provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria in the supply chain management policy to the extent feasible, providers must be requested to submit such quotations in writing.

If it is not possible to obtain at least three written quotations, the reasons must be recorded and approved by the Accounting Officer/Chief Financial Officer.

When using the list of accredited prospective providers the Chief Financial Officer must promote ongoing competition amongst providers, including by inviting providers to submit quotations on a rotation basis. However value for money must be insured at all times.

The Chief Financial Officer shall record the names of the potential providers and their quoted prizes.

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 and must determine the requirements for proper record keeping.

#### **4.4 PROCUREMENT OF GOODS AND SERVICES: EQUAL TO OR ABOVE R30 000 UP TO R 200 000 (VAT included)**

The Accounting Officer shall apply the prescripts of the Preferential Procurement Policy Framework Act, Act No 5 of 2000 and its associated regulations for all procurement equal to and above R30 000 (VAT included). These prescripts shall also be applied for procurement with a value of less than R30 000 (VAT included) if and when appropriate.

All procurement requirements in excess of R30 000 (VAT included ) that are to be procured by means of formal written price quotations must be advertised for at least seven days on the municipality's website and an official notice boards of the municipality.

Where quotations have been invited via the official notice boards and website of the municipality, no additional quotations need to be obtained should the number of responses be less than three.

##### **4.4.1 General Pre-Conditions for Consideration for written Quotations or Bids**

A written quotation or bid may not be considered unless the prospective provider who submitted the quotation or bid has furnished the following:

- | Full name (legal and trading name where possible)
- | Identification number, company or other registration number.
- | Tax reference number and VAT registration number, if any.

The Accounting Officer shall ensure that, irrespective of the procurement process followed, no award above R30 000 (VAT included) is given to a person whose tax matters have not been declared by the South African Revenue Service (SARS) to be in order and whose municipal rates and taxes are in arrears for a period of more than three months.

Before making an award to a person, the Accounting Officer must:

- a) First confirm that tax matters of that person are in order a by verifying whether a valid, original tax clearance certificate has been issued by SARS in the name of that person.

Where appropriate, SARS can also be consulted as a secondary measure, and if SARS does not respond within 7 days such person's tax matters may be presumed to be in order. However it remains the responsibility of the prospective supplier to submit valid tax clearance certificate to in order to avoid being disqualified.

- b) Ensure that the person is not in the service of the state, or has not been in the service of the state in the previous twelve months from the date of accepting the quotation / bid.
- c) Ensure that if the provider is not a natural person, whether any of its directors, members, managers, principal shareholders or stakeholder is not in the service of the state, or has not been in the service of the state in the previous twelve months.
- d) Ensure that a spouse, or child or parent of the provider or of a director, member, manager, shareholder or stakeholder referred to in the preceding subparagraph is not in the service of the state, or has not been in the service of the state in the previous twelve months.
- e) Ensure that the provider is not an advisor or consultant contracted with the municipality.

#### **4.5 COMPETITIVE BIDS BY MEANS OF PUBLIC ADVERTISEMENT: ESTIMATED VALUE OF ABOVE R 200 000 (VAT Included)**

Goods or services above a transaction value of more than R 200 000(VAT included) and long-term contracts (*period exceeding one financial year*) may only be procured through a competitive bidding process.

No requirement for goods or services above an estimated transaction value of R 200 000 (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.

The Accounting Officer shall invite competitive bids for all the procurement needs above the estimated value of R 200 000 (VAT included) by means of a public advertisement.

A need is regarded as the consolidated requirement of related items (items of a common commodity group, e.g. grouping items of stationery together) that exists at a given point in time. It should cover the total quantities and estimated value (VAT included) of all the items concerned for complete service or supply.

Bids shall be advertised at least in a commonly circulated newspaper in the area of jurisdiction of Ngwathe Local Municipality and the municipality's website to ensure exposure to potential bidders. Bids may be advertised in the Government Tender Bulletin if so directed by the Accounting Officer.

- | The **90/10** principle shall be applied for contracts above R500 000 (VAT included).
- | The **80/20** principle shall be applied for contracts from R30 001 and to the value of R500 000 (VAT included).

Preferential points shall be determined by the bid specification committee in consultation with the Accounting Officer / Chief Financial Officer depending on the nature of procurement.

