

TSWELOPELE LOCAL MUNICIPALITY

PROCUREMENT POLICY

1. INTRODUCTION

The Constitution of the Republic Act no. 108 of 1996 reads as follows:

Section 217

- “(1) When an organ of state in the national, provincial or local sphere of government, or any other institution identified in national legislation, contracts for goods or services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost effective.
- (2) Subsection (1) does not prevent the organs of state or institutions referred to in that subsection from implementing a procurement policy providing for –
- (a) categories of preference in the allocation of contracts, and
 - (b) the protection or advancement of persons, or categories of persons, disadvantaged by unfair discrimination
- (3) National Legislation must prescribe a framework within which a policy referred to in subsection (2) may be implemented “

The Local Government Municipal Finance Management Act 2003 (Act no. 56/2003) reads as follows:

Section 65

- “(1) The accounting officer of a municipality is responsible for the management of the expenditure of the municipality
- (2) The accounting officer must for the purpose of subsection (1) take all reasonable steps to ensure -
- (a) that the municipality has and maintains an effective system of expenditure control, including procedures for the approval, authorisation, withdrawal and payment of funds;
 - (b) that the municipality has and maintains a management accounting and information system which –
 - (i) recognizes expenditure when it is incurred;
 - (ii) accounts for creditors of the municipality; and
 - (iii) accounts for payments made by the municipality “

Section 110

“(1) This Part, subject to subsection (2), applies to –

- (a) The procurement by a municipality or municipal entity of goods and services;”

Section 111

“Each Municipality and each municipal entity must have and implement a supply chain management policy which gives effect to the provisions of this Part”

The Preferential Procurement Policy Framework Act 2000 (No. 5 of 2000) reads as follows:

“Section 2 - Framework for implementation of preferential procurement policy:

- (1) an organ of state must determine its preferential procurement policy and implement it within the following framework:
 - (a) A preference point system must be followed;”

In order to give effect to the above, the Tswelopele Local Municipality (TLM) hereby endeavours to develop, implement and maintain a procurement policy which adheres to the said requirements.

2. PURPOSE

To establish a procurement policy in terms of the Preferential Procurement Policy Framework Act 2000 and the Preferential Procurement Regulations 2001.

3. SCOPE

The policy is applicable to all directorates within TLM.

4. OBJECTIVE

To establish, implement and maintain a Procurement Policy, which is fair, equitable, transparent, competitive and cost effective, and to comply with a prescribed regulatory framework for municipal procurement management.

5. DEFINITIONS

- (i) In this policy, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Municipal Supply Chain Management Policy of Tswelopele Local Municipality bears the same meaning in this policy.

- (ii) **Local business**
means a business and/or contractor based in the Free State.
- (iii) **Previously Disadvantaged Individuals (PDI)**
means a person also defined as a Historically Disadvantaged Individual (HDI) in the Preferential Procurement Policy Framework Act 2000.
- (iv) **Supply Chain Management Policy**
Means the supply chain management policy of the TLM and which enjoys precedence over this procurement policy
- (iv) **Traditional Service Provider**
means a service provider with less than 25% HDI ownership.
- (v) **Transforming HDI**
means a partnership or legal person controlled by at least 25% by females, disabled persons or youth and in which the remaining equity is not in the position of a partnership or a legal person actively engaged in a similar business.
- (vi) **Youth**
means persons between the ages of 18 and 35 years.

6. POLICY

- (a) Preference Procurement
It is the policy of TLM to adhere to the prescriptions of the Preferential Procurement Policy Framework Act 2000 and the Preferential Procurement Regulations 2001 and to establish a framework for a procurement policy embracing the provisions of the Act and the Regulations.
- (b) Qualification for inclusion as a service provider on the TLM database.
All prospective service providers wishing to participate in the TLM's procurement process shall –
 - Apply for registration for inclusion on the database;
 - Provide full details of ownership/control and internal HDI programmes;
 - Provide documentation substantiating the validity of credentials;
 - Provide proof of technical and commercial expertise
- (c) Agencies
No preference will be given to any agency whether an HDI or PDI, if it does not add any value to the supply of goods or services. Agencies will only qualify for inclusion in the

database if they can provide the necessary expertise and/or support to prospective service providers.

(d) Mechanisms of procurement

The following procurement mechanisms will be applicable:

(i) Multiple source procurement

To be applied in the procurement of goods and services to the value of not more than R200 000 (VAT Inclusive).

Three prospective service providers will be asked to submit quotations and/or proposals

(ii) Targeted procurement

To be applied in the procurement for all contracts to the value of more than R200 000 (VAT Inclusive) excluding contracts for professional services.

(iii) Roster system

To be applied in the case of procurement of professional services

(iv) Sole source procurement

To be applied in emergency situations when the normal tendering processes cannot be followed due to urgent financial, safety and/or health conditions. This method can also be followed where there are no other service providers available for similar goods and/or services.

