

ETHEKWINI
MUNICIPALITY

**STANDARD OPERATING
PROCEDURES**

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STANDARD OPERATING PROCEDURES

1 Compliance

1.1 Every contract entered into by the Municipality shall be entered into pursuant to or in connection with the Municipality's functions and shall comply with:

(a) all relevant statutory provisions including and not limited to;

Act	Applicability	What it does in respect SCM
Constitution of the RSA, 1996 (Act No: 108 of 1996)	All organs of state	Provides procurement objectives and establishes govt's policy for preferencing
Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000)	All organs of state	Establishes a manner in which preferential procurement policies are to be implemented.
Local Govt Municipal Finance management Act, 2003 (Act No. 56 of 2003)	Municipality and Municipal entities	Establishes a detailed regulatory framework for Supply Chain Management
Local Govt. Municipal Systems Act, 2000 (Act No. 32 of 2000); and Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003)	Local Sphere of Govt.	Establishes a framework for the establishment of service delivery agreements involving competitive bidding processes
Construction Industry Development Board Act. 2000 (Act 38 of 2000)	All organs of state involved in procurement relating to the construction industry	Establishes a means by which a Board can promote and implement policies aimed at procurement reform, standardisation and uniformity in procurement documentation, practice and procedures within the framework of the procurement policy with govt. Establishes a national register of contractors (and if so required, consultants and suppliers) to manage the public sector procurement risk.
Broad-Based Black Economic Empowerment Act, 2003 (Act .No. 53 of 2003)	Procurement provisions apply to all organs of state	Establishes a code of good practice to inform the a) development of qualification criteria for the issuing of licences or concessions, the sale of state owned enterprises and for entering into partnerships with the private sector; and b) development and implementation of a preferential procurement policy

Auditor- General Act (Act 12 of 1995)	All organs of state	One of the functions of the AG is to reasonably satisfy himself or herself that satisfactory management measures have been taken to ensure that resources are procured economically and utilised efficiently and effectively. The AG has wide powers to investigate and is obligated to report his findings either to Parliament or a provincial legislative, as relevant.
Competitions Act (89 of 1998)		This Act prohibits between parties: a) Restrictive horizontal practices which have the effect of substantially preventing or lessening competition in a market or involves directly or indirectly fixing a purchase or selling price or any other trading condition; dividing markets by allocating customers, suppliers, territories or specific types of goods or services; or collusive tendering. b) Restrictive vertical practice which have the effect of substantially preventing or lessening competition in a market or establish a minimum resale price.
Promotion of Equality and Unfair Discrimination Act (Act 4 of 2000)	The state and all persons	The Act prohibits the state or any person from discriminating unfairly from any person and in particular on the grounds of race such as the denial of access to opportunities, including access to services or contractual opportunities for rendering services, or failing to take steps to reasonably accommodate the needs of such persons.

- 1.2 The highest standards of probity are required of all Municipal officials involved in the Supply Chain Management, award and management of Municipality contracts.
- 1.3 Officials are reminded of their responsibilities in relation to gifts and hospitality and should ensure that they comply with the obligations.
- 1.4 It is advisable that the procurement/SCM process be undertaken by trained SCM practitioners in accordance with National Guidelines.

- 1.5 Failure to comply with any of the provisions of these Standard Operating Procedures by Officials may result in disciplinary action.

2 Supply Chain Management Objective

2.1 The objectives of Supply Chain Management (SCM) are to:

- give effect to the provisions of the Constitution-section 217, 1996;
- give effect to the provisions of the MFMA, 2003;
- transform outdated procurement and provisioning practises into an integrated SCM function;
- ensure that SCM forms an integral part of the financial management system of the Municipality ;
- make significant improvement to financial management in the broader public sector;
- introduce a system for the appointment of consultants;
- create a common understanding and interpretation of government's preferential procurement policy objectives;
- promote consistency in respect of Supply Chain Management policy and other related policy initiatives in Government;
- align with global trends and ensure that South Africa adheres to international best practices.

3. Supply Chain Management Plan

- 3.1 Each financial year, the Municipality shall publish a SCM Plan setting out its current contracts and contracts to be procured including a copy of the capital programme and captured onto CAPMON (Capital Projects Monitoring System).
- 3.2 At the beginning of each financial year, the Municipality shall also publish a Listing of the contracts for services and supplies which it expects to procure for the coming financial year.
- 3.3 *Demand Management*: This is the beginning of the supply chain where:
- a proper needs assessment is undertaken of required goods, works and/or services;
 - specifications are determined;

- the industry is analysed; and
- requirements are linked to the budget.

This phase brings the supply chain practitioner closer to the end user, to ensure that value for money is achieved. The phase implies, among others, that during the strategic planning of the Municipality's IDP (Integrated Development Plan), or any part thereof, the functions to be executed are determined as well as the goods, works and / or services needed to execute the said functions. The demand requirement for goods, works and / or services are therefore specifically budgeted and programmed for within the Municipality's IDP.

3.4 *Acquisition Management*: This is the management of procurement by a Municipality:

- to decide on the manner in which the market will be approached;
- to establish the total cost of ownership of a particular type of asset;
- to ensure that bid documentation is complete, including evaluation criteria;
- to evaluate bids in accordance with published criteria; and
- to ensure that proper contract documents are signed.