#### **4.5.1 Process for competitive bidding**

The process for competitive bidding shall have the following eight (8) distinct stages:

- a) The compilation of bid documentation.
- b) The public invitation of bids.
- c) Site meetings or briefing sessions, where applicable.
- d) The handling of bids submitted in response to the public invitation.
- e) The evaluation of bids.
- f) The award of contracts.
- g) The administration of contracts.
- h) Proper record keeping.

## **5. PROCUREMENT OF INFORMATION TECHNOLOGY (IT) RELATED GOODS AND SERVICES**

The Accounting Officer may seek specialized advice from State Information Technology Agency (SITA) in acquisition of it related goods and services.

The Accounting Officer may also request SITA to assist the municipality with the acquisition of IT related goods or services through a competitive bidding process.

The parties shall enter into a written agreement to regulate the services rendered by and the payments to be made to SITA.

In any event, the Accounting Officer must notify SITA 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).
- b) The transaction value of a contract to be procured whether for one or more years exceeds R50 million (VAT included).

If SITA comments on the submission and the municipality disagrees with such comments, the comments and the reasons for rejecting or not following such comments shall be submitted to the Council, the National Treasury, the Provincial Treasury and the Auditor-General.

## **6. PROCUREMENT OF GOODS AND SERVICES UNDER CONTRACTS SECURED BY OTHER ORGANS OF STATE**

The Accounting Officer may procure goods or services for the municipality 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) That other organ of state and the provider have consented to such procurement in writing.



- c) There is no reason to believe that such contract was not validly procured.
- d) There are demonstrable discounts or benefits to do so.
- e) Such contract will reduce the normal time in procurement of that particular good or service.

## **7. URGENT PROCUREMENT**

Irrespective of monetary value, an urgent procurement process will only apply where early delivery is of critical importance and the utilization of the standard procurement process is either impossible, or impractical.

However, procurement shall not be regarded as urgent as a result of evident lack of forward planning by the relevant departments / offices and in such cases, procurement shall follow relevant normal procurement processes as outlined in this policy.

## **8. EMERGENCY PROCUREMENT**

Irrespective of monetary value, an emergency procurement process will only apply in serious, unexpected and potentially dangerous circumstances which require immediate rectification:

- a) In the event of a threat or interruption in the municipality's ability to execute its mandate.
- b) In the event of an immediate threat to the environment or human safety.

## **9. PROCUREMENT OF BANKING SERVICES**

Banking services shall be procured through competitive bidding process, must be consistent with section 7 of the MFMA and the contract period shall not be for more than five years at a time. The process for procuring a contract for banking services shall commence at least nine months before the end of an existing contract.

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. Bids must be restricted to banks registered in terms of

the Banks Act, 1990 (Act No 94 of 1990). The banking and investment policy must be taken into account in the procurement of banking services.

## **10. DEVIATION FROM OFFICIAL PROCUREMENT PROCESSES**

The Accounting Officer may dispense with the official procurement processes established in terms of this policy to procure any required goods or services through any convenient process, which may include direct negotiations, but only under the following circumstances:

- a) In an emergency situations
- b) If such goods and services are produced or available from a single provider only.
- c) For the acquisition of special works of art or historical objectives where specifications are difficult to compile.
- d) Acquisition of animals for zoos and/or nature and game reserves.
- e) In any other exceptional case where it is impractical to follow the official procurement processes. e.g procurement from restaurants or for accommodation due to availability, distance etc.

In any event, the Accounting Officer must record the reasons for such deviation and report them to the next council meeting following the date of the transaction and ensure that such deviations are properly disclosed in the notes to the annual financial statements of the municipality.

However, procurement of goods and services in respect of the following shall not be regarded as deviation from official procurement processes:

If the municipality contracts with another organ of state for:

- a) The provision of goods or services to the municipality.
- b) The provision of a municipal service or assistance in the provision of a municipal service.
- c) The procurement of goods and services under a contract secured by that other organ of state, provided that the relevant supplier has agreed to such procurement.

The Accounting Officer may 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.

## **11. PLANNING REQUIREMENTS FOR ACQUISITIONS**

### **11.1 Assessment of current and Future Needs**

The Integrated Development Plan (IDP) shall serve as the basis for assessment of current and future procurement needs and shall be analysed in respect of goods, services and works required over the short and medium term. The IDP will also indicate where, when and the frequency of needs required.

Forecasting techniques shall be used to determine the quantity of resources needed and any critical delivery dates of resources must be noted.

### **11.2 Assessment of Current Assets and Determining Net Requirements**

The annual stock-take shall give details on available stock and assets. The accounting records shall be used to determine goods in transit.