(e) Categories

The following categories will be used for the procurement of goods and services excluding the procurement of professional services-

(i) Between R0 and R200 000 (VAT Inclusive)

(aa) Multiple source procurement will be applied.

(bb) Directorate Financial Services shall develop and maintain a database for all prospective service providers.

(cc) Preference will be given for HDI's.

(dd) Directorates concerned shall assist Directorate Financial Services in the identifying of potential service providers.

(ee) Directorates concerned shall draft the specifications regarding the quality and standard of goods and services to be procured.

(ff) Directorate Financial Services will obtain three written quotations.

(gg) The TLM aims to award at least 50% of contracts to PDI's.

(hh) The requisition for the order will be approved in accordance to TLM's Policy on the Delegation of Powers.

(ii) Between R200 001 and R500 000 (VAT Inclusive)

(aa) Procurement shall take place on a targeted tendering basis on a 80/20 preference point system:

(bb) The following formula will be used to calculate the points for price in respect of tenders/procurement:

$$Ps = 80 \left(1 - \frac{Pt - P \min}{P \min} \right)$$

Where

Ps = Points scored for price of tender under consideration

Pt = Rand value of offer tender consideration

Pmin = Rand value of lowest acceptable tender

(cc) the remaining 20 points will be allocated as follows :

(i) 4 points for local businesses. Businesses not qualifying as local businesses will receive 0 points.

(ii) it is expected from the bidder to allocate 3% of his bid price for accredited training in order to uplift the community. 4 Points will be allocated if he provides 3% out of own funds for this purpose. Should the allocation be less than 3% the points will be adjusted on a pro rata basis

(iii) 8 points will be allocated on a pro rata basis for HDI/PDI based on the percentage HDI/PDI ownership

(iv) 2 points will be allocated based on the percentage contract done with a joint venture

(v) the contractor should use as much local labour as possible and will be allocated 2 points according to the percentage of the total man hours required to complete the project which will be allocated to local labour (calculated on a pro rata basis)

(iii) More than R500 000 (VAT Inclusive)

(aa) Procurement shall take place on a targeted tendering basis on a 90/10 preference point system:

(bb) The following formula will be used to calculate the points for price in respect of tenders/procurement:

$$Ps = 90 \left(1 - \frac{Pt - P \min}{P \min} \right)$$

Where

Ps = Points scored for price of tender under consideration

Pt = Rand value of offer tender consideration

Pmin = Rand value of lowest acceptable tender

(cc) The remaining 10 points will be allocated as follows :

- (ii) 2 points for local businesses. Businesses not qualifying as local businesses will receive 0 points.
- (iii) it is expected from the bidder to allocate 3% of his bid price for accredited training in order to uplift the community. 2 Points will be allocated if he provides 3% out of own funds for this purpose. Should the allocation be less than 3% the points will be adjusted on a pro rata basis.
- (iv) 4 points will be allocated on a pro rata basis for HDI/PDI based on the percentage HDI/PDI ownership
- (v) 1 point will be allocated based on the percentage contract done with a joint venture
- (vi) the contractor should use as much local labour as possible and will be allocated 1 point according to the percentage of the total man hours required to complete the project which will be allocated to local labour (calculated on a pro rata basis)

7. UNACCEPTABLE BIDS

The following bids/quotations will be disqualified

- (b) Bids/quotations that are technically unacceptable
- (c) Bids/quotations that are not in line with a fair market price ie. being either too high or too low
- (d) Bids/quotations that are not adhering to the requirements of the municipal supply chain management policy of the TLM

8. RIGHTS RESERVED

The TLM in its sole discretion reserves the right to award only part of a contract or not to award a contract at all if –

- (a) Due to changed circumstances the need for the goods and/or services does not longer exist
- (b) The necessary funds are no longer available
- (c) No acceptable bid was received

9. CHALLENGE OF PRICE QUOTED

The TLM in its sole discretion reserves the right to challenge the price quoted by the service provider if it appears that the price is either unrealistic or not market related.

10. EXTENDING THE CONTRACT

The TLM in its sole discretion reserves the right to extend the contract or modify the original scope of work without re-bidding, after the conclusion of a contract, if -

- (a) due to unforeseen circumstances additional work must be done in order to complete the contract based on the original objective as per the original enquiry document. The revised amount shall however not exceed 30% of the original contract price.
- (b) the time span of the work stretches over more than one financial year. The renewal of a contract for subsequent years will enable Council to expedite the execution of a project without inviting new tenders for repetitive or similar work being part of a basic project for which a contract was awarded in the original tendering process. The TLM shall in the initial enquiry document indicate that it may award further contracts through negotiation with the qualifying service provider.

11. RENEWAL OF CONTRACT

The TLM in its sole discretion reserves the right to renew a contract for another two years especially to serve as an incentive for PDI/Traditional Service Provider and/or Transforming HDI on the proviso that the contract price remains market related and the project has been approved in the budget.

