

# Supply Chain Management

## Policy 2019-2020



The Thaba Chweu Municipality policies are statements of principles and practices dealing with the on-going management and administration of the Municipality's SCM Management. This policy act as a guiding frame of reference for how the Municipality deals with everything from its day- to-day SCM operational and support procedures to comply with SCM regulations and other legislations. This "statement of purpose" will guide the actions to be taken to achieve that purpose.



Thaba Chweu Local Municipality

Document Reference

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## Thaba Chweu Local Municipality

### Table of Contents

<u>Document Reference</u> .....	1
<u>1</u> Definition .....	1
<u>Chaper 1 -Implementation of Supply Chain Management Policy</u> .....	<b>Error! Bookmark not defined.</b>
<u>2</u> Supply Chain management policy .....	<b>Error! Bookmark not defined.</b>
<u>3.</u> Adoption and ammendment of Supply Chain Management Policy ..	<b>Error! Bookmark not defined.</b>
<u>4.</u> Delegation of Supply Chain Management powers and duties .....	<b>Error! Bookmark not defined.</b>
<u>5.</u> Sub delegations .....	<b>Error! Bookmark not defined.</b>
<u>6.</u> Oversight role of council.....	<b>Error! Bookmark not defined.</b>
<u>7.</u> Supply Chain Management units.....	<b>Error! Bookmark not defined.</b>
<u>8.</u> Training of supply chain management officials.....	<b>Error! Bookmark not defined.</b>
<u>Chapter 2- Supply Chain Management System:</u> .....	<b>Error! Bookmark not defined.</b>
<u>9.</u> Format of Supply Chain Management System .....	<b>Error! Bookmark not defined.</b>
<u>10.</u> Demand Management.....	<b>Error! Bookmark not defined.</b>
<u>11.</u> Acquisition Management .....	<b>Error! Bookmark not defined.</b>
<u>12.</u> Logistics,Disposal,Risk and Perfomance Management.....	<b>Error! Bookmark not defined.</b>
<u>13.</u> Other Matters.....	



## Thaba Chweu Local Municipality

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### 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 –

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

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

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

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

**“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) an official of any municipality
- (c) an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No.1 of 1999);
- (d) a member of the accounting authority of any national or provincial public entity; or
- (e) an employee of Parliament or a provincial legislature;

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

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



## Thaba Chweu Local Municipality

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

- (a) the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);
- (b) the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003); and
- (c) the Construction Industry Development Board Act, 2000 (Act No.38 of 2000);

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

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

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

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



Thaba Chweu Local Municipality

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**CHAPTER 1**

**IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY**

**2. Supply chain management policy**

- (1) All officials and other role players in the supply chain management system of Thaba Chweu Local Municipality must implement this Policy in a way that
  - (a) gives effect to –
    - (i) section 217 of the Constitution; and
    - (ii) Part 1 of Chapter 11 and other applicable provisions of the Act;
  - (b) is fair, equitable, transparent, competitive and cost effective;
  - (c) complies with –
    - (i) the Regulations; and
    - (ii) any minimum norms and standards that may be prescribed in terms of section 168 of the Act;
  - (d) is consistent with other applicable legislation;
  - (e) does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and
  - (f) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.
  
- (2) This Policy applies when the Municipality (Thaba Chweu Local Municipality)
  - (a) procures goods or services;
  - (b) disposes goods no longer needed;
  - (c) Selects contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies; 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.
  
- (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 –



## Thaba Chweu Local Municipality

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- (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. Adoption and Amendment of the supply chain management policy**

- (1) The accounting officer must –
  - (a) at least annually review the implementation of this Policy; and
  - (b) when the accounting officer considers it necessary, submit proposals for the amendment of this Policy to the Council.
  
- (2) If the accounting officer submits proposed amendments to the council that differs from the model policy issued by the National Treasury, the accounting officer must –
  - (a) ensure that such proposed amendments comply with the Regulations; and
  - (b) report any deviation from the model policy to the National Treasury and the relevant provincial treasury.
  
- (3) When amending this supply chain management policy the need for uniformity in supply chain practices, procedures and forms between organs of state in all spheres, particularly to promote accessibility of supply chain management systems for small businesses must be taken into account.
  
- (4) The accounting officer of a municipality must in terms of section 62(1)(f)(iv) of the Act, take all reasonable steps to ensure that the municipality has and implements this supply chain management policy.

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

- (1) The council hereby delegates all powers and duties to the accounting officer which are necessary to enable the accounting officer –
  - (a) to discharge the supply chain management responsibilities conferred on accounting officers in terms of –
    - (i) Chapter 8 or 10 of the Act; and
    - (ii) this Policy;
  - (b) to maximize administrative and operational efficiency in the implementation of this Policy;



## Thaba Chweu Local Municipality

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- (c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of this Policy; and
  - (d) to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.
- (2) Sections 79 and 106 of the Act apply to the sub delegation of powers and duties delegated to an accounting officer in terms of subparagraph (1).
- (3) The accounting officer may not sub delegate any supply chain management powers or duties to a person who is not an official of the Municipality or to a committee which is not exclusively composed of officials of the municipality
- (4) This paragraph may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this Policy.

### 5. Sub delegations

- (1) The accounting officer may in terms of section 79 or 106 of the Act sub delegate any supply chain management powers and duties, including those delegated to the accounting officer in terms of this Policy, but any such sub delegation must be consistent with subparagraph (2) of this paragraph and paragraph 4 of this Policy.
- (2) The power to make a final award –
- (a) above R10 million (VAT included) may not be sub delegated by the accounting officer;
  - (b) above R200 000 (VAT included), but not exceeding R10 million (VAT included), may be sub delegated but only to –
    - (i) the chief financial officer;
    - (ii) a senior manager; or
    - (iii) provided they do not form part of the adjudication committee.