In order to ensure efficiency of assessment net assets requirements, the following list must be compiled:

- a) List of redundant assets.
- b) List of obsolete assets.
- c) List of assets to be renewed.

With the abovementioned information the supply and demand requirements of each and every commodity and service can be determined to give the net requirements.

### **11.3 Analysis of Past Expenditure**

The expenditure in the past shall be analysed in terms of commodities and services purchased in order to support net requirement assessment.

The following information shall be noted:

- a) Details of the supplier/service provider;
- b) The price;
- c) The location of the supplier/service provider;
- d) Availability of specifications/terms of reference;
- e) If necessary, specifications/terms of reference.

### **11.4 Analysis of Supplying Industry**

The supplying industries must be analysed to determine the following:

- a) Name of the supplier/service provider.
- b) What is available in terms of the specifications/terms of reference?
- c) The current price and any discounts applicable.
- d) The location of the goods.
- e) The lead and delivery times.

### **11.5 Determining Sourcing Strategy**

With the information on current and future needs available the acquisition management practitioners can investigate all possible methods of obtaining requirements and develop a sourcing strategy.

A sourcing strategy determines together with the strategic plan where the goods, services and works can be obtained. This does not imply that these requirements should be procured from outside sources only.

The sourcing strategy shall address value for money principles, such as the just in time principle.

Cognizance shall be taken of the nature of the commodity or service required the conditions of delivery, the prospective providers and the goals to be promoted.

Priorities shall be determined and risk management plans shall be developed by using the following sub-categories:

- a) Non-critical (simple, low risk, low value goods/services).
- b) Supportive (simple, low risk, but relatively high value goods/services).
- c) Critical (high complexity, high risk, but relatively high value goods/services).

Risks can be transferred to providers where possible, by specifying risks to be carried by them and guarantees to be provided in this regard.

### **11.6 Determining a Selection Method**

The following procurement methods shall be used or selected for procurement purposes:

- a) Requisition of available stock from other departments within the municipality.
- b) Sourcing from other government institutions.
- c) Transversal term contracts.
- d) Sourcing from the State Information Technology Agency approved suppliers.
- e) Building, engineering or construction works.
- f) Public Private Partnership
- g) Quotations.
- h) Competitive bidding.
- i) List of redundant/obsolete material/goods from other institutions.
- j) Negotiations.

## 12. THE BID DOCUMENTATION

The Accounting Officer shall establish the criteria to which bid documentation for a competitive bidding process must comply.

The bid documentation shall be in accordance with:

- | At least the general conditions of contract and supply chain management guidelines of National Treasury.
- | The requirement of the Construction Industry Development Board as approved by National Treasury in the case of a bid relating to the construction, upgrading or refurbishment of buildings or infrastructure.
- | Bid documentation include evaluation and adjudication criteria, including the criteria prescribed in terms of the PPPFA and Supply Chain Management Regulations.
- | Bid documents will be sold at the amount to be determined by the Chief Financial Officer and approved by the Accounting Officer of the municipality.

As a minimum, the following information must be contained of each bid document:

- | There shall always be a unique reference number and title or description for each bid advertised, in order to avoid any ambiguity that could result in respect thereof.
- | The closing date and time of each bid invitation shall be chosen carefully or systematically.
- | There shall be suitable and dedicated staff to handle all queries in respect of any bids.
- | All prospective bidders shall be provided with similar bid information, with no bidder having competitive advantage over another.

All bids or offers shall be submitted in writing on the prescribed bid documentation in a sealed marked envelope and must be deposited by the bidders themselves or their appointed representatives into the designated Bid Box by no later than the date and time stipulated in the bid documents.

The policies, procedures and protocols published in the bid documentation must always be adhered to. Any subsequent changes thereto must be communicated to all bidders.

If the value of the transaction is expected to exceed R10 million (VAT included) bidders have to further furnish the following:

- a) If the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements:
- b) For the past three years, or
- c) Since their establishment if established during the past three years.
- d) A certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal or other service providers in respect of which payment is overdue for more than 30 days.
- e) 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.
- f) 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 is expected to be transferred out of the Republic.

### **13. ADVERTISEMENT AND PUBLIC INVITATION FOR COMPETITIVE BIDS**

Any invitation to prospective providers to submit bids shall be by means of a public advertisement in newspapers commonly circulating locally, the website of the municipality and any other appropriate ways (which may include an advertisement in the Government Tender Bulletin).

The advertisement shall contain the closing date and time for the submission of bids, such date 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.

