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**WESTERN CAPE EDUCATION DEPARTMENT**

**ACCOUNTING OFFICER'S SYSTEM (AOS)**

**FOR**

**SUPPLY CHAIN MANAGEMENT AND MOVEABLE  
ASSET MANAGEMENT**

**ACCOUNTING OFFICER'S SYSTEM IN TERMS OF THE  
PUBLIC FINANCE MANGEMENT ACT, 1999 (ACT 1 OF 1999  
AS AMENDED)**

**IN ACCORDANCE WITH THE POWERS VESTED IN ME BY-**

- (a) THE PUBLIC FINANCE MANAGEMENT ACT, 1999;**
- (b) THE TREASURY REGULATIONS, 2005;**
- (c) THE PROVINCIAL TREASURY INSTRUCTIONS, 2019, and**
- (d) ANY OTHER LEGISLATION.**

**I, BRENT WALTERS, THE ACCOUNTING OFFICER OF THE WESTERN CAPE EDUCATION DEPARTMENT,  
DELEGATE THE POWERS AND DUTIES VESTED IN ME IN TERMS OF SECTION 44 (1) AND (2) OF THE  
PUBLIC FINANCE MANAGEMENT ACT, 1999, TO THE DELEGATED EMPLOYEES AS SET OUT HEREIN.**

**SIGNED AT CAPE TOWN ON THIS 22 DAY OF MARCH 2024**

**SIGNED VIA SUBMISSION DATED 22 MARCH 2024**

**MR B WALTERS**

**ACCOUNTING OFFICER: WESTERN CAPE EDUCATION DEPARTMENT**

# SUPPLY CHAIN MANAGEMENT AND MOVEABLE ASSET MANAGEMENT

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## GLOSSARY

AO:	Accounting Officer
AOS:	Accounting Officer's System for Supply Chain and Moveable Asset Management
BAC:	Bid Adjudication Committee
BAS:	Basic Accounting System
B-BBEE:	Broad-Based Black Economic Empowerment
B-BBEEA:	Broad-Based Black Economic Empowerment Act
BEC:	Bid Evaluation Committee
BOM:	Bill of Materials
BSC:	Bid Specification Committee
CA:	Competition Act
CFO:	Chief Financial Officer
CIDB:	Construction Industry Development Board
CIDBA:	Construction Industry Development Board Act
Constitution:	Constitution of the Republic of South Africa, 1996
CSD:	Central Supplier Database
DBC:	Departmental Bid Committee
DC:	Disposal Committee
ePS:	E-Procurement Solution
HOD:	Head of Department
ISO:	International Standards Organisation
JIT:	Just In Time
LOGIS:	Logistical Information System
MRP:	Material Requirements Planning
MTEF:	Medium Term Expenditure Framework
NTI:	National Treasury Instructions, Circulars and Practice Notes
NTR:	National Treasury Regulations
PAJA:	Promotion of Administrative Justice Act
PCCAA:	Prevention and Combatting of Corrupt Activities Act

PDA:	Protected Disclosures Act
PFMA:	Public Finance Management Act
POPIA:	Protection of Personal Information Act
PPPFA:	Preferential Procurement Policy Framework Act
PPR 2022:	Preferential Procurement Regulations
PT:	Provincial Treasury
PTC:	Provincial Treasury Circulars
PTI 2019:	Provincial Treasury Instructions Amendment
QC:	Quotation Committee
RFI:	Request for Information
RFP:	Request for Proposal
ROE:	Rate of Exchange
SABS:	South African Bureau of Standards South Africa
SANAS:	South African National Accreditation System
SAPO:	South African Postal Service
SARB:	South African Reserve Bank
SARS:	South African Revenue Service
SCM:	Supply Chain Management
SCOA:	Standard Chart of Accounts
SITA:	State Information Technology Agency
The Agency:	State Information Technology Act
WCG:	Western Cape Government
WCBD:	Western Cape Bid Document
WCSEB:	Western Cape Supplier Evidence Bank

## FOREWORD

Section 38 of the Public Finance Management Act (PFMA), 1999 confers general responsibilities on Accounting Officers. It determines in sub-section 1 that:

***“The accounting officer for a department, trading entity or constitutional institution-***

- (a) must ensure that that department, trading entity or constitutional institution has and maintains –***
- (b) an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective; and***
- (c) is responsible for the management, including the safeguarding and the maintenance of the assets, and for the management of liabilities, of the department.”***

The introduction of this section revolutionised procurement. The old tender boards were phased out. In their place, the AO became the sole authority responsible for supply chain management for a department. Hence, this document, called the Accounting Officer System for Supply Chain and Moveable Asset Management (“AOS”), was developed. Its purpose is to:

- set out the day-to-day procedural and administrative arrangements within a department;
  - address the bespoke business requirements within each department, tailoring the procurement and provisioning processes to meet the needs of departments;
  - enable the AO both to use the initiative and creativity of their line functionaries and establish best practices within the prescripts that lead to excellent service delivery;
- a) effectively communicate supply chain management principles to everyone in the department;
  - b) present a complete picture of the relevance of each core function and process within the AOS; and
  - c) create a culture of responsibility, where powerful tools such as procurement not only generate savings, but, if used properly, can also enable the department to meet its socio-economic responsibilities.

Whilst the AOS focuses on the policy (decision tree) aspects of supply chain and movable asset management in a department, the Supply Chain Management (“SCM”) delegations set out the decision-making power that gives effect to the processes in the AOS. The SCM delegations are aimed at creating a culture of ownership and accountability among decision-makers. It is the responsibility of every person involved in supply chain and movable asset management, together with the AO of the department, to ensure optimum efficiency in service delivery that is based on **fairness, equitability, transparency, competitiveness, and cost-effectiveness**. Proper use of this document will go a long way to allowing those goals to be met.

## **EXECUTIVE SUMMARY**

SCM draws together the once-fragmented processes of procurement and provisioning. Its purpose is to create a single chain that renders a fast, efficient, and cost-effective service, whilst eliminating all steps that do not add value to the process. The function of this AOS is to assist the department to apply and adhere to this single chain. In so doing, the AOS gives effect to the spirit and purport of the PFMA by allowing the manager to manage and be accountable for that management.

The AOS calls for initiative, innovation, and the establishment of best practices by the AO and their SCM Unit. This will create a culture of responsibility by imposing a burden of care not only on the AO, but on every employee in the department. In the reading and execution of this document, employees are, therefore, to be mindful to apply the principles of *Batho Pele*, the Five Pillars of Procurement as outlined in Section 217 of the Constitution of the Republic of South Africa, 1996 ("Constitution") and the Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000) ("PPPFA") and its Preferential Procurement Regulations, 2022 ("PPR 2022").

The AOS sets out the functions of the department and, in particular, the powers and functions vested, both explicitly and by implication, in an AO. It sets out all procedural, institutional, and administrative actions involved in the day-to-day supply chain and moveable asset management operations. The AOS, therefore, serves as the norm against which all the actions in the supply chain and movable asset management process of the department will be executed, measured, and justified. To assist in achieving the purpose of creating a single procurement chain, the AOS:

- explains the legislative system within which the department supply chain and asset management functions;
- outlines a broad picture of where and how the department fits into public life; and
- identifies and explains the department's institutional design, particularly in respect of the following phases of SCM:
  - demand management;
  - acquisition management;
  - contract management;
  - logistics management;
  - asset management;
  - disposal management;
  - compliance monitoring, risk management, and control;
  - reporting of SCM information; and



- regular assessment of SCM performance.

In this AOS, 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 –

**“acceptance of a bid”** means the award of a contract to a bidder in response to that bidder's bid or price quotation and the acceptance thereof;

**“asset”** means a resource that is controlled by a department as a result of past events and from which future economic benefits or service potential are expected to flow to the department;

**“bid”** means a written offer on the official bid documents or invitation of price quotations;

**“bidder”** means any natural or juristic/legal person submitting a bid;

**“bulk store”** means warehouse/storeroom where inventory is held excluding any stock keeping area created by the end-user after inventory has been issued to the end-user;

**“competitive bid”** means a bid in terms of a bidding process which provides for appropriate levels of competition to ensure cost-effective and best value outcomes;

**“contract administration”** means the planning, negotiation, execution and performance of contracts between two or more parties.