## Thaba Chweu Local Municipality

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

### 6. Oversight role of council

- (1) The council reserves its right to maintain oversight over the implementation of this Policy.



## Thaba Chweu Local Municipality

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- (2) For the purposes of such oversight the accounting officer must –
  - (a) within 30 days of the end of each financial year, submit a report on the implementation of this Policy and the supply chain management policy of the Municipality
  - (b) whenever there are serious and material problems in the implementation of this Policy, immediately submit a report to the council
- (3) The accounting officer must, within 10 days of the end of each quarter, submit a report on the implementation of the supply chain management policy to the mayor.
- (4) The reports must be made public in accordance with section 21A of the Municipal Systems Act.

### **7. Supply chain management unit**

- (1) A supply chain management unit is hereby established to implement this Policy.
- (2) The supply chain management unit operates under the direct supervision of the chief financial officer or an official to whom this duty has been delegated in terms of section 82 of the Act.

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

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

## **CHAPTER 2**

### **SUPPLY CHAIN MANAGEMENT SYSTEM**

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

This Policy provides systems for –

- (i) demand management;
- (ii) acquisition management;



## Thaba Chweu Local Municipality

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- (iii) logistics management;
- (iv) disposal management;
- (v) risk management; and
- (vi) performance management.

### ***Part 1: Demand management***

#### **10. System of demand management**

- (1) The accounting officer must establish and implement an appropriate demand management system in order to ensure that the resources required by the municipality support its operational commitments and its strategic goals outlined in the Integrated Development Plan.
- (2) The demand management system must –
  - (a) include timely planning and management processes to ensure that all goods and services required by the municipality are quantified, budgeted for and timely and effectively delivered at the right locations and at the critical delivery dates, and are of the appropriate quality and quantity at a fair cost;
  - (b) take into account any benefits of economies of scale that may be derived in the case of acquisitions of a repetitive nature; and
  - (c) provide for the compilation of the required specifications to ensure that its needs are met.
  - (d) To undertake appropriate industry analysis and research to ensure that innovations and technological benefits are maximized.

### ***Part 2: Acquisition management***

#### **11. System of acquisition management**

- (1) The accounting officer must implement the system of acquisition management set out in this Part in order to ensure –
  - (a) that goods and services are procured by the 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;



## Thaba Chweu Local Municipality

- (c) that the threshold values for the different procurement processes are complied with;
  - (d) that bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation; and
  - (e) that any Treasury guidelines on acquisition management are properly taken into account.
- (2) When procuring goods or services contemplated in section 110(2) of the Act, the accounting officer must make public the fact that such goods or services are procured otherwise than through the municipality's supply chain management system, including -
- (a) the kind of goods or services; and
  - (b) the name of the supplier.

### (3) Turnaround time for delivery of goods and services

- (a) All Purchase orders issued to a transaction value of R1 000 to R 30 000.00 (VAT inclusive). The delivery period is prescribed at not more than 5 working days
- (b) All Purchase orders issued to a transaction value of R 30 000.00 to R 200 000.00 (VAT inclusive). The delivery period is prescribed at not more than 7 working days.  
The service provider must inform the Municipality in writing of any challenges that are faced if she/he is failing to deliver within the prescribed period, failure to do so may result in the cancellation of the purchase order.

## 12. Range of procurement processes

- (1) Goods and services may be procured by way of –
  - (a) petty cash purchases, up to a transaction value of R2 000 (VAT inclusive);
  - (b) Written or verbal quotations for procurements of a transaction value over R2 000 up to R10 000 (VAT inclusive);
  - (c) formal written price quotations for procurements of a transaction value over R10 000 up to R200 000 (VAT included).
  - (d) a competitive bidding process for–
    - (i) Procurements above a transaction value of R200 000 (VAT included); and
    - (ii) the procurement of long term contracts.



## Thaba Chweu Local Municipality

- (2) The accounting officer may, in writing-
  - (a) lower, but not increase, the different threshold values specified in subparagraph (1); or
  - (3) Goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of the policy. When determining transaction values, a requirement for goods or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction.

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

- (1) A written quotation or bid may not be considered unless the provider who submitted the quotation or bid –
  - (a) has furnished that provider's –
    - (i) full name;
    - (ii) identification number or company or other registration number; and
    - (iii) registration number on the central database system;
  - (b) has authorized the municipality to obtain a tax clearance from the South African Revenue Services that the provider's tax matters are in order; and
  - (c) has indicated –
    - (i) whether he or she is in the service of the state, or has been in the service of the state in the previous twelve months;
    - (ii) if the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the state, or has been in the service of the state in the previous twelve months; or
    - (iii) whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in subparagraph (ii) is in the service of the state, or has been in the service of the state in the previous twelve months;
    - (iv) Before making an award the supply chain management unit must check on central supplier database if the person's/company's tax matters are in order (tax compliance); and
    - (v) Before making an award the supply chain management unit must check on central supplier database whether the bidder or any of its directors are not listed/indicated as a person prohibited from doing business with the public sector
- (e) For procurements with values in excess of R30 000, rates and taxes must be up to date.