The Accounting Officer may determine a closure date for the submission of bids which is less than the 30 or 14 days requirements, 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.

Bids may only be submitted on the bid documentation provided by the municipality.

#### **14. TWO STAGE BIDDING PROCESS**

For large complex plants or projects of special nature or long-term projects with a duration period exceeding three years, detailed technical specifications shall be compiled in advance, and the Accounting Officer shall use of two-stage bidding process.

##### **14.1 First Stage Requirements**

Under the first stage, un-priced technical proposals on the basis of conceptual design or performance specifications shall be invited, subject to technical as well as commercial clarifications and adjustments.

##### **14.2 Second State Requirements**

The second stage shall include amended bidding documents and the submission of final technical proposals and priced bids.

#### **15. PROCEDURE FOR HANDLING, OPENING AND RECORDING OF BIDS**

The supply chain management section of the municipality shall be responsible for the receipt and opening of all bids.

The following procedures shall be followed in respect of handling, opening and recording of bids:

- a) Bids shall be opened only in public. *(except when members of the public are not present at the time of opening the bid box).*



- b) A bid box shall be opened immediately after each bid has closed by at least one supply chain official of the Ngwathe Local Municipality and at least one member of the Bid Committee of Ngwathe Local Municipality.
- c) 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. If the bid consist of more than one item, the official may at his discretion, decide on whether or not all of the items should be read out.
- d) All the bids that have been deposited into the bid box and opened shall be recorded in a bid register.
- e) All opened bids shall be date stamped and individually initialed in ink on each material page by the abovementioned officers. Any errors must also be initialed as above.
- f) Any deposits or securities received with bids must be handed to the Chief Financial Officer for official acknowledgement of receipt thereof.
- g) The name of the bidders and amount of the bid must be recorded in the bid register and handed to the Supply Chain Manager, who shall acknowledge in writing receipt thereof.
- h) The bid register shall be locked in a safe place for subsequent bid evaluations.
- i) All bid documentation via telegram, e-mail, telex, facsimile or other method other than the prescribed method before, on or after the closing date and time must be registered and should not be considered and returned unopened immediately.
- j) The specified date and/or time shall be registered in the bid register and marked "late bid", these bids shall be rejected and not be considered.
- k) Bids received after the closing time shall not be considered and will be returned unopened immediately.
- l) Bids results shall be displayed on official notice boards and municipal website.
- m) The bid register shall be made available for public inspection during normal working hours.
- n) Entries in the bid register shall be published on the website of the municipality after every updated entry.

**16. EVALUATIONS AND AWARDING OF BIDS**

Bids shall be evaluated in terms of the point system as laid out in the Preferential Procurement Policy Framework Act, 2000 (Act No 5 of 2000).

**17. NEGOTIATIONS WITH PREFERRED BIDDERS**

The Accounting Officer / Chief Financial 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 other bidders.
- c) Does not lead to a higher price than the bid as submitted.
- d) Minutes of such negotiations must be kept for record purposes.

**18. APPROVAL OF BIDS NOT RECOMMENDED**

If a bid other than the one recommended in the normal course of implementing the supply chain management policy is approved, the Accounting Officer must, in writing notify the Auditor-General, the Provincial Treasury and the National Treasury of the reasons for deviating from such recommendation. *(This provision above does not apply if a different bid was approved in order to rectify an irregularity).*

**19. UNSOLICITED BIDS**

Ngwathe Local Municipality is not obliged to consider unsolicited bids received outside a normal bidding process, however if the municipality decides to consider unsolicited bids, such decisions shall be taken subject to the following provisions:

- a) The product or service offered in terms of the bids is a unique innovative concept that will be exceptionally beneficial to or have exceptional cost advantages for the municipality;

- b) The person who made the bid is the sole provider of the product or service;
- c) The reasons for not going through the normal biddings processes are found to be sound by the Accounting Officer;
- d) The need for the product or service by the municipality has been established during its annual performance planning and budgeting process;

If the Accounting Officer decides to consider an unsolicited bid subject to the above provisions, 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.
- c) An invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.

All written comments received pursuant to publication of the accepted unsolicited bid, including any responses from the unsolicited bidder, must be submitted to the National Treasury and the Provincial Treasury for comment.

If any recommendations of the National Treasury or Provincial Treasury are rejected or not followed, the Accounting Officer must submit to the Auditor-General, the Provincial Treasury and the National Treasury the reasons for rejecting or not following those recommendations.