3.5 *Logistics Management*: This aspect addresses:

- the setting of inventory levels;
- receiving and distribution of material;
- stores, warehouse and transport management; and
- the review of vendor performance.

From these processes, the financial system should be activated to generate payments.

3.6 *Disposal Management*: At this stage consideration should be given to:

- obsolescence planning;
- maintaining a data base of redundant material which

- will be the responsibility of the disposal section;
 - inspecting material for potential re-use;
 - determining a disposal strategy; and
 - executing the physical disposal process.
- 3.7 *Supply Chain Performance*: This is the monitoring process, undertaking a retrospective analysis to determine whether the proper processes have been followed and whether the desired objectives were achieved. Some of the issues that may be reviewed are:
- compliance to policy objectives;
 - cost efficiency of SCM process (i.e. the cost of the process itself); and
 - whether supply chain practices are consistent with Government's broader policy focus; and
 - whether there are means to improve the system.
- 3.8 In order for the Municipality to effectively monitor contract spend and to ensure continuity of services each Manager, in relation to contracts, shall keep a contracts register setting down details of contracts awarded in the preceding twelve months. The relevant Manager shall provide the information-actuals as to how much was spent contained in the contracts register to the SCM Unit on a monthly basis. Ref. to MFMA 17(1) d (i) and (ii). This is called reporting.

4. **Flowchart on the SCM Process**

Please see diagrams at the end of this document

Key to SCM Processes

SCM	Supply Chain Management
UD	User Department
FIN	Finance Section
TS	Tenders Section
BSC	Bid Specification Committee

BEC Bid Evaluation Committee
BAC Bid Adjudication Committee

5. Delegated Authority

5.1 Sections 79 and 106 of the MFMA empower the accounting officer of a Municipality to delegate decision-making powers to officials.

5.2 The following should apply to acquisition of goods and services and the disposal and letting of assets:

- All delegations must be in writing;
- No supply chain management duties or powers may be delegated or sub-delegated 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;

6. Exempt Contracts

6.1 The employment contracts are exempt from the requirements of these Standard Operating Procedures.

7. Supply Chain Management Procedure

The calling for tenders to secure supplies of goods and services is an integral part of SCM, as legislation compels public institutions to procure goods and services through this process. A thorough knowledge of the different phases of the tendering process and the accompanying procedures is, therefore, necessary to ensure that public officials procure goods and services timeously and according to their requirements.

In line with the Municipal Financial Management Act (MFMA), the Accounting Officer has approved the Bid Committees.

7.1 The Municipality will ensure that the tender process is fair, transparent and equitable and cost effective to all parties. More specifically it will:

- Clearly separate its role as a purchaser from that of a provider of services.
- Produce tender documents, which clearly specify the Municipality's required services to allow tenderers to bid for and price their work accurately.
- Package work put to tender in a manner which encourages competition and the best outcome for residents and ratepayers.
- Actively discourage improper tendering practices such as collusion, misrepresentation, and disclosure of confidential information.
- Require any conflict of interest to be disclosed immediately.

7.2 Before commencing it is essential that the Official leading the SCM has identified the need and fully assessed any options for meeting those needs.

7.3 Before undertaking SCM the Official shall:

- (a) Consider all means of satisfying the need;
- (b) Consult the SCM to ascertain whether there is an appropriate existing contract or List/panel of Contractors/Database (List) that should be used. If there is no existing contract and there is a List in existence, then the List must be used;
- (c) Consider the design of the contract documents in consultation with the Head: SCM;
- (d) Choose a course of action which should represent Best Value for Money to the Municipality;
- (e) Consult with users of the service;
- (f) Establish a written specification for the SCM requirement and seek approval by the Bid Specification Committee;
- (g) Ensure that the tender documents are available.

8. Lists

8.1 List of Contractors/Database

8.1.1 A List to be used to procure requirements through written or verbal quotations and formal written price quotations. This List should also be used effectively to promote the objectives of the Preferential Procurement Regulations as well as the Broad-Based Black Economic Empowerment Act, Act No. 53 of 2003.

8.1.2 SCM Officers should, through newspapers commonly circulating locally, the Municipality's website and by any other appropriate ways, invite prospective providers, including black empowerment entities, to apply for evaluation and Listing as a prospective Provider should be allowed to submit applications for Listing at any time. The List must be updated at least quarterly. The List criteria for accredited prospective providers may include:

- (a) promoting businesses located in a particular Municipality;
- (b) promoting small, medium and micro enterprises;
- (c) promoting black economic empowerment.

8.1.3 Once the List has been compiled, price quotations should be invited from such a List. The invitation of price quotations from the compiled List of accredited prospective providers per commodity should be on a rotation basis in such a manner that ongoing competition amongst providers is promoted.

8.1.4 Where no suitable providers are available from the List of accredited prospective providers, quotations may be obtained from other possible providers provided that they are registered. If it is not possible to obtain at least three (3) quotations, the reasons should be recorded and reported to the Head SCM.

8.1.5 Accounting officers must apply the prescripts of the

Preferential Procurement Policy Framework Act, Act 5 of 2000 and its associated Regulations for all procurement equal to or above R30, 000. However, these prescripts may be applied for procurement with a value of less than R30, 000, if and when appropriate.