12. SUB CONTRACTING

A successful HDI/Traditional Service Provider or Transforming HDI may not subcontract more than 30% of his contract value to a non-HDI service provider.

13. BID EVALUATION

Bids will be subject to approval by a bid committee system.

Multiple source bids i.e. for contracts/goods and/or services for less than R200 000 will not be subject to the above evaluation process.

14. BID COMMITTEE

Bid committees established in accordance with the municipal supply chain management policy of the TLM will consider all bids received –

- (a) the committees shall be composed of permanent officials and substitute officials which will be appointed on a yearly basis;
- (b) the committees shall be composed of strategic executive directors or their delegated officials plus officials from the procurement unit;

- (c) chairpersons shall be appointed by the accounting officer on a yearly basis from the above persons, failing elected by the members of the different committees;
- (d) the accounting officer may attend meetings of the bid committees as an observer;
- (e) the committees shall have an independent observer drawn from a register administered by Department Financial Services and approved by the Executive Mayor;
- (f) the committees shall submit recommendations to the Directorate concerned for approval;
- (g) criteria for the selection and inclusion of members of the committees shall be based on competency and representation.

15. PROFESSIONAL SERVICE PROVIDERS

- (a) Professional Service Providers (consultants) will be appointed by applying the roster system.
- (b) Professional services will cover but will not be limited to the following:
 - (i) Advertising
 - (ii) Communication
 - (iii) Economic Development
 - (iv) Environmental Management
 - (v) Human Resource Development and the development of HR Policies and Systems
 - (vi) Information Systems and Policies
 - (vii) Integrated Development Planning
 - (viii) Legal Services
 - (ix) Municipal Service Delivery Planning and Organisation
 - (x) Municipal Finance Strategy and Planning
 - (xi) Project Management
 - (xii) Technical Planning
- (c) The purpose of this system is to enable council to –
 - (i) Appoint consultants without inviting tenders at the instance of contracts of not more than R 200 000 (VAT Inclusive)
 - (ii) Ensure that services are delivered in a professional, competent and cost effective manner
 - (iii) Ensure that assignments are allocated on a fair and equitable manner
 - (iv) Promote accessibility to HDI's
 - (v) Ensure transfer of professional skills from the consultants to council's employees
- (d) The roster will consist of a list of firms covering the different disciplines and will include the following information regarding all the offices of the different consultants -
 - (i) the number of registered active professionals classified as to colour, gender, disability and youth;
 - (ii) competent disciplines and sub-disciplines of the firm;
 - (iii) geographical location of the firm;
 - (iv) preferred status;

- (v) field of expertise.
- (e) Preferential treatment
Service providers with a minimum of 30% PDI equity, Traditional Service Providers and Transforming HDI's will receive preferential treatment.
Service providers qualifying for preferential treatment will be given accelerated access to work opportunities and will rotate faster on the roster.
Non-HDI service providers will be encouraged to enter into structured joint ventures with HDI service providers with the aim of transferring expertise.
- (f) Registration
All service providers must register before 31 March of every year.
An individual may not be a principal of more than one firm of professional service providers save if that firm specializes in different professional fields.
- (g) Levels of authorisation
The following levels of authorisation will be applicable at the instance of the appointment of professional service providers –
 - (i) Strategic Executive Directors – total fees below R200 000
 - (ii) Accounting Officer– total fees between R200 001 and R500 000
 - (iii) Council – total fees above R500 000

16. DISQUALIFICATION

Service providers will be disqualified from inclusion in the TLM's procurement process if they do not adhere to the requirements of the municipal supply chain management policy of the TLM

17. ACCOUNTABILITY/RESPONSIBILITY

- (a) The accounting officer - will be responsible for
 - (i) implementation of and adherence to the policy guidelines by all concerned;
 - (ii) annual review of the policy;
 - (iii) appointment of the members of the bid committees;
- (b) The CFO – will be responsible for –
 - (i) custody and implementation of the policy;
 - (ii) development and maintenance of a database for all prospective service providers;
 - (iii) annual invitation to all service providers to register on the roster and the data base;
 - (iv) verification of all information submitted by prospective service providers;
 - (v) internal auditing of the procurement process;
 - (vi) management of the procurement of goods and services;
 - (vii) management of the bid process;
 - (viii) training of personnel to ensure that procurement is done in the most effective way;
 - (xiv) fixing the deposits to be paid by prospective bidders at the instance of non-refundable deposits for documentation;

- (c) Other Strategic Executive Directors – will be responsible for -
 - (i) custody and implementation of the policy;
 - (ii) provision of requirement specifications regarding goods and/or services to be procured;

18. COMMENCEMENT

This policy takes effect on 1 January 2006.

[CMM 6.6 - 29/11/2005]