## Thaba Chweu Local Municipality

- (f) Alternatively, the municipality can download the summary report form the Centralized Supplier Database as a means of verification of the following:
- Confirmation and status of Business Registration Documents
  - Proof of bank account registration
  - Tax compliance status
  - Employee in service of state
  - Identity Document
  - Tender defaulters and restriction status

### 14. Lists of accredited prospective providers

- The accounting officer must –
  - make use of the Centralized Supplier Database for the procurement of goods and services through written or verbal quotations and formal written price quotations; and
  - ensure that contracts are awarded to suppliers who are registered on the Centralized Supplier Database.
  - Disallow service providers whose name appears on the Centralized Supplier Database as a person prohibited from doing business with the public sector.

### 15. Petty cash purchases

- 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 –
  - Petty cash should not exceed the amount of R2000.00 a month per Department.
  - a monthly reconciliation report from petty cash administrator must be provided to the chief financial officer, including –
    - the total amount of petty cash purchases for that month; and
    - receipts and appropriate documents for each purchase.
  - Verbal quotations must be obtained from at least three different providers preferably from, but not limited to, providers whose names appear on the Central Supplier Database of National Treasury, provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria set out in paragraph 14(1)(b)and (c) of this policy;
  - If it is not possible to obtain at least three verbal quotations the reason



## Thaba Chweu Local Municipality

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must be recorded and reported quarterly to the Chief Financial Officer or another official designated by the accounting officer;

- (e) the names of and prices quoted by the potential suppliers must be recorded and the order must only be placed against a written confirmation from the selected supplier

### 16. Written or verbal quotations

- (1) The conditions for the procurement of goods or services through written or verbal quotations, are as follows:
- (a) Quotations must be obtained from at least three different providers preferably from service providers whose names appear on the Central Supplier Database of National Treasury, provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria set out in paragraph 14(1)(b) and (c) of this Policy;
- (b) to the extent feasible, providers must be requested to submit such quotations in writing;
- (c) If it is not possible to obtain at least three quotations, the reasons must be recorded and reported quarterly to the accounting officer or another official designated by the accounting officer;
- (d) the accounting officer must record the names of the potential providers requested to provide such quotations with their quoted prices; and
- (e) if a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider.

### 17. Formal written price quotations

- (1) The conditions for the procurement of goods or services through formal written price quotations are as follows:
- (a) Quotations must be obtained in writing from at least from three different providers whose names appear on the Central Supplier Database of National Treasury,
- (b) quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria set out in paragraph 14(1)(b) and (c) of this Policy;
- (c) if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the chief financial officer or an official designated by the chief financial officer, and



## Thaba Chweu Local Municipality

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- (d) the accounting officer must record the names of the potential providers and their written quotations.
- (2) A designated official referred to in subparagraph (1) (c) must **within three days** of the end of each month report to the chief financial officer on any approvals given during that month by that official in terms of that subparagraph.

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

- (1) The procedure for the procurement of goods or services through written or verbal quotations or formal written price quotations is as follows:
  - (a) when using the Central Supplier Database, the accounting officer must promote ongoing competition amongst providers by inviting providers to submit quotations on a rotation basis;
  - (b) all requirements in **excess of R30 000** (VAT inclusive) 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 an **official notice board and website** of the municipality.
  - (c) offers received must be **evaluated on a comparative basis** taking into account unconditional discounts;
  - (d) the accounting officer or chief financial officer must on a **monthly basis be notified in writing of all written or verbal quotations and formal written price quotations accepted** by an official acting in terms of a sub delegation;
  - (e) **offers worth R30 000 and below** (VAT included) must be **awarded based on compliance to specifications and conditions of contract**, ability and capability to deliver the goods and services and lowest price;
  - (f) Acceptable offers, which are subject to the preference points system (PPPFA and associated regulations), **must be awarded to the bidder who scored the highest points**;
  - (g) requirements for proper record keeping must be maintained at all times.
  - (h) Purchases of R100 000 and more but less than R200 000 must **reported to National Treasury on monthly basis**

### **19. Competitive bids**





## Thaba Chweu Local Municipality

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

### 20. Process for competitive bidding

The procedures for the following stages of a competitive bidding process are as follows:

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

### 21. Bid documentation for competitive bids

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

- (a) take into account –
  - (i) the general conditions of contract and any special conditions of contract, if specified;
  - (ii) any Treasury guidelines on bid documentation; and
  - (iii) the requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;
- (b) Include the preference points system to be used, goals as contemplated in the Preferential Procurement Regulations and evaluation and adjudication criteria, including any criteria required by other applicable legislation;



## Thaba Chweu Local Municipality

- (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;
  - (ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;
  - (iii) particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
  - (iv) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality or municipal entity is expected to be transferred out of the Republic; and
- (e) Stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law.
- (f) All bids must be submitted in writing on the prescribed bid documentation in a sealed marked envelope and must be deposited by the bidders themselves or their appointed representatives into the designated bid box by no later than the date and time stipulated in the bid documentation.
- (g) The municipality may disqualify any offer or bid submitted for the following reasons:
- (i) the bidder failed to comply with all submission requirements as stated in the tender document;
  - (ii) the entity or one of its directors are listed on National Treasury 'database as a person prohibited from doing business with the public sector;
  - (iii) there are outstanding municipal rates and taxes or service charges from any municipality by the entity or any of its directors that are in arrears for longer than 3 months unless credit arrangements have been made in terms of council policies;
  - (iv) the entity has failed to perform satisfactory on previous contracts with any municipality or other organ of the state, after that entity was given written notice that performance was unsatisfactory;