8.2 Selective Tendering - Use of List of Contractors/Database

8.2.1 The purpose of Lists is to provide names of firms whose competence has been checked, and to invite only those firms on the Lists to tender. This can save time because the contractors on those Lists have already been pre-vetted. In considering the suitability of firms to be recommended for inclusion on any List regard shall be taken of the following:

- (a) the previous record of the firm in transactions with the Municipality, including tendering performance;
- (b) the capacity of the firm to carry out work for the Municipality at competitive prices and to provide supervision and control;
- (c) the firm's experience in relation to the category of work particularly for comparatively new firms;
- (d) where appropriate, membership of an acceptable trade or professional association.
- (e) the firm should indicate whether it has any relationship either directly or indirectly with any Member or employee of the Municipality.

8.2.2 Where there is a List in existence then that List must be used, as those contractors will have been previously vetted and thereafter continuously reviewed.

8.2.3 The basis of selection of those companies on the List to be invited to tender will be by way of strict rotation, which will be carried out by the SCM Official, for a minimum of 3 tenderers. Where firms have recently submitted a competitively priced tender those firms can be added to

the select List provided that they can accept the workload and have performed satisfactorily.

- 8.2.4 If the procurement of any value is fully funded by a third party, and if that third party so requests, then the name(s) of one or more contractor(s) may be added to the tender List or be the only tenderer(s) invited provided the List criteria are satisfied.
- 8.2.5 Review of the Lists is of the utmost importance and must be transparently fair. The SCM Head will, in conjunction with the appropriate Head:
- (a) regularly and rigorously scrutinise the Lists and decide on the inclusion or deletion of contractors as the case may be;
 - (b) ensure that, in addition, a general review takes place at regular intervals and that the Lists are at all times workable, effective and competitive;
- 8.2.6 The appropriate Head will carry out within three months of the end of each contract, a contractor performance report/ review, and will submit to the Head: SCM in a format prescribed, a Contractor Performance Report for consideration of the contractor's future status on the List.

Range of SCM Processes

Lower Limit	Upper Limit	Procurement Method/Quotes	Tender Charge	Tender Charge
R 0	R500(vat incl.)	Petty Cash	N/A	N/A
R500 001	R5000 00	3 Verbal quotes Written confirmation from the tenderer	No	No
R5 000.01	R30 000.00	3 formal written quotes Adjudicated and awarded by points	No	No
R30 000.01	R200 000	3 formal written quotes and advertised on the website.	No	No
>R200 0000		Public Tender	Yes	Yes >R500 000

* Tenders >R10 million and Long-Term contracts award by Accounting Officer

9.1 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.

10. Tenders

10.1 What is a Tender or Bid?

Tender means a written offer or bid in a prescribed or stipulated form in response to an invitation by the eThekweni Municipality for the provision of services or goods. This includes the sale or letting of movable and immovable property. A tender is an offer to do work or supply goods at a fixed price unless otherwise stated. This process is designed to ensure that the work to be done is given out in a fair way. Although price is very important in the decision on which tender or bid to accept, it is not the only factor taken into account.

Once a tender is accepted, it is binding on both parties. This means that the person or company that won the tender has to provide the goods or services in the manner agreed to and at the price offered.

10.2 Bidding Procedures

There are essentially five distinct stages in the bidding process and these are:

- Compiling bid documents;
- Inviting bids;
- Receiving bids;
- Evaluating bids;
- Clearing successful bidders and awarding contracts.

10.2.1 *Compiling Bid Documents*- Bid documents define the rights, risks and obligations of the parties involved in a contract and define the nature, quantity and quality of the goods, services or works to be provided in the performance of the contract. Accordingly, such documentation should be legally and

technically correct and should assign risk in an appropriate manner.

10.2.2 Bid documents should comprise at least the following: General & special Conditions of Contract form of tender, specifications, data sheets/drawings; and a specific contract agreement stipulating delivery standards and requirements. Uniformity in these documents will promote amongst other things the following;

- Ease of entry by new emerging enterprises to public sector procurement;
- Cost effectiveness, both in financial and human resource terms;
- Improved understanding and easier interpretation by new emerging contractors; and
- Simplification of the documentation process.

10.2.3 Uniformity in contract documentation will result in:

- Bidders being able to more easily determine the scope and extent of risk;
- Easier management of contracts between potential contracting parties and the streamlining of administrative procedures;
- Savings in cost and improvement in quality; and
- Greater transparency in terms of cost premiums paid in pursuit of Government's preferential procurement objectives.

10.2.4 It is imperative that the Bid Specification Committee take due care that standardised bid documents are used for all standard procurement of goods, works and services. Pro forma standardised bid documentation is issued by the National Treasury.

10.2.5 The Accounting officer should ensure that bid documentation are in accordance with:

- a) the general conditions of contract and supply chain management guidelines of the National Treasury; and
- b) the prescripts of the Construction Industry Development Board, in the case of a bid relating to the construction industry;

- c) bid documentation include evaluation and adjudication criteria, including the criteria prescribed in terms of the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000) and its related regulations, as well as the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003) and its related regulations;
- bid documentation compel all bidders to declare any conflict of interest bidders may have in a specific bid;
- SARS (South African Revenue Service) has certified that the bidder's tax matters are in order or that arrangements have been made to the satisfaction of SARS;
- bid documentation prescribe that disputes be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law;
- bids must be advertised by means of public advertisement in newspaper(s) commonly circulating locally, the website of the Municipality and / or any other appropriate ways (which may include an advertisement in the Government Tender Bulletin);
- the information contained in the **public advertisement** must include:
 - i) Timely notification -Bids should be advertised for at least 14 days before closure in at least the local media and the Municipality website, and in other appropriate media should an accounting officer deem it necessary to ensure greater exposure to potential bidders except in urgent cases when bids may be advertised for such shorter periods as the accounting officer may determine. The Bid Specification Committee will need delegated authority to amend where appropriate.
 - ii) Also to be considered are the date, time and venue of any proposed site meetings or briefing sessions.
 - iii) the closing date for the submission of bids, which may not be less than 30 days in the case of

transactions over R 10 million (VAT included), or which are of a long term nature, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper; and