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

## **20. CONTRACTS PROVIDING FOR COMPENSATION BASED ON TURNOVER**

If a service provider acts on behalf of a municipality to provide any service or act as a collector of fees, service charges or taxes and the compensation payable to the service provider or the amount collected, the contract between the services and the municipality must stipulate:

- a) A cap on the compensation payable to the service provider.
- b) That such compensation must be performance based.

## **21. FRAMEWORK FOR DELEGATIONS OF SUPPLY CHAIN MANAGEMENT POWERS AND FUNCTIONS**

Uninterrupted determination of responsibility and accountability shall be maintained at all times to ensure that the supply chain is managed efficiently. The detailed duties and responsibilities delegated or sub-delegated to every member of the Supply Chain Management Unit are clearly defined in the municipality's Register of Financial Delegations and Sub-Delegations.

As a principle, 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 him / her in terms of Municipal Finance Management Act.

No supply chain management powers and duties shall be delegated or sub-delegated to:

- a) A person who is a Councillor of the municipality or any municipality;
- b) A committee of which a Councillor of any municipality is a member;
- c) A person who is not an official of the municipality;
- d) A committee which is not exclusively composed of officials of the municipality.

### **21.1 Sub-Delegations**

The Accounting Officer may, subject to section 79 of Municipal Finance Management Act, sub-delegate any supply chain management powers and duties, including those delegated to the Accounting Officer in terms of this policy.

In terms of this policy, the powers to make a final award shall be subject to the guidelines and limitations as follows:

- a) The power to make an award above R10 million (VAT included) shall not be sub-delegated by the Accounting Officer.
- b) The power to make an award above R2 million (VAT included), but not exceeding R10 million (VAT included) shall be sub-delegated but only to:
- | The Chief Financial Officer;
  - | A Senior Manager; or
  - | A bid adjudication committee of which the chief financial officer or a senior manager is a member.
- c) The power to make an award not exceeding R2 million (VAT included) shall be sub-delegated but only to:
- | The Chief Financial Officer;
  - | A Senior Manager;
  - | A manager directly accountable to the Chief Financial Officer or to Senior Manager;
  - | A bid adjudication committee;

An official or bid adjudication committee to which the power to make final awards has been sub-delegated must within five days of the end of each month submit to the delegating authority / body a written report containing particulars of each final award made by such official or committee during that month, including:

- | The amount of the award;
- | The name of the person to whom the award was made;
- | The reason why the award was made to that person.

**21.2 Summary of Delegations and Sub-Delegations of Key Supply Chain Management Functions applicable to Ngwathe Local Municipality.**

<b>Power / Function</b>	<b>Delegating Body</b>	<b>Delegated Body</b>	<b>Sub-Delegate Body</b>
Final awards up to R 30 000 per transaction (VAT included)	Accounting Officer	Chief Financial Officer	Supply Chain Manger
Final awards from R 30 001 to R 200 000 per transaction (VAT included)	Accounting Officer	Chief Financial Officer	None
Final awards from R 200 001 to R 10 million per transaction (VAT included)	Accounting Officer	Bid Adjudication Committee	None
Overall management of Supply Chain Management unit	Accounting Officer	Chief Financial Officer	None
Appointment of bid committee members	Accounting Officer	None	None
Approval of prospective supplier's applications for inclusion in the data base	Accounting Officer	Chief Financial Officer	Supply Chain Manger

**22. KEY ROLE PLAYERS AND THEIR RESPONSIBILITIES IN SUPPLY CHAIN MANAGEMENT PROCESSES**

The roles and responsibilities of all the structures hereunder are defined only from the perspective of supply chain management.

**22.1 The Council**

The Council of Ngwathe Local Municipality shall maintain an oversight over the implementation of supply chain management policy to ensure that it is within the ambit of the applicable legislation.

In order for the Council to exercise its oversight role over supply chain management effectively, the Accounting Officer shall:

- a) within 30 days of the end of financial year or whenever there are serious and material problems in the implementation of the supply chain management policy, submit reports on the implementation of the supply chain management to the Council of the municipality.
- b) within 10 days after the end of each quarter submit a report implementation of supply chain management policy to the mayor, who shall also table such report to council.

These reports shall be made public in accordance with section 21A of the Municipal Systems Act.