**“contract management”** means maintaining control or influence over the contractual arrangement between the department and the contractor or service provider including administering and regulating such agreement;

**“contract”** means the agreement which results from the acceptance of a bid;

**“contractor”** means any natural or juristic/legal person whose bid has been accepted by the State;

**“delegatee”** for purposes of this AOS means a person assigned by the Accounting Officer or accounting authority to perform specific powers or duties as contemplated in terms of Section 44 and 56 of the Act;

**“emergency”** means a serious or unexpected situation that poses an immediate risk to health, life, property or environment which calls for urgent action and there is insufficient time to follow a competitive bidding process;

**“end-user”** means the relevant unit requesting moveable assets and to whom moveable assets are issued by the Department;

**“eProcurement solution” (ePS)** means a web-based system that houses the Western Cape Supplier Evidence Bank and is utilised for the request of quotations (RFQ's), the receipt thereof and the adjudication of quotations, submitted by suppliers;

**“final award”** in relation to bids submitted for a contract, means the final decision on which a bid is accepted;

**“financial reporting period”** means the reporting period 1 April of the current year to 31 March of the following year;

**“functionality”** means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents;

**“goods or services”** “Goods” means “corporeal moveable things, fixed property and any real right in any such thing or fixed property”. “Services” means “anything done or to be done, including the granting, assignment, cession or surrender of any right and the making available of any facility or advantage”;

**“institution” means:**

- (a) a national or provincial department
- (b) a public entity listed in Schedule 2 or 3 to the PFMA; and
- (c) a constitutional institution listed in Schedule 1 to the PFMA.

**“investigate”** means an inquiry to determine and assess the facts of the complaint or allegation to establish the truth.

**“Limited bidding”** means a bidding process reserved for a specific group or category of possible suppliers through procurement by-

- (a) sole source where there is no competition in the market and only one supplier is able to provide the goods or services;
- (b) single source where a thorough analysis of the market and a transparent and equitable pre-selection process is used to decide on one supplier among the few prospective bidders to make a proposal, and
- (c) multiple source where a thorough analysis of the market indicates that there is limited competition and only a few prospective bidders are requested to make a proposal.

**“physical count” or “verification”** means the physical counting or stock-take procedures performed on inventory held in a warehouse/storeroom;

**“proponent”** any person, whether natural or juristic, that submits an unsolicited proposal to the department.

**“person”** means:

- (a) a bidder or supplier; or
- (b) a shareholder, director, trustee, partner member of a bidder or a supplier, or any person having a controlling interest in the bidder or supplier.

**Procurement by “other means”** includes:

- (a) limited bidding;

- (b) written price quotations not within the threshold determined by National Treasury Instruction, and
- (c) procurement that occurs in emergency situations and urgent cases.

**“senior official”** means an official with the rank of at least Assistant Director, unless otherwise determined by the Accounting Officer and/or delegated official;

**“supply chain management”** means the design, planning, execution, control and monitoring of supply chain activities in the delivery of goods or services, with the objective of creating net value and providing oversight and co-ordination of information and finances within the supply chain; and

**“system”** refers to manual and/or computerised systems.

**“State”** means:

- (a) a national or provincial department, national or provincial public entity or constitutional institution;
- (b) a municipality or municipal entity;
- (c) a provincial legislature; or
- (d) Parliament.

**“urgent case”** means cases where early delivery is critical and the invitation of competitive bids is either impossible or impractical, not due to improper planning.

# LEGISLATIVE FRAMEWORK

## 1. PURPOSE

- 1.1 To define all regulatory and functional legislation applicable to the Supply Chain and Moveable Asset Management System. Public procurement is nested in a multitude of laws. These laws are intended both to guide effective purchasing and reduce poor outcomes for the purchaser and wider society. The laws most relevant to the AOS are listed below:

Prescript	Description
<p>The Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996)</p>	<p>The Constitution is a Supreme Law and being a State ruled by Law, all public sector powers flow primarily from the Constitution.</p> <p>It regulates procurement in terms of Section 217, which determines that: <i>"When an organ of state in the national, provincial or local sphere of government, or any other department 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."</i></p> <p>Each of the five pillars bears an important, individual meaning.</p> <p><b>(a) Fairness (ethics and fair dealing)</b></p> <ul style="list-style-type: none"> <li>• comply with ethical standards;</li> <li>• recognise and deal with conflicts of interest or the potential therefor;</li> <li>• deal with suppliers even-handedly;</li> <li>• do not compromise the standing of the state through acceptance of gifts or hospitality;</li> <li>• be scrupulous in the use of public property; and</li> <li>• provide assistance in the elimination of fraud and corruption.</li> </ul> <p>An action is <b>fair</b> when there is a moral reason for distinguishing between a legitimate choice and an illegitimate choice. Sometimes, fairness will require equal treatment for all. At other times, fairness will require different treatment for different persons. The moral character of fairness transforms into a legal character by requiring decisions in the public sphere to be made neutrally, impartially, and backed by sound reasoning.</p> <p><b>(b) Equity</b></p> <ul style="list-style-type: none"> <li>• advance the development of small, medium and micro enterprises;</li> <li>• empower black people including women, workers, youth, people with disabilities and people living in rural areas;</li> <li>• support the creation of work opportunities;</li> <li>• promote local enterprises; and</li> <li>• support local products.</li> </ul> <p><b>Equitable</b> actions are those that seek public benefit beyond the narrow purpose of the purchase of goods or services. In simple terms, it seeks to allow all people the same opportunity. The uneven distribution of resources in South Africa threatens its cohesion and limits opportunities. By using public procurement not only as a means of acquisition, but as a driver for the economy by supporting and transforming business, the use of equity is intended to bring about social improvement and increase opportunity for all. To assist the state to be equitable in its purchasing, legislation such as the Broad-Based Black Economic Empowerment Act, 2003 (Act 53 of 2003) and the Preferential Procurement Policy Framework.</p>

	<p><b>(c) Transparency (accountability and reporting)</b></p> <ul style="list-style-type: none"> <li>• individuals and institutions are answerable for their actions and outcomes; and</li> <li>• openness and transparency in administration by external scrutiny through public reporting.</li> </ul> <p><b>Transparent</b> actions are those where the process, outcome, purpose, and meaning of the action are capable of being known by all who enquire. Justice must not only be done but must be seen to be done. Public confidence in the state is built by oversight and observation paired with good performance. To some extent, those elements encourage one another.</p> <p><b>d) Competitiveness (open and effective competition)</b></p> <ul style="list-style-type: none"> <li>• a framework of procurement legislation, policies, practices and procedures that is transparent;</li> <li>• openness in procurement processes;</li> <li>• encouragement of effective competition through procurement methods suited to market circumstances;</li> <li>• observance of the provisions of the Preferential Procurement Policy Framework Act;</li> <li>• potential suppliers have reasonable access to procurement opportunities;</li> <li>• where market circumstances limit competition – institutions recognise it and use procurement methods that take account of it;</li> <li>• adequate and timely information is provided to suppliers to enable them to bid;</li> <li>• bias and favouritism are eliminated;</li> <li>• the cost of bidding for opportunities does not deter competent suppliers; and</li> <li>• costs incurred in promoting competition are at least commensurate with the benefits received.</li> </ul> <p>A <b>competitive</b> action is one in which all eligible participants who wish to participate are given an opportunity to do. This is done by applying and interpreting a set of common rules and information, designed to favour none, and equally empower all, from the outset.</p> <p><b>(e) Cost effectiveness (value for money)</b></p> <ul style="list-style-type: none"> <li>• avoid any unnecessary costs and delays for the institution or suppliers;</li> <li>• monitor supply arrangements on an on-going basis and reconsider if existing arrangements cease to provide the expected benefits; and</li> <li>• ensure continuous improvement in the effectiveness and efficiency of internal processes and systems.</li> </ul> <p>A <b>cost-effective</b> action is one in which a decision-maker reasonably weighs the monetary and non-monetary aspects of a good or service against one another to decide which specific procurement to make. This allows the state to achieve value for money. Most often, those aspects to weigh will include the price of an item, the value that it adds for the user, the extent to which it contributes to the substantial fulfilment of the purpose of the procurement, and whether there are less expensive means to achieve substantially the same outcome.</p>
The Public Finance Management Act, 1999 (Act No. 1 of 1999) (PFMA)	The purpose of the PFMA is to guarantee the transparency, accountability, and sound management of the revenue, expenditure and assets and liabilities of departments, constitutional institutions and public entities. To achieve this purpose, the PFMA adopts a dual system of both prescribing duties and permitting discretion, where appropriate.