- iv) a statement that bids may only be submitted on the original bid documentation provided by the Municipality or Municipal entity;
- The Bid Specification Committee via the Accounting Officer may determine a closing 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 (please note: a lack of or bad planning does not constitute an urgency or emergency);

10.3 **Contract Documentation**

The value and complexity of the proposed procurement will have an influence on the depth of documentation prepared.

10.3.1 **Specifications**

- i) The Contract Specification is the most important document in the procurement process. All procurements must have a proper written Specification in place which contains the following:
 - Document clearly what the Municipality is seeking from the procurement exercise;
 - Ensure that tenderers are all bidding on the same basis, encouraging accurate bids; and
 - It should obviate the need for costly variations or preclude the submission of contractual claims.
- ii) A Specification should also include:
 - the task(s) required, volume and frequency;
 - the level of input, time and resources required or the outputs required;

- the facilities on-site and access to them;
- the standards of performance expected;
- the length of any contract and any other details not included elsewhere;
- quality of material;
- relevant Municipality policies/ statutory requirements.

(iii) The rules with regard to Specifications must be followed. Particularly avoid brand names, suppliers or manufacturers as well as specifying provisions that could be classed as discriminatory.

10.4 Other Contract Documents

For procurements where tenders are to be invited a formal contract must be prepared. In addition to a Specification, consideration should be given to the inclusion of the following documentation (and document reasons if it is decided not to use any of them):

- financial standing
- managerial and technical ability
- record relating to Equal Opportunities
- attitude towards Quality and Environmental issues
- health and safety record
- instructions to tenderers
- contract conditions
- Method Statements and Work Programmes
- confirmation of receipt of tender documents
- tender evaluation criteria (this is mandatory)

11. Bid Specification

This Bid Specification committee is a standing committee responsible for the compiling of tender documents.

This committee is responsible for guiding the user departments in the compilation of bid (tender) documents. In the performance of its duties, this committee should ensure that specifications are written in an unbiased manner to allow

all potential bidders to offer their goods, works and/or services. This Committee must ensure that the outcomes of each tender maximise the achievement of the Procurement Priorities.

Whilst the user dept will assist with the preparation of bid documents will it is the responsibility of this committee to approve the said documents prior to public advertisement. In the discharge of its duties, this committee should observe all the applicable legislation, regulations, policies and procedures affecting the public tender process.

12 Pre-qualification

12.1 The Municipality shall only enter into a contract with a contractor if it is satisfied as to the contractor's -

- (a) eligibility
- (b) financial standing
- (c) technical capacity
- (d) statutory requirements

12.2 Technical capacity includes the contractor's quality management systems including human resources, health and safety and environmental management systems where relevant to the performance of the contract.

13 The Invitation to Tender

13.1 The Invitation to Tender (or Negotiate) shall include details of the Municipality's requirements for the particular contract including:

- (a) a description of the services, supplies or works being procured;
- (b) the SCM timetable including the tender return date and time, which shall allow a reasonable period for

- the applicants to prepare their tenders;
- (c) a specification and instructions on whether any variants are permissible;
 - (d) the Municipality's terms and conditions of contract;
 - (e) the evaluation criteria including any weightings as considered appropriate;
 - (f) pricing mechanism and instructions for completion;
 - (g) form and content of method statements to be provided;
 - (h) rules for submitting of tenders;
 - (i) any further information which will inform or assist tenderers in preparing tenders.
 - (j) Each prospective bidder should be provided the same information and should be assured of an equal opportunity to obtain additional information on a timely basis.
 - (k) The Municipality should provide reasonable access to project sites for visits by prospective bidders.
 - (l) For works or complex supply contracts, particularly those requiring refurbishing of existing works or equipment, a pre-bid meeting may be arranged for potential bidders to meet with the Municipality official to seek clarifications.
 - (m) Minutes of the meeting should be provided to all prospective bidders. Any additional information, clarification, correction of errors, or modifications of bidding documents should be sent to each recipient of the original bidding documents in sufficient time before the deadline for receipt of bids to enable bidders to take appropriate actions. If necessary, the deadline should be extended.

14 Submission and Opening of Tenders and Quotations

14.1 Tender Opening

14.1.1 Tenders shall be submitted in accordance with requirements set out in the Invitation to Tender. Tenders shall be kept in a safe place and remain unopened until the time and date specified for their opening. No tenders received after the specified date and time for their receipt shall be considered by the Municipality.

14.1.2 Tenders shall be opened by an Authorised Official.

An immediate record shall be made of the tenders received including names, addresses, value and the date and time of opening.

- Tenders close at 11:00 on the indicated date.
- Tenders must be opened in public in the presence of at least two officers immediately after the closure, and no late tenders shall be accepted. These must be returned unopened to the tenderer.
- Tenders are opened in public immediately after the closing time. The names of the tenderers and prices submitted are read out.
- Tenders are forwarded to the relevant user department once the administration has been completed by the Tenders and Contracts Co-ordination Branch.