## Thaba Chweu Local Municipality

- (v) any of the directors committed a corrupt or fraudulent act in competing for a particular contract or in the execution of a contract;
  - (vi) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of a contract that benefited the entity or any of its directors;
  - (vii) the entity or any its directors abused the supply chain management system or committed any improper conduct in relation to such system;
  - (viii) any director has been convicted for fraud or corruption during the last 5 years;
  - (ix) the entity or any of its directors has willfully neglected, reneged on or failed to comply with any government municipal or other public sector contract during the last 5 years;
  - (x) the entity or any of its directors has misrepresented facts or information in the tender document submitted;
  - (xi) the entity or any of its directors has submitted two tender documents (from the same company) unless the other tender document is an alternative offer;
  - (xii) any persons whose tax matters have not been declared as being in order by the South African Revenue Services for awards in excess of R15 000 including Vat;
  - (xiii) the tax matters of the entity/service providers who will submit bids must be verified by the SCM officials on the Centralized Supplier Database
- (h) The Municipality may give preference to local suppliers and/or service providers
- (i) The Municipality may reject all bids if and when deemed necessary i.e. when there is a lack of effective competition or bids are not substantially responsive.

### 22. Public invitation for competitive bids

- (1) The procedure for the invitation of competitive bids, is as follows:
  - (a) Any invitation to prospective providers to submit bids must be by means of a public advertisement in newspapers commonly circulating locally, or any other appropriate ways (which may include an advertisement in the Government Tender Bulletin); and
  - (b) All bids that have CIDB requirements must be advertised on the CIDB website
  - (c) 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 21 days in



## Thaba Chweu Local Municipality

any other case, from the date on which the advertisement is placed in a newspaper, subject to subparagraph (2) of this policy;

- (ii) a statement that bids may only be submitted on the bid documentation provided by The municipality ;and
- (iii) date, time and venue of any proposed site meetings or briefing sessions.;

- (2) The accounting officer may determine a closure date for the submission of bids which is less than the 30 or 14 days requirement, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process.
- (3) Bids submitted must be sealed.
- (4) Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies.

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

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

- (a) Bids–
  - (i) must be opened only in public;
  - (ii) must be opened at the same time and as soon as possible after the period for the submission of bids has expired; and
  - (iii) received after the closing time should not be considered and returned unopened immediately.
- (a) 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;
- (b) No information, except the provisions in subparagraph (b), relating to the bid should be disclosed to bidders or other persons until the successful bidder is notified of the award; and
- (d) The accounting officer must –
  - (i) record in a register all bids received in time;
  - (ii) make the register available for public inspection; and
  - (iv) Publish the entries in the register and the bid results on the website.



## Thaba Chweu Local Municipality

- (v) Unsuccessful bids/tenders can be disposed 5 years after the bid has been awarded.

### 24. Management of expansion or variation of orders against the original contract

- (a) It is recognized that, in exceptional cases, an accounting officer of a municipality or municipal entity may deem it necessary to expand or vary orders against the original contract.
- (b) The expansion or variation of orders against the original contract has, however, led to wide scale abuse of current SCM system
- (c) In order to mitigate such practices, accounting officers of municipalities and municipal entities are advised that ,contracts may be expanded or varied by not more than 20% for construction related goods, services and/or infrastructure projects and 15% for all other goods and or services of the original value of the contract. Furthermore, anything beyond the above-mentioned threshold must be reported to council.
- (d) Any expansion or variation in excess of these thresholds must be dealt with in terms of the provisions of section 116(3) of the MFMA which will be regarded as an amendment of the contract.

### 25. Negotiations with preferred bidders

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

### 26. Validity period of a competitive bid

- (1) A competitive bid is valid for a period of 90 working days after the closing date
- (2) After the validity period has lapsed the withdrawal of bid must be published on the media or newspaper where the bids have been advertised.
- (3) The accounting officer may issue an extension to bidders for an additional 30 working days.

### 27. Two-stage bidding process



## Thaba Chweu Local Municipality

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

### 28. Committee system for competitive bids

- (1) A committee system for competitive bids is hereby established, consisting of the following committees for each procurement or cluster of procurements as the accounting officer may determine:
  - (a) a bid specification committee;
  - (b) a bid evaluation committee; and
  - (c) a bid adjudication committee;
- (2) The accounting officer appoints the members of each committee, taking into account section 117 of the Act; and
- (3) A neutral or independent observer, appointed by the accounting officer, must attend or oversee a committee when this is appropriate for ensuring fairness and promoting transparency. All departments must be represented in the committees.
- (4) The committee system must be consistent with –
  - (a) paragraph 27, 28 and 29 of this Policy; and
  - (b) any other applicable legislation.
- (5) The accounting officer may apply the committee system to formal written price quotations.

### 29. Bid specification committees

- (1) A bid specification committee must compile the specifications for each procurement of goods or services by municipality



## Thaba Chweu Local Municipality

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- (2) Specifications –
- (a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
  - (b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organisation, or an authority accredited or recognised by the South African National Accreditation System with which the equipment or material or workmanship should comply;
  - (c) must, where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;
  - (d) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labeling of conformity certification;
  - (e) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the word “equivalent”;
  - (f) must indicate each specific goal for which points may be awarded in terms of the points system set out in the Preferential Procurement Regulations 2001; and
  - (g) must be approved by the accounting officer prior to publication of the invitation for bids in terms of paragraph 22 of this Policy.
- (3) A bid specification committee must be composed of four or more officials of the municipality preferably the manager responsible for the function involved, and may, when appropriate, include external specialist advisors. At least one member must be from the finance department.
- (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.