	<p>Powers allocated in terms of the PFMA to AO's are set as duties, i.e. mandatory responsibilities that must be carried out. How that power is exercised is, in turn, somewhat discretionary.</p> <p>Section 38(1) (a)(iii) of the PFMA imposes a responsibility on the Accounting Officer of each department by determining that:</p> <p><i>"The Accounting Officer for a department, trading entity or constitutional department must ensure that that department, trading entity or constitutional department has and maintains an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective;..."</i></p>																														
<p>The Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000) (PPPFA)</p>	<p>Subsection 2 of section 217 of the Constitution determines that:</p> <p><i>"Subsection (1) does not prevent the organs of state or institutions referred to in that subsection from implementing a procurement policy providing for-</i></p> <ul style="list-style-type: none"> <li><i>a) categories of preferences in the allocation of contracts; and</i></li> <li><i>b) the protection or advancement of persons, or categories of persons, disadvantaged by unfair discrimination."</i> <p>In giving effect to sub-section 2 of section 217 of the Constitution, National Treasury issued the Preferential Procurement Policy Framework Act.</p> </li></ul>																														
<p>The Preferential Procurement Regulations, 2022</p>	<p>These are the enabling mechanisms of the PPPFA mentioned in paragraph 1.2. They set out the formulas for the point system and stipulate the rules and procedures governing the preferences that might be claimed in terms of this Act. The Regulations are the basis upon which these preferences, in particular section 217 (2) of the Constitution of the Republic of South Africa Act, 1996 (Act No. 108 of 1996), will be given and is based upon a point system:</p> <ul style="list-style-type: none"> <li>(a) 80/20 for tenders with a rand value equal or below R50million inclusive of all applicable taxes.</li> <li>(b) 90/10 for tenders above R50 million, inclusive of all applicable taxes.</li> <li>(c) Where the 10 and 20 points are preferences and the 80 and 90 points are for price respectively</li> </ul> <table border="1" data-bbox="603 1335 1350 1617"> <thead> <tr> <th>BBBEE Status Level Contributor</th> <th>Number of Points for 80/20 system</th> <th>Number of Points for 90/10 system</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>20</td> <td>10</td> </tr> <tr> <td>2</td> <td>18</td> <td>9</td> </tr> <tr> <td>3</td> <td>14</td> <td>6</td> </tr> <tr> <td>4</td> <td>12</td> <td>5</td> </tr> <tr> <td>5</td> <td>8</td> <td>4</td> </tr> <tr> <td>6</td> <td>6</td> <td>3</td> </tr> <tr> <td>7</td> <td>4</td> <td>2</td> </tr> <tr> <td>8</td> <td>2</td> <td>1</td> </tr> <tr> <td>Non-compliant contributor</td> <td>0</td> <td>0</td> </tr> </tbody> </table> <p>The Western Cape Provincial Treasury implemented these interim arrangements via Provincial Treasury Circular 1 of 2023.</p>	BBBEE Status Level Contributor	Number of Points for 80/20 system	Number of Points for 90/10 system	1	20	10	2	18	9	3	14	6	4	12	5	5	8	4	6	6	3	7	4	2	8	2	1	Non-compliant contributor	0	0
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8	2	1																													
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<p>National Treasury Regulations are issued in terms of the PFMA dated March 2005</p>	<p>Section 76(4) (c) of the PFMA determines that: <b><i>"The National Treasury may make regulations or issue instructions applicable to all institutions to which this Act applies concerning the determination of a framework for an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective;"</i></b></p> <p>Regulation 16A regulates Supply Chain Management and particularly addresses the issue of Government Procurement. In terms of Regulation 16A 3.1.1 to 3.1.3:</p>																														

	<p><i>“3.1.1 The accounting officer or accounting authority of an institution to which these Instructions apply must develop, document, maintain and implement an effective and efficient supply chain management system.</i></p> <p><i>3.1.2 The supply chain management system referred to in paragraph 3.1.1 must be consistent with:</i></p> <ul style="list-style-type: none"> <li><i>(a) the Constitution of the Republic of South Africa, 1996;</i></li> <li><i>(b) the regulatory framework for supply chain management in terms of the act referred to in the Western Cape Provincial Treasury Instructions 16A;</i></li> <li><i>(c) the Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000);</i></li> <li><i>(d) the Broad-Based Black Economic Empowerment Act, 2003 (Act 53 of 2003);</i></li> <li><i>(e) the State Information Technology Act, 1998 (Act 88 of 1998);</i></li> <li><i>(f) the Construction Industry Development Board Act, 2000 (Act 38 of 2000);</i></li> <li><i>(g) the Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004);</i></li> <li><i>(h) the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000);</i></li> <li><i>(i) the Promotion of Access to Information Act, 2000(Act 2 of 2000); and</i></li> <li><i>(j) any other applicable legislation.</i></li> </ul> <p><i>3.1.3 The supply chain management system referred to in paragraph 3.1.1 must provide for at least the following:</i></p> <ul style="list-style-type: none"> <li><i>(a) institutionalisation;</i></li> <li><i>(b) demand management;</i></li> <li><i>(c) acquisition management;</i></li> <li><i>(d) compliance monitoring;</i></li> <li><i>(e) contract management;</i></li> <li><i>(f) logistics management;</i></li> <li><i>(g) moveable asset management;</i></li> <li><i>(h) disposal management;</i></li> <li><i>(i) reporting of supply chain management information;</i></li> <li><i>(j) regular assessment of supply chain management performance;</i></li> <li><i>(k) risk management (including internal controls); and</i></li> <li><i>(l) financial treatment and disclosure of assets and inventories.”</i> </li></ul>
<p>Western Cape Provincial Treasury Instructions, 2009 (“PTI 2009”), partially amended in 2012 and 2019</p>	<p>In terms of s18(2)(a) of the PFMA, the Provincial Treasury (“PT”) of the Western Cape Government (“WCG”) issued Provincial Treasury Instructions on 2 November 2009. These were intended to guide the application of the PFMA and NTR for the needs of the WCG. On 28 March 2012, Part 5: Chapter 10 and Part 6: Chapter 16A of PTI 2009 was replaced by two new chapters. These two chapters constituted PTI 2012. These were Chapter 16A: Supply Chain Management (Goods and Services) and Chapter 16B: Supply Chain Management for the delivery and maintenance of infrastructure. On 23 September 2019, Chapter 16A of PTI 2012 was replaced by a new chapter. This Chapter constituted PTI 2019. The new Chapter 16A is a vital part of the procurement ecosystem, and so PTI 2019 should be read in close</p>