14.1.3 After public opening of bids, information relating to the examination, clarification and evaluation of bids and recommendations concerning awards shall not be disclosed to bidders or other persons not officially concerned with the process, until the successful bidder is notified of the award.

14.1.4 All alterations on the tender doc. need to be initialed and signed.

14.1.5 It should be ascertained whether bids:

- include original tax clearance certificates;
- have been properly signed;
- are accompanied by the required securities;
- are substantially responsive to the bidding documents; and
- are otherwise generally in order.

If a bid is not substantially responsive, that is, it contains material deviations from or reservations to the terms, conditions and specifications in the bidding documents, it should not be considered further. The bidder should not be permitted to correct or withdraw material deviations or reservations once bids have been opened.

14.1.6 Fax Tenders: Tenderers are advised that Telegraphic, telephonic, telex, facsimile and late tenders will not be accepted. Requirements for sealing, addressing, delivery, opening and assessment of tenders are stated in the Tender Documents.

14.1.7 Two Envelope System-Functionality and Price

Depending on the circumstances, it may be indicated that proposals should be submitted in two separate clearly marked envelopes, one containing the technical proposal and the other the cost for the assignment.

The technical and financial proposals should be submitted at the same time. No amendments to the technical or financial proposal should be accepted after the deadline. To safeguard the integrity of the process, the technical and financial proposals should be submitted in separate sealed envelopes. The technical envelopes should be opened immediately after the closing time for submission of proposals. The financial proposals should remain sealed until they are opened publicly. Any proposal received after the closing time for submission of proposals should be returned unopened.

The evaluation of the proposals should be carried out in two stages: first the functionality (quality) and then the price. Evaluators of technical proposals should not have access to the financial proposals until the technical evaluation is concluded. Financial proposals should be opened only after

the technical evaluation and only in respect of those proposals that achieved the minimum qualifying score for functionality. In respect of functionality, the accounting officer should evaluate each technical proposal (using an evaluation panel of three or more specialists in that field of expertise) in terms of the specified evaluation criteria that may include the following:

- Relevant experience for the assignment;
- The quality of the methodology proposed;
- The qualifications of the key staff proposed; and
- Transfer of knowledge.

The accounting officer should normally divide these criteria into sub-criteria; for example, the sub-criteria under methodology might be innovation and level of detail. More weight should be given to the methodology in the case of more complex assignments.

14.2 Registration of Tenders/Quotations

- 14.2.1 The Municipality does not have to reject tenders where the envelopes have been inadvertently marked with the name of the sender.
- 14.2.2 All tender envelopes should be retained with the tender documents.
- 14.2.3 Pre Qualification Questionnaires should be rejected if they are not returned by the date and time required by the notice.
- 14.2.4 With regard to the submission, receipt, opening and registration of quotations, Heads must ensure that there is a system in place which has been approved by the AO whereby the probity and transparency of the process cannot be called into question.
- 14.2.5 The design of the tender documents should be such that prices/rates/ documentation cannot be changed/substituted following tender submission.

14.3 Errors in Tenders

- 14.3.1 Tender documents must state which method will be used for dealing with errors in tenders.

Careful consideration must be given to the effect of any procedure adopted and the reflection which any such procedure may have on the integrity of the Officials and Members of the Municipality. It is essential that whatever procedure is adopted, it should be transparent and seen to be fair and equitable to all tenderers.

- 14.3.2 The same principles can be adopted for errors in quotations.

- 14.3.3 Clearly, materiality will play a part in considering the effect of any errors identified in a tender. If a tenderer agrees to stand by an error which will cast doubt on its ability to perform the contract, or to the standard required, or may result in attempted recovery via claims, consideration should be given to whether to proceed with acceptance.

15. Post Tender Negotiation

15.1 Other than where the negotiated procedure is specifically authorised, the following shall apply:

- The Authorised Official may seek clarification from contractors where appropriate.
- Negotiations on price are never permissible.
- A full written record shall be kept of the results of any clarifications, signed by the relevant official and retained on a central file by the Head.

- 15.2 At all times during the procurement process the Municipality shall consider and implement the principles of non-discrimination, equal treatment and transparency.

16. Evaluation Criteria

16.1 Evaluation of Tenders

16.1.2 The criteria on which tenders will be evaluated **must** be set out in the contract documents. The method of evaluation must be concluded and documented **before** tenders are returned. If tenders are to be evaluated on the basis of price, quality and preference, the evaluation criteria and methodology (including the price/quality percentage splits) must have been approved by the Bid Specification Committee(BSC) before the invitation to tender is issued.

16.1.3 For each contract above R200 000 the Evaluation Committee is responsible for evaluating tenders.

The Report is then forwarded by the Tenders and Contracts co-ordination Branch to the Bid Evaluation Committee.

This committee is a standing committee responsible for the evaluation of bids received, and submit reports and recommendations regarding the award of the bid/s to the Bid Adjudication Committee.

If a bid other than the one recommended by the Bid Evaluation Committee is approved by the Bid Adjudication Committee, the accounting officer, or a senior official delegated by the accounting officer, must first be notified. The accounting officer, or the delegated official may, after consideration of the reasons for the deviation, ratify or reject the decision of the Bid Adjudication Committee. If the decision of the Bid Adjudication Committee to approve a bid other than the one recommended by the Bid Evaluation Committee is ratified, the Auditor-General, the relevant provincial treasury and the National Treasury and, in the case of a municipal entity, the parent municipality must be notified of the reasons for deviating from such recommendation.