### 30. Bid evaluation committees

- (1) A bid evaluation committee must –
- (a) evaluate bids in accordance with –
    - (i) the specifications for a specific procurement; and



## Thaba Chweu Local Municipality

- (ii) the **points system** set out in terms of paragraph 27(2)(f).
  - (b) **evaluate each bidder's ability** to execute the contract;
  - (c) check in respect of the recommended bidder **whether municipal rates and taxes and municipal service charges are not in arrears**, and;
  - (d) **submit to the adjudication committee** a report and recommendations regarding the award of the bid or any other related matter.
- (2) A bid evaluation committee must as far as possible be **composed of-**
- (a) **officials from departments** requiring the goods or services; and
  - (b) at **least one supply chain management** practitioner of the municipality
  - (c) the committee may **invite a technical expert for any clarity seeking** questions. The technical expert must not have voting rights (the technical expert may be invited on temporary basis per project when the need arises)

### 31. Bid adjudication committees

- (1) A bid adjudication committee must –
- (a) consider the **report and recommendations** of the bid evaluation committee; and
  - (b) either –
    - (i) depending on its delegations, make a final award or a recommendation to the accounting officer to **make the final award**; or
    - (ii) **make another recommendation** to the accounting officer how to proceed with the relevant procurement, including reasons for such recommendations.
- (2) A bid adjudication committee must consist of at **least Three (3) senior managers** of the municipality which must **include –**
- (a) the **chief financial officer** or, if the chief financial officer is not available, another manager in the budget and treasury office reporting directly to the chief financial officer and designated by the chief financial officer; and
  - (b) at **least one senior supply chain management** practitioner who is an official of the municipality and
  - (c) a **technical expert** in the relevant field who is an official, if such an expert exists, when the need arises.





## Thaba Chweu Local Municipality

- (3) The **accounting officer** must **appoint** the chairperson of the committee. **If the chairperson is absent** from a meeting, the members of the committee who are **present must elect one** of them to preside at the meeting.
- (4) Neither a member of a bid evaluation committee, nor an advisor or person assisting the evaluation committee, may be a member of a bid adjudication committee.
- (5) (a) If the bid adjudication committee **decides to award** a bid **other than the one recommended** by the bid evaluation committee, **the bid adjudication committee must prior to awarding** the bid –
  - (i) check in respect of the preferred bidder whether that **bidder's municipal rates and taxes and municipal service charges are not in arrears**, and;
  - (ii) **notify the accounting officer**.(b) The accounting officer may –
  - (i) **after due consideration** of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in paragraph (a); and
  - (ii) if the **decision of** the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.
- (6) The accounting officer may at any stage of a bidding process, **refer any recommendation made by the evaluation committee** or the adjudication committee back to that committee for reconsideration of the recommendation.
- (7) The accounting officer must comply with section **14** of the Act within 10 working days

### **32. Procurement of banking services**

- (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.



## Thaba Chweu Local Municipality

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- (2) The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.
- (3) The closure date for the submission of bids may not be less than 60 days from the date on which the advertisement is placed in a newspaper in terms of paragraph 22(1). Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

### 33. Procurement of IT related goods or services

- (1) The accounting officer may request the State Information Technology Agency (SITA) to assist with the acquisition of IT related goods or services through a competitive bidding process.
- (2) Both parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to, SITA.
- (3) The accounting officer must notify SITA together with a motivation of the IT needs if –
  - (a) the transaction value of IT related goods or services required in any financial year will exceed R50 million (VAT included); or
  - (b) the transaction value of a contract to be procured whether for one or more years exceeds R50 million (VAT included).
- (4) If SITA comments on the submission and the municipality disagree with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the council, the National Treasury, the relevant provincial treasury and the Auditor General.
- (5) The accounting officer must satisfy himself that the procurement processes followed by SITA are adequate for municipality purposes.

### 34. Procurement of goods and services under contracts secured by other organs of state

- (1) The accounting officer may procure goods or services under a contract secured by another organ of state, but only if –
  - (a) the contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;



## Thaba Chweu Local Municipality

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- (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.**

### 35. Procurement of goods necessitating special safety arrangements

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

### 36. Proudly SA Campaign

The municipality supports the Proudly SA Campaign to the extent that, all things being equal, preference is given to procuring local goods and services from:

- **Firstly** – suppliers and businesses within the municipality or district;
- **Secondly** – suppliers and businesses within the relevant province;
- **Thirdly** – suppliers and businesses within the Republic.

### 37. Appointment of consultants

- (1) The accounting officer may procure **consulting services provided that any Treasury guidelines** in respect of consulting services are taken into account when such procurements are made.
- (2) Consultancy services must be **procured through competitive bids if**
  - (a) the value of the **contract exceeds R200 000 (VAT included);** or
  - (b) the duration period of **the contract exceeds one year.**
- (3) In addition to any requirements prescribed by this policy for competitive bids, **bidders must furnish particulars of –**
  - (a) **all consultancy services** provided to an organ of state in the **last five years;** and
  - (b) **any similar consultancy services** provided to an organ of state in the **last five years.**



## Thaba Chweu Local Municipality

- (4) The accounting officer must ensure that copyright in any document produced, and the **patent rights** or **ownership in any plant, machinery, thing, system or process designed or devised**, by a consultant in the course of the consultancy service is **vested** in the municipality