## **22.2 The Accounting Officer**

The Accounting Officer shall:

- a) implement a supply chain management policy for the municipality.
- b) take all reasonable steps to ensure that proper mechanisms and separation of duties in the supply chain management system are in place to minimise the likelihood of fraud, corruption, favouritism and unfair and irregular practices.
- c) prepare and review supply chain management policy and submits to the Council of the municipality for adoption.
- d) establish and appoint members to the following bid committees:
  - | Bid Specification Committee.
  - | Bid Evaluation Committee.
  - | Bid Adjudication Committee.

The Accounting Officer shall appoint the members of each committee, taking into account that no Councillor may be a member of a municipal bid committee or any other committee evaluating or approving bids, quotations or contract, nor attend such meeting as an observer.

### **22.3 The Chief Financial Officer (CFO)**

The Chief Financial Officer shall be the custodian of Supply Chain Management policy and report progress regarding the implementation of the supply chain management and supply chain management policy to the accounting officer who shall report to council.

He shall be responsible for the overall management of the supply chain management unit and ensure that the supply chain management policy is adhered to.

Furthermore, the Chief Financial Officer shall be responsible to ensure that all employees involved in the supply chain management process including the bid committee members receive the necessary training and support to implement the Supply Chain Management Policy.

### **22.4 Bid Committees**

#### **22.4.1 Bid Specifications Committee**

The bid specification committee shall be composed of one or more officials from the municipality and preferably from user departments requiring goods or services.

No person, advisor or corporate entity involved with the bid specification committee, or director of such a corporate entity, shall bid for any resulting contracts.

The Bid Specifications Committee shall be responsible for compiling the specifications for each procurement of goods or services by the municipality.

In compiling specifications, the following provisions shall be strictly adhered to and applied:

Specifications shall:

- a) be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services.



- b) take cognizance of any accepted standards such as those issued by standard South African Construction Industry Development Board, the International Standard Organisation, or an authorised 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 descriptive characteristics.
- d) not create trade barriers in contract requirements in the form of specification, plans, drawing, designs, testing and test method, packaging, marking or labeling of conformity certification.
- e) not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the word equivalent.
- f) indicate each specific goal for which points may be awarded in terms of the points system set out in the Preferential Procurement Regulations of 2001.
- g) where applicable, shall indicate the ratio between functionality and price.
- h) indicate the minimum qualification points for functionality.
- i) be approved by the Accounting Officer/his delegate prior to publication of the invitation for bids.
- j) specify the validity period of the bids.

#### **22.4.2 Bid Evaluation Committee**

The Bid Evaluation Committee shall as far as possible, be cross-functional and shall be composed of officials from the departments requiring the goods or services, at least one officer from the supply chain management unit and an officer from the budget office to assist with issues relating to the budget. The committee shall also allow for a neutral or independent person to monitor the fairness of the proceedings.

The bid evaluation committee shall be responsible for:

- a) Evaluating bids in accordance with the specifications for a specific procurement.

- b) Evaluating bids in accordance with the preference point system in terms of the Preferential Procurement Policy Framework Act.
- c) Evaluating each bidder's ability to execute the contract and ensuring that the predetermined cost estimates are not used to disqualify bidders
- d) Ensuring that disqualifications are justified and that valid and accountable reasons / motivations were furnished for the recommendation of bids
- e) Ensure that declarations of interest have been taken cognizance of
- f) Checking in respect of each bidder whether:
  - | A tax clearance certificate, issued by SARS, has been submitted.
  - | Municipal rates and taxes and municipal service charges are not more than three months in arrears.
- g) Verifying whether national industrial participation programme requirements have been complied with, if the contract is in excess of R100 million.
- h) Submitting to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter for consideration.

### **22.4.3 Bid Adjudication Committee**

The Bid Adjudication Committee shall be cross-functional and shall consist of the Chief Financial Officer who will be the chairperson, at least four senior managers or a senior official reporting directly to a senior manager and an official from the Supply Chain Management unit. When necessary, a technical expert in the relevant field, who is an official of the municipality, may also be part of this committee.

If the Chief Financial Officer is not available, another senior manager of the municipality designated by the Accounting Officer shall be the chairperson. If the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside the meeting.

Neither a member of a bid evaluation committee, nor an advisor or person assisting the Bid Evaluation Committee, shall be a member of a Bid Adjudication Committee. However, a member of the Bid Evaluation Committee might be asked to present the Bid Evaluation Report but shall not vote in the proceedings.

The Bid Adjudication Committee shall be responsible for:

- a) considering the report and recommendations of the Bid Evaluation Committee and either make a final award depending on delegations, or make another recommendation to the Accounting Officer to make the final award.
- b) making another recommendation to the Accounting Officer on how to proceed with the relevant procurement.