16.4 It must be emphasised that bids may only be evaluated in accordance with the criteria specified in the bid specifications. According to the prescripts of section 2 of the Preferential Procurement Policy Framework Act, No. 5 of 2000 (PPFA) bids must be evaluated in accordance with a preference point system.

Any specific goal for which a point may be awarded must be clearly specified in the invitation to submit a bid.

- The adjudication of a tender requires specific knowledge, skills and behavioural attitudes. An Official, or SCM Practitioner, for example, must understand the specifications, the minimum requirements as well as the quotations submitted by the suppliers to make a sound evaluation.
- Indicate if the tender will be evaluated on functionality, price and preferences;
- Clearly indicate the deliverables or performance indicators in terms of which the tender will be assessed;
- Stipulate the preference point system which will be applied in the adjudication of the tender (80/20 or 90/10).
- In the event that, in the application of the 80/20 preference point system as stipulated in the tender documents, all tenders received exceed the estimated Rand value of R500 000, the tender invitation must be cancelled.
- In the event that, in the application of the 90/10 preference point system as stipulated in the tender documents, all tenders received are equal to, or below R500 000, the tender must be cancelled.
- An organ of state which has cancelled a tender invitation as contemplated in the two bullet points above must re-invite tenders and must, in the tender documents, stipulate the preference point system to be applied.

The tenderer must score a specified minimum number of points for functionality to qualify for further adjudication.

- Only the tenderer with the highest number of points scored will be selected; provided that a contract may, on reasonable and justifiable grounds, be awarded to a tenderer that did not score the highest number of points;
- Only a tenderer who has completed and signed the declaration part of the tender documentation maybe considered for preference points.

17 Awarding Contracts

- 17.1 A contract may only be awarded by an Official with the requisite delegated authority to award contracts. The Official should ensure, prior to award, that the budget holder responsible for the contract has sufficient funds in place to sustain the contract.

17.2 The Municipality shall only award a contract where it represents Best Value. A contract shall only be awarded using the tender evaluation criteria – price, quality and preference.

17.3 Where the contract award process has not been finalised, no contractor shall be allowed on site.

The Bid Adjudication Committee is a standing committee responsible for making the final award after considering the reports and recommendations made by the Bid Evaluation Committee.

Where the award is different from the recommendations made by the Bid Evaluation Committee, this must be substantiated and reported to the Auditor General, National Treasury and Provincial Treasury, via the Accounting Officer.

18 Debriefing

The Official responsible for each procurement shall provide a full debriefing to unsuccessful tenderers on written request.

19. Contract Award Notice

19.1 This is undertaken by Tenders and Contracts Co-ordination Branch once the adjudication has been finalised, the successful/unsuccessful tenderers are notified in writing.

19.2 The following information on the successful bids should be made available on the Municipality website:

- (i) Contract number and description;
- (ii) Name(s) of the successful bidder(s), the contract price(s).

19.3 Bids are not available for perusal by the public. Any bidder

should, when requesting it in writing, be provided with the reasons why his / her own bid was not successful. The reasons why another bidder's bid was unsuccessful should not be supplied, as this may contain privileged information (e.g. a negative banking report). No itemised prices other than the formal contract prices of the successful bidder(s) should be supplied to competitors. According to the prescripts of section 36 of the Promotion of Access to Information Act, No. 2 of 2000, no information may be revealed that will prejudice a third party in commercial competition.

- 19.4 Revealing itemised prices of unsuccessful bidders may reveal their trade secrets / strategies and no such information should be revealed without the written consent of the relevant bidder(s).

20. Request for Insurance & Surety

- 20.1 The Contract Office will request for Insurances and Sureties (if applicable) via written communication and copies are sent to the Insurance Dept. who will await an Insurance Policy from the Contractor.
- 20.2 Once the above has been complied with, a clearance indicating that all insurance requests have been met are forwarded to the Contracts Section by the Insurance Section.
- 20.3 Sureties if applicable will be forwarded directly to the Tenders and Contracts Co-ordination Branch who clears them and forwards a copy to the Contracts Office. At this stage the Contractor has met all requirements and is ready to commence work on site.
- 20.4 Surety/Insurances Sureties (Civil Engineering Contracts Only)
- 20.4.1 Required by the Tenders and Contracts Co-ordination Branch 14 days after the receipt of the letter of acceptance.
- 20.4.2 The site is only handed over when the surety bond and insurances are in place.

20.4.3 All sureties need to be forwarded to the Tenders and Contracts Co-ordination Branch and Insurance policies need to go to the Insurance Section.

20.4.4 Sureties are normally required on contracts above R500 000 from bidders in the construction and engineering disciplines as well as supply contracts.

21. Site Handover & Contract Supervision

21.1 The above is handled directly by the Department concerned or by the appointed Consultant.

22. Site Records (Construction Contracts)

22.1 The Official shall ensure the maintenance of accurate records of activities on site.

22.2 Monitoring Contractor Performance- The MFMA, Section 116, requires that the Municipality monitor on a monthly basis the performance of the contractors under the contract or agreement.