### 38. Deviation from, and ratification of minor breaches of, procurement processes

- (1) The accounting officer may –
- (a) dispense with the official procurement processes established by this Policy and to procure any required goods or services through any convenient process, which may include direct negotiations, **but only –**
- (i) in an **emergency**;
  - (ii) if such goods or services are produced or available from a **single provider only**;
  - (iii) for the acquisition of special works of art or historical objects **where specifications are difficult to compile**;
  - (iv) in any other exceptional case where it is **impractical or impossible** to follow the official procurement processes **including but not limited to**;
    - **Ad hoc repairs to plant and equipment (strip and quote) where It is not possible to ascertain the nature or extent of the work required.**
    - **The acquisition of accommodation, car rental and air travel for official purposes, subject thereto that the acquisition of such services be dealt with in terms of the applicable council policy.**
    - **Membership and subscription to preferential bodies and any training provided by such bodies for purposes of achieving the skills development plan.**
    - **Attendance of conferences and workshops**
    - **Any contract relating to the publication of notices and advertisements by the municipality where applicable legislation or applicable council policy dictates**
- (b) ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature.
- (2) The accounting officer **must record the reasons for any deviations** in terms of subparagraphs (1)(a) and (b) of this policy and report them to the next meeting of the council and include as a note to the annual financial statements.



## Thaba Chweu Local Municipality

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

### 39. Unsolicited bids

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



## Thaba Chweu Local Municipality

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- (6) A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.
- (7) When considering the matter, the adjudication committee must take into account –
  - (a) any comments submitted by the public; and
  - (b) any written comments and recommendations of the National Treasury or the relevant provincial treasury.
- (8) If any recommendations of the National Treasury or provincial treasury are rejected or not followed, the accounting officer must submit to the Auditor General, the relevant provincial treasury and the National Treasury the reasons for rejecting or not following those recommendations.
- (9) Such submission must be made within seven days after the decision on the award of the unsolicited bid is taken, but no contract committing the municipality to the bid may be entered into or signed within 30 days of the submission.

### **40. Combating of abuse of supply chain management system**

- (1) The accounting officer must–
  - (a) take all reasonable steps to prevent abuse of the supply chain management system;
  - (b) investigate any allegations against an official or other role player of fraud, corruption, favouritism, unfair or irregular practices or failure to comply with this Policy, and when justified –
    - (i) take appropriate steps against such official or other role player; or
    - (ii) report any alleged criminal conduct to the South African Police Service;
  - (c) check the National Treasury's database prior to awarding any contract to ensure that no recommended bidder, or any of its directors, is listed as a person prohibited from doing business with the public sector;
  - (d) reject any bid from a bidder–
    - (i) if any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the municipality or to any other municipality or municipal entity, are in arrears for more than three months; or



## Thaba Chweu Local Municipality

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

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

#### **40. Logistics management**

The accounting officer must establish and implement an effective system of logistics management, which must include -

- (a) the monitoring of spending patterns on types or classes of goods and services incorporating, where practical, the coding of items to ensure that each item has a unique number;
- (b) the setting of inventory levels that includes minimum and maximum levels and lead times wherever goods are placed in stock;



## Thaba Chweu Local Municipality

- (c) the placing of manual or electronic orders for all acquisitions other than those from petty cash;
- (d) before payment is approved, certification by the responsible officer that the goods and services are received or rendered on time and is in accordance with the order, the general conditions of contract and specifications where applicable and that the price charged is as quoted in terms of a contract;
- (e) appropriate standards of internal control and warehouse management to ensure that goods placed in stores are secure and only used for the purpose for which they were purchased;
- (f) regular checking to ensure that all assets including official vehicles are properly managed, appropriately maintained and only used for official purposes; and
- (g) monitoring and review of the supply vendor performance to ensure compliance with specifications and contract conditions for particular goods or services.
- (h) Payments may only be made before an invoice is received only within limits determined by the accounting officer.

### 41. Disposal management

- (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,:
- (2) Assets may be disposed of by –
  - (i) transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;
  - (ii) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
  - (iii) selling the asset; or
  - (iv) destroying the asset.
- (3) The accounting officer must ensure that –
  - (a) immovable property is sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
  - (b) movable assets are sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous;





## Thaba Chweu Local Municipality

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- (c) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise;
- (d) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed;
- (e) where assets are traded in for other assets, the highest possible trade-in price is negotiated; and
- (f) 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.

### The Disposal Management Process

For the purpose of the Disposal Management Process the Accounting Officer must ensure that the following steps are followed:

- Obsolescence planning must be effected, depreciation rates per item calculated
- A data base for all redundant assets must be compiled & maintained
- Assets to be disposed must be inspected for potential re use
- Determination for the asset disposal strategy

### 42. Risk management

- (1) The criteria for the identification, consideration and avoidance of potential risks in the supply chain management system, are as follow:
  - (a) Non-compliance by the supplier to deliver within the agreed timeframes;
  - (b) Supply of inferior goods or services by the supplier;
  - (c) Inability of the supplier to provide goods or services as ordered;
  - (d) Non-adherence to the municipality policy with regards to utilization of preferred suppliers; and
  - (e) Procurement of goods or services at prices or of a quality not in the best interest of the municipality.
- (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;



## Thaba Chweu Local Municipality

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- (c) Acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;
- (d) The management of risks in a pro-active manner and the provision of adequate cover for residual risks; and
- (e) The assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.