	<p>conjunction with the AOS and the remaining financial management chapters of the PTIs, 2009 as a total suite of PTIs. The PTI's Chapter 16B was repealed by the Western Cape Provincial Treasury.</p>
<p>Treasury directions through National Treasury Instructions, Circulars, and Practice Notes ("NTI") and Provincial Treasury Circulars ("PTC")</p>	<p>Legislation sets strategic rules, rights and responsibilities, principles and values. This is essential for promoting uniformity and certainty. Procurement legislation further ought to ensure that the administration effectively performs assigned tasks; ensures government accountability and fosters participation by interested parties in decision-making process. To produce practical, day-to-day solutions to problems faced by departments, NTI's ought to be issued on a reasonably regular basis to help guide decision making. More common are PTC, issued to meet the unique needs of the Western Cape. These constantly update the SCM procurement landscape.</p> <p>NTI's issued in terms of S76 of the Act will only be applicable to departments in the WCG once an assessment, in consultation with relevant role-players, has been completed by the Provincial Treasury to determine:</p> <ul style="list-style-type: none"> <li>- whether or not there are similar or more improved ways of implementing the requirement that already exists in the Province;</li> <li>- the practicality and rationality of the requirement;</li> <li>- whether or not such requirements are in line with the powers and functions ascribed in law;</li> <li>- the impact of the requirements from a process, resource, value for money, red tape and systems perspective, and</li> <li>- the cost benefit perspective, where applicable.</li> </ul> <p>The CFO and AO must give clear direction in respect of prior audit findings on non-compliance to the NT instructions, including Provincial SCM related instructions.</p> <p>In the event of unresolved implementation risks and other implications the matter must be referred to the Provincial Treasury to obtain a provincial policy position.</p>
<p>Accounting Officer's System (AOS)</p>	<p>The development of the AOS gives effect to Section 38(1)(a)(iii) of the PFMA, as stipulated in paragraph 1.2 above.</p> <p><i>"The Accounting Officer for a department, trading entity or constitutional institution must ensure that that department, trading entity or constitutional institution has and maintains an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective:..."</i></p>
<p>Promotion of the Administrative Justice Act, 2000 (Act No.3 of 2000) (PAJA)</p>	<p>The Constitution guarantees everyone the right to administrative action that is lawful, reasonable, and procedurally fair. PAJA was created to give effect to that right in greater detail. It does so by instructing how administrative powers allocated to administrators must be exercised. In short, parties subject to administrative action have the right to make representations before a decision is made. Thereafter, everyone whose rights have been adversely affected by such a decision has the right to be given written reasons for the decision. In addition, PAJA provides for the right to internal appeal, if applicable, as well as the right to take the decision to court on judicial review. Tender processes created by the department are "administrative actions" within the meaning of that term in PAJA, so entitling bidders to a lawful and procedurally fair process.</p> <p>The AO must ensure that when SCM practitioners execute an administrative action the following considerations are made:</p>



	<ul style="list-style-type: none"> <li>• all relevant and permissible facts and circumstances were taken into consideration;</li> <li>• adherence to the regulatory framework;</li> <li>• the administrative action falls within ambit of delegated or legislative power;</li> <li>• the result of the administrative action must serve a legally permissible purpose; and</li> <li>• the result of the administrative action falls within the ambit of that institution's budget, budget description, and strategic objectives.</li> </ul> <p>Cognisance should also be taken of the PAJA manual developed by the Department of the Premier, Directorate Legal Services. This manual makes provision for and is an overlay of the Common Law principles that govern the procurement processes for the Western Cape.</p>
<p>Promotion of the Access to Information Act, 2000 (Act No. 2 of 2000) (PAIA)</p>	<p>The Constitution further guarantees the right of everyone to access information held by the state. PAIA was created to give this right greater depth and detail. PAIA fosters a culture of transparency and accountability in public and private bodies by giving effect to the right of access to information. In so doing, it promotes a society in which people have effective access to information to enable them to fully exercise and protect all other rights.</p> <p>PAIA is of particular importance to the administrative decision-maker, as he or she may at any stage, either during the deliberative process or after the decision has been taken, be faced with a request for access to files. These might include, for example, contracts concluded through SCM processes. However, the right of access to information is not unlimited. When information is sought from a decision-maker, that decision-maker must distinguish between information that may be given and information that must be refused. In terms of PAIA there are certain categories of information that must be refused, and other categories which may be refused at the discretion of the decision maker.</p> <p>PAIA is always relevant to the SCM process. A common example of its use may be a situation where a bidder loses a bid through a deliberative decision-making process by the department. Should the unsuccessful bidder wish to challenge the decision, they will seek access to the information that prompted the department to take the decision. PAIA will govern the bidder's efforts and the department's response.</p>
<p>Protection of Personal Information Act, 2013 (Act 4 of 2013) ("POPIA")</p>	<p>Information must be processed lawfully and in a reasonable manner that does not infringe the privacy of the provider. Any personal information provided may only be used for the specific purpose of completing the procurement process. Any further use of the personal information must be consistent with the original purpose of collection. Cognisance should also be taken of the POPIA manual developed by the Department of the Premier: Legal Services.</p>
<p>Protected Disclosures Act, 2000 (Act No 26 of 2000) (PDA)</p>	<p>The PDA, better known as the Whistle-blowing Act originates from the Bill of Rights in the Constitution. The PDA makes provision for procedures in terms of which employees in both the public and private sector who disclose information of unlawful or irregular conduct by their employers or fellow employees are protected from occupational detriment. The Republic of South Africa has been characterised by high levels of crime including widespread corruption. The PDA encourages honest employees to raise concerns and report wrongdoing within the workplace without fear or favour. The PDA can be regarded as a crucial corporate governance tool to promote safe, accountable and responsive work environments. The PDA together with PAIA are but some of the initiatives that have been undertaken to promote accountability and to fight corruption in the public sector.</p>

	Whistleblowing is a key tool for promoting individual responsibility and organisational accountability. In a positive sense, it is about raising concerns about malpractice in organisations.
Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004) (PCCAA)	The Constitution provides for high standards of ethics within the public sector. It enshrines the rights of people and affirms the democratic values of human dignity, equality and freedom and places a duty on the State to respect, protect, promote and fulfil all the rights as enshrined in the Bill of Rights. The PCCAA aims to prevent and combat corrupt activities that, inter alia, undermine the said rights, democratic values, ethical values and rule of law.
State Information Technology Agency Act, 1998 (Act No. 88 of 1998) (SITA)	In terms of Section 238 of the Constitution, an organ of state in any sphere of government may perform any function for any other executive organ of state on an agency basis. SITA is the acronym for the State Information Technology Agency (hereafter referred to as the Agency). This Agency provides various information technology services. In relation to SCM, the Department must, in terms Section 7(3) of the SITA Act, 1998, procure all information technology goods and services as per the SITA Act and Regulations.
Construction Industry Development Board Act, 2000 (Act No.38 of 2000) (CIDBA)	<p>Certain government departments such as the Department of Transport and Public Works are mandated to deliver economic and social infrastructure, such as roads, school buildings, hospital buildings and general office buildings and to maintain these immovable assets. In the execution of its mandate the Department of Transport and Public Works contracts with service providers from the construction industry. Although access to contract opportunities has been widely promoted by government, the sustainability of small contractors is perceived to be jeopardised by, inter alia, some public sector employees that are not committed to procurement reform, complicated tender documentation, lack of standardisation within the public sector and the awarding of contracts to the lowest bidder that affects the sustainability of real contractors.</p> <p>The Construction Industry Development Board (CIDB), a national body established by an Act of Parliament (Act 38 of 2000), is amongst others, responsible for developing the industry for the improved delivery of infrastructure to the South African public, working with all stakeholders for the sustainable growth of construction enterprises and the best practice of employers, contractors and the professions, identifying best practice and setting national standards and promoting common and ethical standards for construction delivery and contracts. The powers, functions and duties of the CIDB include, inter alia, the following:</p> <ul style="list-style-type: none"> <li>(a) To provide strategic leadership, the CIDB must promote and implement policies, programmes and projects aimed at, amongst others, procurement reform, standardisation and uniformity in procurement documentation, practices and procedures.</li> <li>(b) To advance the uniform application of policy with regard to the construction industry, the CIDB must within the framework of the procurement policy of government promote the standardisation of the procurement process with regard to the construction industry.</li> <li>(c) To promote uniform and ethical standards within the construction industry, the CIDB must publish a code of conduct for all construction related procurement and all participants involved in the procurement process. Furthermore, the CIDB may in this context initiate, promote and implement national programmes and projects aimed at the standardisation of procurement documentation, practices and procedures.</li> <li>(d) To promote sustainable growth of the construction industry and the participation of the emerging sector therein, the CIDB may monitor national programmes aimed at amongst other, procurement</li> </ul>