If the Bid Adjudication Committee decides to award a bid other than the one recommended by the Bid Evaluation Committee, the Bid Adjudication Committee shall, prior to awarding the bid:

- a) Check in respect of the preferred bidder whether the bidder's municipal rates and taxes and municipal services charges are not in arrears for the period more than three months.
- b) Notify the Accounting Officer, who, after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee.

The Accounting Officer may at any stage of a bidding process, refer any recommendation made by the Bid Evaluation Committee or the Bid Adjudication Committee back to the committee for reconsideration of the recommendation.

In such a case, the Accounting Officer must notify the Auditor-General, the Provincial Treasury and the National Treasury in writing of the reasons for deviating from such recommendation, within 10 working days of the date of refereeing the matter back to the committee.

#### **22.4.4 Disposal Committee**

The Disposal Committee shall consist of the Accounting Officer, who shall also be the chairperson of the committee shall also appoint at least a further two members to the committee in writing.

One of the members of the committee must be proficient in logistics management (e.g Official from Supply Chain Management unit). All members of the Committee must at all times objectively evaluate the items that are submitted for disposal.

In the absence of the disposal committee the relevant department shall recommend to the Accounting Officer the assets to be disposed, and the Accounting Officer shall seek council approval for disposal of such assets.

In addition to the abovementioned members of the committee, the chairperson may at anytime during the process of evaluation of specialized stores/equipment co-opt additional members who posses specialized knowledge in the relevant field in writing.

An official who is in direct control of stores/equipment, which is to be evaluated shall not serve as a member of the committee, but can assist the committee with all the relevant information as may be required in the evaluation process.

The disposal committee shall recommend the assets to be disposed off to council for approval.

### **23. DATABASE OF ACCREDITED PROSPECTIVE PROVIDERS**

The Accounting Officer, through the Supply Chain Management unit, shall keep a list of accredited prospective providers to be used to procure goods and services. This list shall be used effectively to promote the objectives of the Preferential Procurement Regulations.

The Accounting Officer shall, through local commonly circulated newspapers, website and by any other means possible, invite prospective providers to apply for evaluation and listing as an accredited prospective provider with Ngwathe Local Municipality. The listing criteria for accredited

prospective providers shall also be specified on the invitation. The new applications shall be accredited by the Chief Financial Officer in terms of the framework to be determined by him/her.

Prospective suppliers / providers shall be allowed to submit applications for listing at any time during the course of a financial year and shall be subject to the approval by the Chief Financial Officer. The database shall be updated at least quarterly.

The Chief Financial Officer must prevent the listing of any prospective provider whose name appears on the National Treasury's database as person prohibited from doing business with the public sector.

#### **24. COMBATING THE ABUSE OF SUPPLY CHAIN MANAGEMENT SYSTEM**

In combating the abuse of the supply chain management system, the Accounting Officer shall:

- a) Take all reasonable steps to prevent such abuse.
- b) Investigate any allegations against an official or other role player of fraud, corruption, favouritism, unfair or irregular practices or failure to comply with the supply chain management policy, and when justified:
  - i. Take appropriate steps against such official or other role player.
  - ii. Report any alleged criminal conduct to the South African Police Service (SAPS).
  - iii. 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.
- c) Reject any bid from a bidder:
  - i. Who fails to provide written proof from the South African Revenue Services (SARS) that that bidder either has no outstanding tax obligations or has made arrangements to meet outstanding tax obligations.
  - ii. Whose municipal rates and taxes or municipal service charges owed to the municipality, or other municipalities, are in arrears.
  - iii. Who during the last five years has failed to perform satisfactorily on a previous contract with the municipality or another municipality or municipal entity.

- d) Reject a recommendation for the award of a contract if the recommended bidder has committed a corrupt or fraudulent act in competing for the particular contract or any other bid with the municipality or another municipality or municipal entity during the last five years.
- e) 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.
  - 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.
  - iii. Reject the bid of any bidder if that bidder, or any of its directors:
  - iv. Has abused the supply chain management system of the municipality or has committed any improper conduct in relation to such system.
  - v. Has been convicted of fraud or corruption during the past five years.
- f) Has willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years.
- g) Has been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act, Act No 12 of 2004.

The Accounting Officer shall inform the Provincial Treasury in writing of any actions taken in terms of the above stipulations.

#### **24.1 Ethical Standards**

A code of ethical standards shall be established and acknowledged by all role players for officials and other role players in the supply chain management system in order to promote mutual trust, respect and an environment where business can be conducted with integrity and in a fair and reasonable manner.