### 43. Performance management

- (1) The accounting officer **must establish and implement an internal monitoring system** in order to determine, on the basis of a retrospective analysis, whether the authorised supply chain management processes were followed and whether the objectives of this Policy were achieved.
- (2) In the monitoring of supply chain management performance, the accounting officer together with the Chief Financial Officer, **must set goals and performance criteria for SCM officials against which performance can be measured,**
- (3) Issues that need to be **included in the relevant reviews include:**
  - (a) achievement of goals
  - (b) compliance to norms and standards
  - (c) savings generated
  - (d) Stores efficiency
  - (e) cost variances per item and across business units
  - (f) contract management
  - (g) cost efficiency of the procurement process
  - (h) Supply chain management objectives in line with the provisions of the CIDB Act and regulations
  - (i) principles of co-operative governance as expounded in the Constitution are observed
  - (j) regional economic disparities are being addressed and promoted.

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

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

- (1) The accounting officer must ensure that, irrespective of the procurement process followed, **no award above R 15 000.00** is given to a person whose tax matters have **not been declared by SARS** to be in **order.**



## Thaba Chweu Local Municipality

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- (2) Before making an award to a person the accounting officer must first check with SARS whether that person's tax matters are in order.
- (3) If SARS does not respond within 7 days such person's tax matters may for purposes of subparagraph (1) be presumed to be in order.

### 45. 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 municipality.

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

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

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

### 47. Ethical standards

- (1) A code of ethical standards as set out in the "National Treasury's code of conduct for supply chain management practitioners and other role players involved in supply chain management is hereby established for officials and other role players in the supply chain management system of the municipality in order to promote –
  - (a) mutual trust and respect; and
  - (b) an environment where business can be conducted with integrity and in a fair and reasonable manner.
- (2) General Principles



## Thaba Chweu Local Municipality

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

### 4.8 Measures to promote Local Suppliers and SMME's

- (1) As far as possible, must quotations, within value less than R 30 000.00, be awarded to local SMME's or suppliers for the following services:
  - (a) Catering Services;
  - (b) Furniture and décor;
  - (c) Travel coordination and commuting services;
  - (d) Stationery stock and printing;
  - (e) advertisement, media and communication.

### The code of conduct for Supply Chain Management Practitioners:

- (1) The code of conduct is as follows:
  - a) **Conflict of Interest:** (Declaration of business, commercial and financial interests)
  - b) **Accountability:** (For decisions and actions, scrupulous usage of public property, committing government through transactions for procurement of goods and services, recording and accounting for all transactions in an appropriate financial system)
  - c) **Openness:** (regarding decisions and actions taken, provide reasons for such)



## Thaba Chweu Local Municipality

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- d) **Confidentiality:** (protection of government and supplier information)
  - e) Prevention of combative practices which are unethical and illegal
- (2) An official or other role player involved in the implementation of this Policy–
- (a) must treat all providers and potential providers equitably;
  - (b) may not use his or her position for private gain or to improperly benefit another person;
  - (c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350;
  - (d) notwithstanding subparagraph (2) (c), must declare to the accounting officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;
  - (e) must declare to the accounting officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by, the 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 municipality
  - (h) must assist the accounting officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system; and
    - (i) must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including –
      - (i) any alleged fraud, corruption, favouritism or unfair conduct;
      - (ii) any alleged contravention of paragraph 47(1) of this Policy; or
      - (iii) any alleged breach of this code of ethical standards.
- (3) Declarations in terms of subparagraphs (2)(d) and (e) -
- (a) must be recorded in a register which the accounting officer must keep for this purpose;
  - (b) by the accounting officer must be made to the mayor of the municipality who must ensure that such declarations are recorded in the register;



## Thaba Chweu Local Municipality

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- (c) contain measures to ensure that appropriate action taken against any official or other role player who commits a breach of the code of ethical standards.
  
- (4) The National Treasury's code of conduct must also be taken into account by supply chain management practitioners and other role players involved in supply chain management.
  
- (5) It is recommended that the municipality adopted 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 becomes binding on all officials and other role players involved in the implementation of the supply chain management policy of the municipality or municipal entity. A copy of the National Treasury code of conduct available on the website [www.treasury.gov.za/mfma](http://www.treasury.gov.za/mfma) located under "legislation". This code of conduct must be adopted by council.
  
- (6) A breach of the code of ethics must be dealt with as follows -
  - (a) in the case of an employee, in terms of the disciplinary procedures of the municipality envisaged in section 67(1)(h) of the Municipal Systems Act;
  - (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.
  
- (7) Conflict of interest  
An official or other role player involved with supply chain management –
  - (a) must treat all providers and potential providers equitably;
  - (b) may not use his or her position for private gain or to improperly benefit another person;
  - (c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350;
  - (d) must declare to the accounting officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;
  - (e) must declare to the accounting officer details of any private or business



## Thaba Chweu Local Municipality

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- interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process, or in any award of a contract by the municipality;
- (f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;
  - (g) must declare any business, commercial and financial interests or activities undertaken for financial gain that may raise a possible conflict of interest;
  - (h) should not place him/herself under any financial or other obligation to outside individuals or organizations that might seek to influence them in the performance of their official duties; and
  - (i) should not take improper advantage of their previous office after leaving their official position.
- (8) Accountability
- (a) Practitioners are accountable for their decisions and actions to the public.
  - (b) Practitioners should use public property scrupulously.
  - (c) Only accounting officers or their delegates have the authority to commit The municipality to any transaction for the procurement of goods and / or services.
  - (d) All transactions conducted by a practitioner should be recorded and accounted for in an appropriate accounting system. Practitioners should not make any false or misleading entries into such a system for any reason whatsoever.
  - (e) Practitioners must assist the accounting officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system.
  - (f) Practitioners must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including
    - (i) any alleged fraud, corruption, favouritism or unfair conduct;
    - (ii) any alleged contravention of the policy on inducements, rewards, gifts and favours to municipalities or municipal entities, officials or other role players; and
    - (iii) any alleged breach of this code of conduct.