	<p>reform and standardisation and uniformity in procurement documentation, practices and procedures.</p> <p>Furthermore, the CIDB Act requires that the National Minister responsible for Public Works must prescribe the manner in which public sector construction contracts may be invited, awarded and managed within the framework of the Register of Contractors and within the framework of the policy on procurement. It also requires that every government department must, subject to the policy on procurement, apply the Register of Contractors to its procurement process.</p>
Competition Act, 1998 (Act No. 89 of 1998) (CA)	<p>Competitive public procurement processes allow for competition amongst bidders against one another to ensure that all bids for public money are carefully thought-out, efficient, and deliver value for money. Collusion among bidders or within an industry hollows out those ideals. The CA promotes and maintains competition in order to:</p> <ul style="list-style-type: none"> <li>• promote the efficiency, adaptability and development of the economy;</li> <li>• provide customers with competitive prices and product choices;</li> <li>• promote employment and advance the social and economic welfare of South Africa;</li> <li>• expand opportunities for South African participation in world markets and recognise the role of foreign competition in the Republic;</li> <li>• ensure that small and medium-sized enterprises have an equitable opportunity to participate in the economy; and</li> <li>• promote a greater spread of ownership, in particular to increase the ownership stakes of historically disadvantaged persons.</li> </ul>

## 1.2 Other complementary legislation

It must be noted that Supply Chain Management does not exist in a vacuum that is governed by only its own policies and prescripts but has crucial and critical linkages to other governing legislation and the Common Law. Apart from the legislation mentioned above, the pieces of legislation, Instructions and guidelines listed below also affect SCM:

- Departmental instructions issued in terms of the Provincial Treasury Instructions;
- Departmental standard operating procedures issued in terms of the Provincial Treasury Instructions;
- National Treasury Guide for the minimum training and deployment of SCM employees;
- Department of Trade and Industry clearance in respect of contracts subject to the National Industrial Participation Program of the Department;
- National Treasury: Supply Chain Management – a Guide to Accounting Officers/Authorities;
- National policy to guide uniformity in procurement reform processes in government;
- The Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act 4 of 2000);
- The Conventional Penalties Act, 1962 (Act 15 of 1962);
- The Arbitration Act, 1965 (Act 42 of 1965);
- The Public Protector Act, 1994 (Act 23 of 1994);
- The Electronic Communications and Transactions Act, 2002 (Act 25 of 2002);
- The Intellectual Property Rights from Publicly Financed Research and Development Act, 2008 (Act 51 of 2008);
- The Consumer Protection Act, 2008 (Act 68 of 2008);
- The State Liability Amendment Act, 2011 (Act 14 of 2011);

- The Public Audit Act, 2004 (Act 25 of 2004);
- The Companies Act, 2008 (Act 71 of 2008);  
The Interpretation Act, 1957 (Act 33 of 1957); and  
The South African Revenue Act, 1997 (Act 34 of 1997).  
The Public Administration Management (PAM) Act (will come into operation when the regulations are promulgated.)

The above is not a complete list. There may be other pieces of legislation that may also be applicable in the SCM environment.

# CHAPTER 1

## FUNCTIONAL ARRANGEMENTS

### 1.1 PURPOSE

- 1.1.1 To communicate to all officials in the Department the institutional arrangements involving supply chain and moveable asset management activities. This is an on-going process in which a set of activities, structures and values become an integral and sustainable part of an organisation. It thus involves an element of internalisation. As we operate in a changing environment, these institutional arrangements will be updated from time to time as the need arises.
- 1.1.2 The AOS thus sets out the functions of the Supply Chain Management units and in particular the powers and functions explicitly and per implication vested in the Accounting Officer and delegated officials. It goes further by setting out all procedural, institutional and administrative actions involved in the day-to-day SCM operations. The AOS effectively constitutes the yardstick against which all the SCM actions of the of the department will be executed, measured and justified.

### 1.2 STRATEGIC VISION OF THE DEPARTMENT

To provide quality education for every child in every classroom in every school in the Province.

### 1.3 DEPARTMENTAL CORE FUNCTIONS AND SERVICE DELIVERY OBLIGATIONS

The core functions of SCM within the Department are:

- (a) Purchasing of goods and services of the desired quality, at lowest price, in the correct method and at the right time to get maximum value for money.
- (b) Minimizing procurement related costs by eliminating all non-value-added functions and processes.
- (c) Assisting the end-user (Responsibility Manager or line manager) with the procurement needs.
- (d) Ensuring compliance with all legislative requirements.
- (e) Ensuring that targets are met in respect of the procurement of goods and services.
- (f) Eliminating the duplication of functions, where possible.
- (g) Optimal utilisation and safeguarding of moveable assets.
- (h) Monitoring of compliance with the co-operation of line managers.
- (i) Verification of bidders who claim B-BBEE points.
- (j) Supporting Departments suppliers/service providers to register on the Central Supplier Database (CSD) and the Western Cape Supplier Evidence Bank (WCSEB).

## **1.4 THE UTILISATION OF SCM AS A DELIVERY MODEL TO GIVE EFFECT TO THE DEPARTMENT'S STRATEGIC VISION**

- 1.4.1 In order to become more effective, the Department annually sets out its Strategic Objectives which are documented in the Annual Performance Plan (APP). A large percentage of the Department's budget is spent via the SCM process, making the latter an integral part of enhancing the Department's service delivery to meet the strategic objectives identified in the APP.
- 1.4.2 Every Responsibility Manager must therefore, in line with Chapter 5 of the Treasury Regulations and Treasury Instruction 16A, paragraph 4.3 identify the goods and services they will require to achieve their strategic objectives. These matters of procurement will be included in the Procurement Plan for each Medium-Term Expenditure Framework (MTEF) period. The Supply Chain will annually consolidate the requirements of the Responsibility Managers into a WCED Procurement Plan which will be approved by the Accounting Officer. The approved Plan will, amongst others, identify the goods/services required, the budget set aside for the procurement, the date that the goods/services will be required, when the request will be submitted and also the procurement method that will be employed for the specific procurement.
- 1.4.3 If any goods/services are requested and said procurement is not on the approved Plan, such procurement must be approved by the Accounting Officer or delegated official before any procurement initiatives are undertaken.
- 1.4.4 The Department will pursue the following objectives in this regard:
- (a) Ensure adequate planning has taken place before procurement of goods and services;
  - (b) Ensure that procurement processes/projects are adequately funded or budgeted for;
  - (c) Define and develop simple standardised SCM processes to ensure the satisfactory delivery of goods and services and the control and management thereof;
  - (d) Build a purchasing culture within the Department that is performance orientated, flexible, yet aligned to prescribed procurement policy and procedure, socio-economically responsive but driven by customer satisfaction;
  - (e) Value for money procurement, and inventory and moveable asset management;
  - (f) Employment of strategies to minimize procurement costs;
  - (g) The application of the National Treasury General Conditions of Contract (GCC) and where appropriate, the use of service level agreements to elevate contract management and mitigate risks for the Department.
  - (h) Introduce mechanisms to adequately address concerns from the public with regards to the awarding of bids.