The code of ethical standards shall stipulate that an official or other role player involved in the implementation of the supply chain management policy of the municipality must treat all providers and potential providers equitably and may not use his or her position for private gain or to improperly benefit another person.

The municipality may adopt the National Treasury's code of conduct for supply chain management practitioners and other role players involved in supply chain management. When adopted, such code of conduct shall become binding on all officials and other role players involved in the implementation of the supply chain management policy of the municipality.

#### **24.2 Rewards, Gifts and Favours to Municipal Officials and Other Role Players**

No person who is a provider of goods or services or prospective provider of goods or services to the municipality, or a recipient or prospective recipient of goods disposed, or to be disposed off by the municipality may, either directly or through a representative or intermediary promise, offer or grant any reward, gift, favour or hospitality to:

- a) Any official of the municipality;
- b) Any other role player involved in the implementation of the supply chain management policy of the municipality;
- c) Any inducement or reward to the municipality for or in connection with the award of a contract.

The Accounting Officer shall promptly report any alleged occurrence of the above 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.

#### **24.3 Sponsorships**

The Accounting Officer shall promptly disclose to the National Treasury and the Provincial Treasury any sponsorship promised, offered or granted to the municipality, whether directly or through a representative or intermediary, by any person who is:

- a) A provider of goods or services or prospective provider of goods or services to the municipality or entity.

- b) A recipient or prospective recipient of goods disposed, or to be disposed off by the municipality.

#### **24.4 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, a written objection or complaint against the decision or action.

#### **25. OFFENCES**

The Accounting Officer is guilty of an offence if he/she deliberately or in a grossly negligent way:

- a) Contravenes or fails to comply with a provision of sections 61(1), 61(2)(b), 63(2)(a) or (c) or 65(2)(i) of Municipal Finance Management Act.
- b) Fails to take all reasonable steps to prevent unauthorised, irregular or fruitless and wasteful expenditure.
- c) Fails to take all reasonable steps to prevent corruptive practices in:
- i. The management of the municipality's assets.
  - ii. The implementation of the municipality's supply chain management policy.
- d) Deliberately provides false or misleading information in any document which in terms of a requirement of the Municipal Finance Management Act must be:
- i. Made public; and
  - ii. Submitted to the Auditor-General, the National Treasury or any other organ of state.

A senior manager or other official of the municipality exercising financial management responsibilities and to whom a power or duty was delegated in terms of Section 79 of Municipal Finance Management Act, is guilty of an offence if that senior manager or official deliberately or in a grossly negligent way contravenes or fails to comply with a condition of the delegation.



## **26. GENERAL REPORTING OBLIGATION**

The Accounting Officer shall inform the Provincial Treasury, in writing of:

- a) Any failure by the Council to adopt or implement a Supply Chain Management Policy.
- b) Any non-compliance by a political structure or office-bearer of the municipality with this policy.

The Accounting Officer shall submit to the National Treasury, the Provincial Treasury, the Department for Cooperative Governance and Traditional Affairs or the Auditor-General such information, returns, documents, explanations and motivations as may be prescribed or as may be required.

### **26.1 Monthly Reporting**

The Accounting Officer shall report monthly to the National Treasury and to the Council on the following aspects:

- a) Implementation of Supply Chain Management Policy.
- b) Awards of bids for more than R 100 000 (VAT included) reported to National Treasury.
- c) Deviation processes followed, non-utilization of provider list, salami slicing, maverick spend, getting less quotes than prescribed.
- d) Urgency/emergency procurement processes followed.
- e) Process disputes.
- f) Late bids admitted and approved.
- g) Instances of fraud or corruption.
- h) Value for money.
- i) Unsolicited bids considered.
- j) Approval of tenders not recommended.
- k) Percentages of total spending towards Preferential Points (HDI, SMME's, Local content etc)

The Accounting Officer must on a monthly basis report to the Council on the management of contracts or agreements and the performance of the relevant contractors.

### **26.2 Quarterly Reporting**

The Accounting Officer shall within 10 days after the end of each quarter submit implementation reports on Supply Chain Management for consideration by the Mayor.

### **26.3 Annual Reporting**

The Accounting Officer shall at least annually within 30 days of the end of each financial year submit reports on the implementation of the Supply Chain Management Policy to the Council and the Provincial Treasury.

The Accounting Office must disclose to the notes to the annual financial statements particulars of any award of more than R 2 000 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.