## Thaba Chweu Local Municipality

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

### 49. Inducements, rewards, gifts and favours to municipality officials and other role players

- (1) **No person** who is a provider or prospective provider of goods or services, or a recipient or prospective recipient of goods disposed or to be disposed of may either directly or through a representative or intermediary promise, offer or grant –
- (a) **any inducement or reward** to the municipality for or in connection with the award of a contract; or
- (b) **any reward, gift, favour or hospitality** to –
- (i) any official; or
- (ii) any other role player involved in the implementation of this Policy.
- (2) The accounting officer must **promptly report any alleged** contravention of subparagraph (1) to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the public sector.
- (3) Subparagraph (1) does not apply to gifts less than R350 in value.

### (i) 49. Sponsorships

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

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

### 52. Objections and complaints

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





## Thaba Chweu Local Municipality

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### 53. Resolution of disputes, objections, complaints and queries

- (1) The accounting officer **must appoint an independent and impartial person**, not directly involved in the supply chain management processes –
  - (a) to **assist in the resolution of disputes** between the municipality and other persons regarding -
    - (i) any decisions or actions taken in the implementation of the supply chain management system; or
    - (ii) any matter arising from a contract awarded in the course of the supply chain management system; or
  - (b) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.
- (2) The accounting officer, or another official designated by the accounting officer, is responsible for assisting the appointed person to perform his or her functions effectively.
- (3) The person appointed must –
  - (a) strive to resolve promptly all disputes, objections, complaints or queries received; and
  - (b) submit monthly reports to the accounting officer on all disputes, objections, complaints or queries received, attended to or resolved.
- (4) A dispute, objection, complaint or query may be referred to the relevant provincial treasury if –
  - (a) the dispute, objection, complaint or query is not resolved within 60 days; or
  - (b) no response is forthcoming within 60 days.
- (5) If the provincial treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.
- (6) This paragraph must not be read as affecting a person's rights to approach a court at any time.



## Thaba Chweu Local Municipality

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### 54. Contracts providing for compensation based on turnover

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

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

### 55. Bid Specification / Evaluation / Adjudication Committees

- (a) Bid specification, evaluation and adjudication committees should implement supply chain management on behalf of the municipality in an honest, fair, impartial, transparent, cost-effective and accountable manner.
- (b) Bid evaluation / adjudication committees should be familiar with and adhere to the prescribed legislation, directives and procedures in respect of supply chain management in order to perform effectively and efficiently.
- (c) All members of bid adjudication committees should be cleared by the accounting officer at the level of "CONFIDENTIAL" and should be required to declare their financial interest annually.
- (d) No person should interfere with the supply chain management system of the municipality; or amend or tamper with any price quotation / bid after its submission.

### 56. Preferential Procurement

- (1) In the acquisition of **local goods and services**, categories of preference shall be used in the allocation of contracts and the protection unfair discrimination.
- (2) Any **specific goals for which points may be awarded in the tender document shall be clearly** specified in the invitation to submit a quotation/Bid and shall be measurable, quantifiable and monitored for compliance.
- (3) Promote **HDI/BEE organisations and SMMEs** through the prospective provider list.
- (4) Must include criteria for the evaluation of quotations/Bids to identify the quotation/Bid that represents the best value for money.



## Thaba Chweu Local Municipality

- (5) The preferent point system is applicable to bids or Bids with a Rand value equal or above R30 000.00 per case. However, the Municipality may apply the 80/20 preference point system to price quotation with a value less than R30 000.00 if and when appropriate.
- (6) The 80/20 preference point formula must be used to calculate the points for price in respect of procurement with a Rand value equal to, or above R30 000, and up to a Rand value of R 50,000 000. A maximum of 80 points will be allocated for price.
- (7) The 90/10 preference point formula must be used to calculate the points for price in respect of acquisition with a Rand value above R 50,000 000.00. A maximum of 90 points will be allocated for price
- (8) For contracts with a Rand value equal to or below R 50,000 000.00 a maximum of 20 points may be allocated for equity whilst 10 points will be allocated for bids exceeding R1m.
- (9) The contract must be awarded to the applicant who scores the highest points unless objective criteria in addition to that pertaining to specific goals justify the award to another tenderer.

### Application of preferences

- (10) When appointing consultants, the point's allocation for price may be replaced with a combination of points for functionality and price, which should be clearly stipulated in the TOR.
- (11) A maximum number of 20 or 10 points (depending on contract value) may be awarded for specified goals. The preference must be stipulated in the specification/TOR to be used.
- (12) Preference calculations or decisions, made during evaluations, shall be clear and properly documented.
- (13) Critical factors (criteria) are the essential characteristics that an applicant should provide or demonstrate. If a Bid does not satisfy any of the critical factors (criteria), then it can immediately be rejected.

### 57. Commencement

**This policy takes effect on the date on which it is adopted by Council**



Thaba Chweu Local Municipality

**Version Control**

Version	State/Change	Author	Date
1.0	Original	Kgaiso Molapo	March 2014
1.2	Changes	Kgaiso Molapo	May 2016
1.3	Changes	Mr. M Sedibe	March 2017
1.4	Changes	Mr. M Sedibe	January 2018
1.5	Review	Mr. M Sedibe	May 2019

**Review**

Surname and Initials	Designation	signature	Date
Mnisi R	CFO		

**Approval**

Council Resolution Number	Date