23. Procurement of Consultants

In terms of the Municipal Supply Chain Management (SCM) Regulations, and the Municipal Finance Management Act, the Accounting Officer of the eThekweni Municipality must:

- (a) Keep a list of accredited prospective providers of professional/consulting services that must be used for the procurement requirements through written or verbal quotations and formal written price quotations; and
- (b) Specify the listing criteria for accredited prospective providers.

The issue of the appointment of consultants, particularly in the built environment disciplines, is one that, nationally, has not yet been finalised.

24 Statistical Returns

- 24.1 The SCM unit is responsible for statistical returns and will make the necessary arrangements for information to be collected.

25 Termination of Contract

- 25.1 Contracts may only be terminated in accordance with the termination provisions set out in the contract. Legal advice should be sought as appropriate.

26 Completion of Contract

- 26.1 Where the form of contract allows, on successful completion of the contract, a Completion Certificate is issued wherein half of the Retention Monies being held are released.
- 26.2 At this stage the Surety Bond (if applicable) is also released.
- 26.3 Where the form of contract allows, interest on the Retention Monies will be paid once the final payment is effected.

27. Release of Surety

Release on completion by Tender and Contracts Co-ordination Branch.

28. Maintenance Period

Where the form of contract allows, half of the Retention Monies are held for a further period of 12 months in a form of a guarantee for the work that has been performed. At the end of the 12 month Maintenance Period the other half of the retention monies are released to the Contractor if no remedial work is required. Interest is paid on the retention monies that are held.

29. Archive

At the end of the maintenance period the balance of retention and interest of retention is paid (Repeated in no. 30) and

the file is archived by the appropriate branch.

30. Deviations from SCM/Procurement Process

Deviations from, and ratification of minor breaches of, procurement processes (Section 36 of the Municipal Supply Chain Management Regulations)

Section 36 allows for the official policy to be dispensed with but only -

- 1(a) (i) in an emergency
- (ii) if such goods or services are produced or available from a single provider only
- (iii) for the acquisition of special works of art or historical objects where specifications are difficult to compile
- (iv) acquisition of animals for zoos; or
- (v) in any other exceptional case where it is impractical or impossible to follow the official procurement processes; and
- (b) to 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 subregulation 1(a) and (b) and report them to the next meeting of the Council, and include as a note to the annual financial statement.

1. Poor planning does not constitute an emergency.
2. An emergency is defined as an unexpected and sudden event that must be dealt with urgently and where there is an immediate threat to life and limb.
3. In cases where it is impractical or impossible to follow the official procurement process it must be shown where and how the market was tested, why it is impractical to go to tender, the provider chosen was undertaken in a fair manner

so as not to prejudice other potential providers, etc. where it would be against the Municipality's best interest to follow the proper procurement process.

4. Reports that are submitted in accordance with Section 36 of the Supply Chain Management Regulations must be direct to the Bid Adjudication Committee, thereafter the report will be submitted to the Accounting Officer for approval.
5. All reports of this nature are to be signed by the Head: SCM or his delegate who will check:
 - Is the motivation valid?
 - Is there sufficient reason for not going out to tender?
 - Is there adequate finance?
 - Is the process fair, equitable, as transparent as can be, cost-effective?
 - Can the Municipality adequately account for making such a decision?
6. The Accounting Officer must record the reasons for any deviations as mentioned above, and report it to the next meeting of the council, or board of directors in the case of a municipal entity, and include as a note to the annual financial statements.

31. Review and Amendment of Standard Operating Procedures

These Standard Operating Procedures shall be reviewed and updated/amended from time to time with input from as wide an audience as possible.