## 1.5 SCOPE OF THE APPLICATION OF THE ACCOUNTING OFFICER'S SYSTEM (AOS)

- 1.5.1 All officials and other role players involved with the supply chain management (SCM) must implement this AOS in a way that gives effect to:
- (a) Section 217 of the Constitution;
  - (b) Section 38 (1) (a) (iii) of the PFMA and other applicable provisions of the Act;
  - (c) Chapter 16A of the National Treasury Regulations dated March 2005 and Chapter 16A of the Provincial Treasury Instructions dated 23 September 2019;
  - (d) Ensure that it is consistent with other applicable legislation; and
  - (e) Not undermine the objective for uniformity in supply chain management.
- 1.5.2 This AOS applies when the Department:
- (a) Procures goods and services (in some instances, works), including income-generating tenders, and
  - (b) Manages movable assets and disposal of moveable assets that are no longer needed. In alignment with the financial reporting framework, Modified Cash Basis prescribed by National Treasury.
- 1.5.3 The AOS further provides for an enabling mechanism for SCM and for departmental arrangements, administrative duties and delegated powers affecting SCM for officials involved in the process.
- 1.5.4 The AOS also provides a library of information to help officials align and integrate the vital phases of asset management, those being:
- a) The planning phase, where the requirement for a new asset is planned for and established;
  - b) the acquisition phase, where the asset is purchased, constructed, or otherwise created;
  - c) the operation and maintenance phase, where the asset is used for its intended purpose; and
  - d) the disposal phase initiated when the economic lifecycle of the asset has expired or when the asset has become redundant or obsolete.
- 1.5.5 All activities and processes included in this document will be measured against the five pillars of procurement which are **fairness, equitability, transparency, cost-effectiveness and competitiveness**.

## 1.6 SUPPLY CHAIN MANAGEMENT UNIT

### 1.6.1 Establishment of the Unit

1.6.1.1 In terms of National Treasury Regulations, the Accounting Officer must establish a separate supply chain management unit within the Office of the Chief Financial Officer (CFO), to implement the Department's supply chain management system.

1.6.1.2 The Supply Chain Management unit must provide for at least the following:

- (a) demand management;
- (b) acquisition management;
- (c) logistics management;
- (d) asset management
- (e) disposal management;
- (f) risk management; and
- (g) regular assessment of supply chain performance.

### 1.6.2 Structure of the SCM unit

In terms of the Regulations on Supply Chain Management and Regulations in terms of the PFMA: Framework for Supply Chain Management issued by the National Treasury, the Department is compelled to have a Supply Chain Management Unit.

- (a) The Head Office SCM Unit resorts under the Chief Financial Officer (CFO) in terms of regulation 4(1) of the SCM Framework Regulations and Regulation 4 of the Regulations of the PFMA: Framework for Supply Chain Management.
- (b) The post establishment and organogram of the Directorate: Procurement Management is reflected in **Diagram 1**.
- (c) The section Logistical Support Services resides under the sub-directorate: Asset Management.
- (d) The Education District Offices and Directorate: Institutional Resource Support, LTSM unit also performs supply chain management functions as per the AOS and Delegations.

### 1.6.3 Functions of the SCM unit

The SCM units of the Department will be responsible for the following functions:

- (a) Implementation of the approved AOS;
- (b) As and where the on-going maintenance of the AOS to improve effectiveness and efficiencies of the system;
- (c) Reporting to the Accounting Officer and CFO on performance of the SCM and comply to reporting requirements as prescribed.



- (d) Enforcement of the regulatory framework for SCM within the Department (i.e. prescribed National, Provincial and Departmental SCM requirements aligned to legislation, policy and delegation frameworks within the Department).
- (e) Render assistance and administrative support to the line function managers and their delegates, other officials and the Departmental Bid Committee in the performance of their SCM responsibilities;
- (f) Capacity building and training of officials involved in SCM processes;
- (g) Procure goods and services for the Department, including income generating tenders;
- (h) Manage bid administration processes which include but are not limited to:
  - (i) Check and arrange for the signing and approval of bid specifications;
  - (ii) Compile bid documents;
  - (iii) Advertise bids in the Government Tender Bulletin and/or e-Tender Publication Portal or any other media, etc.;
- (iv) Request for Quotations according to the prescribed threshold via the e-Procurement Solution (ePS).
- (v) Where required Request for Quotations may be obtained via a written quotation process outside of the ePS, subject to justifiable reasons why the ePS could not be utilised. Such approval must be granted at least on the level of a Director of their respective SCM units.
- (vi) Receive and open bids;
- (vii) Check for compliance and signatures on bid documents;
- (viii) Maintain a bid register;
- (ix) Preparation of procedures and bid documents for evaluation at the Bid Evaluation Committee and submission to the Departmental Bid Committee and Accounting Officer or delegated officials;
- (x) Record and monitor the award of bids;
  - (i) Adjudication of quotations, capturing of the award on the ePS in terms of delegated levels and monthly reporting of procurement statistics;
  - (j) Administer and manage contracts within their delegated authority;
  - (k) Communicate and liaise with service providers/contractors;
  - (l) Execute functions in terms of SCM delegations;
- (m) Maintain and provide an efficient and effective logistical and asset management system for the Department;
- (n) Maintain a proper audit trail in respect of all transactions processed by the SCM units;
- (o) Develop departmental policies for implementation within the Department to ensure sound governance practices within SCM; and
- (p) Adhere to control measures and risk mitigation procedures within the SCM framework.

#### 1.6.4 **Mandate of the SCM units**

- 1.6.4.1 To procure on behalf of the Department within the parameters of the departmental SCM policy;
- 1.6.4.2 Exercise its powers as conferred through delegations;
- 1.6.4.3 Monitoring and evaluation process in respect of the Department's compliance to SCM legislation and policy, and
- 1.6.4.4 Issue departmental policy, where required, for implementation and to ensure sound governance practices within SCM.

### 1.7 **RESPONSIBILITIES OF RESPONSIBILITY/LINE MANAGERS IN RELATION TO SCM**

It is the responsibility of responsibility/line managers to ensure that the Department delivers services in accordance with its strategic goals and objectives which will include acquisition of goods and services and where required, tenders for income-generating contracts. It will therefore be the responsibility of line managers to:

- (a) Understand and plan for future needs;
- (b) Identify critical delivery dates;
- (c) Ensure that the necessary funds are available for goods and services to be procured;
- (d) Acquaint themselves with SCM procurement prescripts and policy as well as the requirements encapsulated within the AOS, so that the requirements enshrined within Section 217 of the Constitution are met when they are involved in the procurement processes of the Department;
- (e) Develop draft specifications for all goods and services associated with their programme or sub-programme deliverables;
- (f) Timeously provide the SCM units with all the necessary information to arrange for the acquisition of goods and services and where required, tenders for income-generating contracts;
- (g) Maintain a close and co-operative relationship with the SCM units so that the goals and objectives of the Department are efficiently and effectively met when involved in SCM activity;
- (h) Abide by the National Treasury Code of Conduct and Provincial Treasury Code of Ethics for SCM Practitioners and declare any conflict of interest;
- (i) Provide specialised/technical advice and when co-opted, make presentations to the SCM Committees;
- (j) Be custodians of assets under their control and ensure that the loss control process is initiated in the case of stolen, damaged or lost assets;
- (k) Manage contracts and deliverables within their programme or sub-programme and report to SCM where there may be non-compliance and non-performance to contractual conditions.

## 1.8 SUPPLY CHAIN MANAGEMENT DELEGATIONS

1.8.1 Delegations are issued to functionaries in terms of Section 44(1) of the PFMA, the Framework for SCM Regulations, Principles of Public Administration and Financial Management delegations issued by National Treasury and the Department of Public Service and Administration (DPSA) and the Provincial Treasury Instructions.