32. Help and Advice

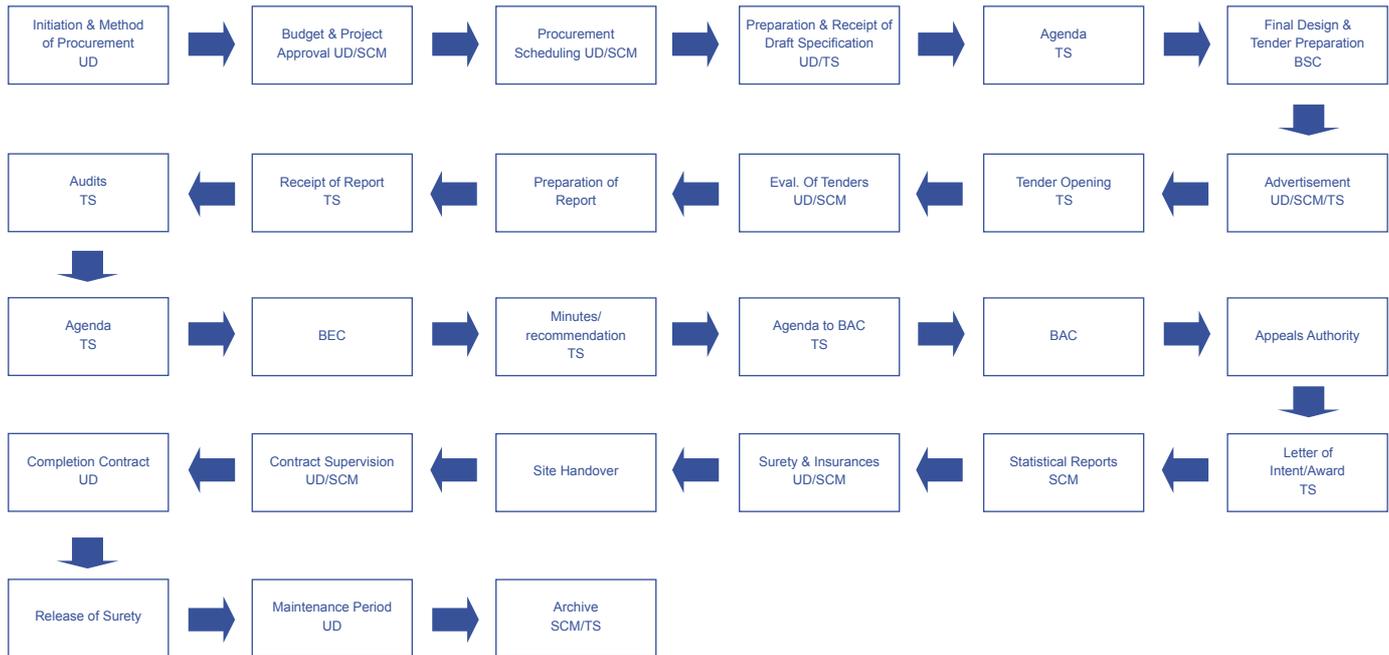
Procurement - 10 must do's

- 1 Be fair, open and transparent.
- 2 Consult your users.
- 3 Plan your procurement exercise.
- 4 Ensure that your Department has a process for receiving written quotations.

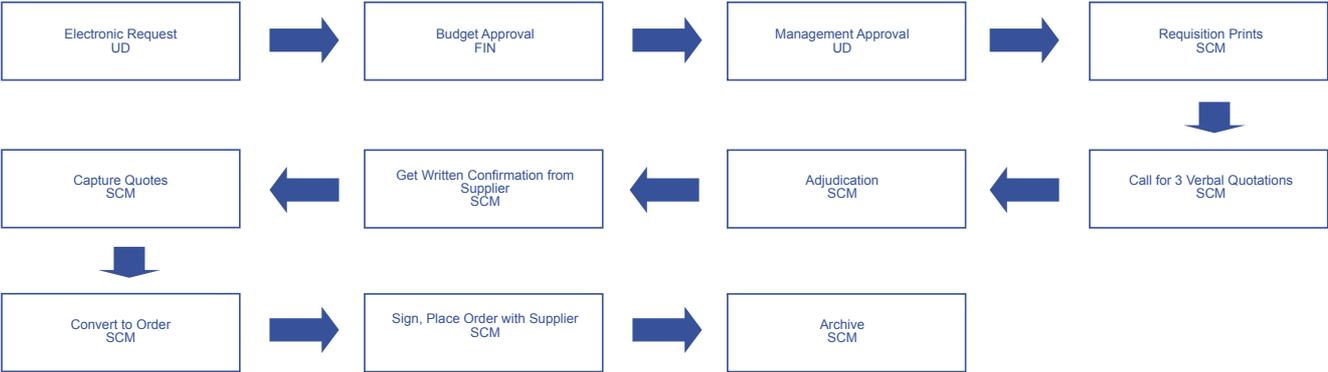
- 5 Always have an appropriate specification.
- 6 Do not disaggregate ('un-bundle') the value of a job to avoid competition.
- 7 Never negotiate on price.
- 8 Agree your evaluation criteria at the outset and stick to it.
- 9 If there is an Approved List or an Annual Supply Contract you must use it.
- 10 Ask for help if you need it.

Assistance is available. IF IN DOUBT, ASK.

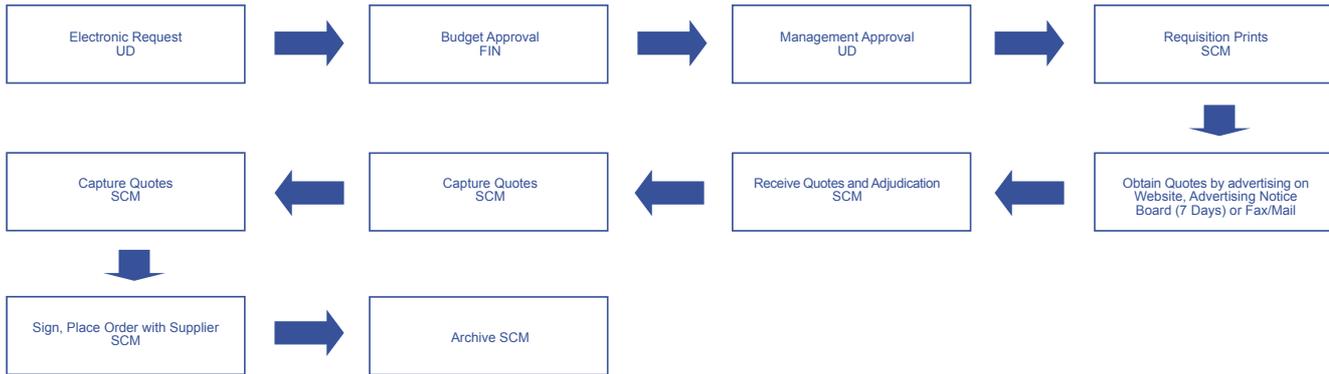
4. Flowchart on the SCM Process



Flowchart on the SCM Process: Verbal Quotations R0 – R5 000



Flowchart on the SCM Process: Verbal Quotations R30 001– R200 000





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