- a) The delegations will be reviewed as and when required and it does not divest the Accounting Officer from his/her power to retract all or any of the delegations if circumstances necessitate such a decision.
- b) The minimum standards for SCM delegations are attached in **Addendum 1**.
- c) Any official in the line of decision-making and not only the Accounting Officer or delegated official may:
  - Refer any recommendation made by the Departmental Bid Committee, back to the Departmental Bid Committee for reconsideration, should he/she not agree with such recommendation which is required to offer sound advice to the Accounting Officer or delegated official to make a justifiable and correct decision.
  - If in a specific case it is impractical to invite competitive bids, the accounting officer or delegated official may procure the required goods and services by other means, provided that the reasons for deviating from inviting competitive bids must be recorded and approved by the accounting officer or delegated official.
- d) When an official in the line of decision-making disagrees with the recommendation of the Departmental Bid Committee, such disagreement must be justified, and the reasons must be documented in full.
- e) The following provisions on delegations apply:
  - Delegates should note that the execution of any delegated power is subject to the provisions for Sections 44(2) and 44(3) of the PFMA, the requirements of just administrative action as provided for in the Promotion of Administrative Justice Act and general administrative law principles, which include the principle of "*functus officio*" (already executed the specific function and may therefore not revisit that decision).
  - It must be noted that in terms of case law there are only two instances where an Accounting Officer may revisit a decision. If there is sufficient evidence of fraud or corruption, any decision taken may be revisited. The Accounting Officer may approach a Court of Law to have such decision reviewed and set-aside.
  - The Accounting Officer or delegated official may, at any stage of a bidding process, refer any recommendation made by the Bid Evaluation Committee or Departmental Bid Committee back to such committee for reconsideration of the recommendation.
  - The power to engage in supply chain management activities is vested in the Accounting Officer who may delegate his/her powers in writing to any official in the Department in terms of Section 44 of the PFMA respectively.
  - Such delegation must take account of the legislative framework and the relevant AOS to ensure efficient and effective execution thereof. Procurement activities should, as far as possible be performed by supply chain management practitioners only.

With reference to PTI 16A3.7.1 and Section 44 of the PFMA -

- (1) The Accounting Officer may:
  - (a) in writing delegate any of the powers entrusted or delegated to the Accounting Officer in terms of this Act, to an official in the Department or
  - (b) instruct any official in the Department to perform any of the duties assigned to the Accounting Officer in terms of this Act.
- (2) A delegation or instruction to an official in terms of section 44 (2)(1):
  - (a) is subject to any limitations and conditions prescribed in terms of the Act or as the relevant Treasury may impose;
  - (b) is subject to any limitations and conditions the Accounting Officer may impose;
  - (c) may either be to a specific individual or to the holder of a specific post in the Department; and
  - (d) does not divest the Accounting Officer of the responsibility concerning the exercise of the delegated power or the performance of the assigned duty.
- (3) The Accounting Officer may confirm, vary or revoke any decision taken by an official as a result of a delegation or instruction in terms of sub-section (1), subject to any rights that may have become vested as a consequence of the decision.

#### 1.8.2 Delegated persons

Delegated officials will perform all relevant delegations issued by the Accounting Officer. Persons acting officially in a certain rank may exercise the delegations assigned to that rank. Delegations must be exercised responsibly.

The delegated officials will perform all delegations issued by the Accounting Officer. The following officials will exercise the delegations:

- (a) The Chief Financial Officer, SCM Manager and where required senior managers with allocated delegations.
- (b) The Supply Chain Management practitioners in the office of the CFO.
- (c) Officials acting in a certain rank may exercise the delegations assigned to that rank.
- (d) Other officials not in the Office of the CFO as indicated in the delegations.

#### 1.8.3 Failure to comply with the requirement of the delegations

Should it be brought to the Accounting Officer's attention that a delegated official(s) has failed to comply with the requirements through exercising the delegations and this resulted in an irregular, unauthorised and/or fruitless and wasteful expenditure, the following punitive action can be instituted against the delegated official(s) in terms of the PFMA compliance and reporting framework, 2023 as issued by NT.

- (a) Recover from the delegated official(s), through the set administrative process, all expenses the Department has suffered/lost through the exercise of the delegations.
- (b) Institute the necessary steps in terms of misconduct (Consequence Management).
- (c) Fraudulent, corrupt or other criminal conduct will be reported to South African Police Services (SAPS).

## **1.9 REQUIRED COMPETENCIES FOR SUPPLY CHAIN MANAGEMENT UNIT**

### **1.9.1 Competency Dictionaries**

- (a) The CFO will ensure that the following competencies exist within the supply chain management component namely:
- (i) Financial acumen;
  - (ii) Accounting;
  - (iii) Cost and economic analysis;
  - (iv) Legal interpretation;
  - (v) Strategic sourcing;
  - (vi) Contract Management;
  - (vii) Document writing and Research;
  - (viii) Asset Management; and
  - (ix) Logistical and Disposal Management.

### **1.9.2 Training of supply chain management practitioners and members of committees.**

- (a) All officials involved in the supply chain management functions of the Department must be trained and deployed in accordance with the National Treasury requirements.
- (b) It will be the responsibility of the CFO to:
- (i) Provide guidance, training and deployment of supply chain management officials within a Department;
  - (ii) Develop officials for a career in SCM;
  - (iii) Provide immediate training with the focus on intensive training on all elements of SCM; and
  - (iv) Provide advance training that includes specialist skills within each element of SCM.
- (c) Ensure that, where necessary, training is provided for:
- (i) Junior and/or Middle/Senior Managers;
  - (ii) Practitioners who are involved in the day-to-day operation of SCM; and
  - (iii) Officials involved in the procurement matters.
  - (iv) New entrants/new appointees in the SCM unit irrespective of the level at which they are appointed.
- (d) Ensure that content of the training materials of service providers are relevant and where applicable accredited by the relevant authority.
- (e) Have a phased in training strategy which covers short-term (basic SCM), medium- term (training on all elements of SCM and training on specialist skills) and long-term (formal diploma and degree courses at tertiary institutions) requirements.

### 1.9.3 Training needs assessment

- (a) A training needs assessment of all those officials involved in SCM activities will be done in accordance with the individual officials' performance management and development cycle.
- (b) Based on the training needs' assessment, the CFO must identify and fund the appropriate training interventions to address the identified needs. The interventions may amongst others include:
  - (i) person to person training which may include procurement planning, procurement processes and asset management;
  - (ii) training via short courses through bodies like the Provincial Treasury, National School of Government and/or outside service providers; and/or
  - (iii) formal training via higher education(tertiary) institutions, where required.
  - (iv) online training courses and e-learning courses offered by the Provincial Training Institute (PTI) and/ or the Provincial Treasury or other institutions.

## CHAPTER 2

# SCM COMMITTEES

### 2.1 REQUIREMENTS

- 2.1.1 National Treasury Regulation 16A6.2 stipulates that the SCM system must, *inter alia*, provide for the adjudication of bids through a bid adjudication committee, the establishment, composition and functioning of bid specification, evaluation and adjudication committees and the selection of bid adjudication members.
- 2.1.2 The Department has exercised the option, in terms of paragraph 16A6.2 (e) of the National Treasury Regulations to have a Bid Committee which shall not have the powers to adjudicate bids but to make recommendations to the Accounting Officer or delegated official.
- 2.1.3 All members and/or secundus of the relevant committees must adhere to the Code of Conduct/Ethics for Bid Adjudication Committees and Supply Chain Practitioners and must sign the prescribed declaration of interest declaring their interest in any matter or offer under consideration.
- 2.1.4 The effective functioning and performance of these committees is critical to the Accounting Officer's mandate which is to ensure a *fair, equitable, transparent, cost-effective and competitive system*.
- 2.1.5 The Bid Specification Committee, Bid Evaluation Committee and Departmental Bid Committee are involved in the decision-making processes which lead to the award of departmental bids above a VAT-inclusive prescribed threshold of R1 million and above and where required, tenders for income-generating contracts. It is noted that the Accounting Officer or delegated official has the discretion to lower this threshold value depending on the needs of the Department. The SCM Committees may where deemed necessary, consider matters below the threshold of R1 million.
- 2.1.6 The SCM Committees, specifically the Bid Specification, Bid Evaluation, Departmental Bid Committees and Quotation Committees, where appropriate are involved in different stages of the procurement process which are usually interlinked.
- 2.1.7 The Bid Specification (Bus Committee in respect of learner transport) and Bid Evaluation Committees make recommendation(s) to the Departmental Bid Committee which must in turn make recommendation(s) to the Accounting Officer or delegated official via the Chief Financial Officer.
- 2.1.8 To perform and function effectively the SCM committees shall be comprised as follows:

- Chairperson;
- Vice chairperson;
- Other members (including secundus members where necessary)
- Secretariat;
- Quorum of 50% +1 (60%)

## **2.2 BID SPECIFICATION COMMITTEE**

- 2.2.1 A bid specification committee (BSC) must be established to consider the specification of each bid with an estimated value of more than R1 Million (inclusive of all applicable taxes) and where required, tenders for income-generating contracts. This BSC may also consider specifications for quotations up to R1 Million (inclusive of all applicable taxes) as and when required. The departmental Bus Committee will finalise the specifications for the respective learner transport routes and whereafter such specifications will be presented for recommendation to the Departmental Bid Committee for consideration. In such instances, the Bus Committee will function as the Bid Specification Committee for Learner transport.
- 2.2.2 Bids of lesser value may have a BSC established, but this is not mandatory and is at the discretion of the Accounting Officer or delegated official. The composition of the BSC is at the discretion of the Accounting Officer or delegated official but must include an official from the departmental component to benefit from the procurement and a SCM practitioner. At least [50%+1] of members must be present to constitute a quorum when the BSC executes its functions. The appointment of these members, their roles and responsibilities, and their period of appointment are specified in writing by the Accounting Officer or delegated official.
- 2.2.3 The BSC must consist of at least three (3) officials plus a chairperson, appointed in writing by the Accounting Officer or delegated official. The Responsibility Manager that requires the goods/services or a representative, will be co-opted to the meeting to give specialist or technical input in respect of specifications. The Accounting Officer may appoint ad hoc Bid Specification Committees as and when required.
- 2.2.4 The BSC must, in consultation with the Responsibility Manager, ensure the compilation of unbiased bid specifications and drafting of measurable evaluation criteria, for procurement undertaken by the Department.

### **(a) Specifications**

- (i) Must be drafted in an unbiased manner to allow all potential suppliers to submit an offer for their goods and services available in the market;
- (ii) Must take account of accepted standards with which the equipment, material or workmanship should comply, for example, those issued by the South African Bureau of Standards (SABS), the International Standards Organisation (ISO) or an authority accredited or recognised by the South African National Accreditation System (SANAS);
- (iii) Should, where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;
- (iv) May not create trade barriers in contract requirements in the form of specifications, plans, drawings, designs, test methods, packaging and marking or labelling of conformity certification;



- (v) May not refer to any particular trademark, name, patent, design, type, specific origin or manufacturer, unless there is no other sufficiently precise or intelligible way of describing the characteristics of work, in which case such reference must be accompanied by the word "or equivalent";
- (vi) Must specify the broad criteria intended for the evaluation of bids, to evaluate bids objectively;
- (vii) Must quote standards and technical specifications in bidding documents which should promote the broadest possible competition, while assuring that critical elements of performance or other requirements for the goods, services and/or works being procured are achieved;
- (viii) Must ensure that the quality and dimensions of goods/services required are not over specified or rigid to the extent that they will prevent bidders from submitting offers which are available, and which will yield the same result in terms of meeting the WCED's objectives. Where dimensions are specified, tolerances to the specified dimensions, that will be acceptable, must be included.
- (ix) Must clearly specify the service to be rendered, the location where the goods/services must be supplied, the place of delivery or installation, the schedule for delivery or completion, minimum performance requirements and the warranty and maintenance requirements, as well as any other applicable terms and conditions;
- (x) For each specification evaluated, members must sign the prescribed declaration of interest form declaring their interest or otherwise in the specification of goods/services that is under consideration; and
- (xi) The committee shall meet as and when required and minutes of every meeting must be signed by the Chairperson and kept for record and audit purposes.

## **2.3 BID EVALUATION COMMITTEE**

- 2.3.1 A Bid Evaluation Committee (BEC) must be established to evaluate all bid offers with an estimated value of more than R1 Million (inclusive of all applicable taxes) and where required, the evaluation of tenders for income-generating contracts. Bids of lesser value may be evaluated by the BEC, but this is not mandatory, it is at the discretion of the Accounting Officer or delegated official. The composition of the BEC is at the discretion of the Accounting Officer or delegated official but must include a representative from the SCM unit. At least [50%+1] of members must be present to constitute a quorum when the BEC executes its functions. The appointment of these members, their roles and responsibilities, and their period of appointment are specified in writing by the Accounting Officer (AO) or delegated official.
- 2.3.2 The BEC must evaluate, consider and recommend each formal bid received, that must be presented to the Departmental Bid Committee for recommendation. The BEC must consist of at least three (3) officials plus a chairperson appointed, in writing, by the Accounting Officer or delegated official. The BEC may evaluate RFQs or bid offers received below the threshold of R 1million as and when required.
- 2.3.3 The Responsibility Manager that requires the goods/services or a representative, will be co-opted to the meeting to give specialist or technical input in respect of the bids received.
- 2.3.4 A bid evaluation committee is responsible for the evaluation of bids received. The bid evaluation committee must:

- (a) Evaluate bids in accordance with the criteria stipulated in the bid document and check/verify:
  - (i) compliance with conditions of the bid (legitimacy tests);
  - (ii) compliance with specification;
  - (iii) factors that might have an influence on the award of the bid;
  - (iv) bids for completeness and technical correctness;
  - (v) where forms, requiring signatures, have not been signed – notes must be made and reported to the DBC;
  - (vi) all other registers for completeness and correctness; and
  - (vii) supplier detail and claims in terms of preference points and B-BBEE status.
- (b) Allocate points in terms of the evaluation criteria and preference claims;
- (c) Evaluate each bidder's ability and capability to execute the contract (where required);
- (d) Submit a recommendation report to the Departmental Bid Committee with regard to the awarding of the bid or any other related matter;
- (e) Re-evaluate bids in cases where recommendations have been referred back to the bid evaluation committee by the departmental bid committee or the Accounting Officer/delegated official;
- (f) For each bid evaluated, members and co-opted officials of the committee must sign the prescribed declaration of interest form declaring their interest or otherwise in any bid under consideration; and
- (g) The committee shall meet as and when required and minutes of every meeting must be signed by the Chairperson and kept for record and audit purposes.

## **2.4 DEPARTMENTAL BID COMMITTEE**

2.4.1 The Departmental Bid Committee (DBC) must be established to consider recommendations from the BSC, BEC and where required the recommendations of the Quotation Committee(s) and Bus Committee for learner transport. The Accounting Officer or delegated official must establish and appoint a DBC that will serve for a period of 3 consecutive years, as required. At least [50% plus 1] of members must be present when committees execute their functions. The DBC must consist of at least four senior officials constituted as follows:

- a) Chairperson;
- b) Vice-chairperson;
- c) Other members (cross-functional teams comprising senior officials of whom at least one must be a supply chain practitioner);
- d) Secretariat (an official from the SCM unit is required to perform this duty).

2.4.2 Neither a member of the BSC, Negotiation committee, nor a member of the BEC may be a member of the DBC. A line manager who is a standing member of the DBC who also serves on the BEC or BSC, in terms of their own programme/sub-programme procurement needs, or acts as an advisor to either committee, must recuse himself/herself when such a bid is being discussed and will have no voting rights when the recommendation is made in respect of such bid. The relevant official(s) may be requested to give clarity to the DBC in the capacity as a member of the BEC or BSC.

- 2.4.3 So as not to delay meetings and the orderly process of bid adjudications and awards, the AO or delegated official may appoint temporary members as and when required, to replace DBC members who are absent due to illness or leave, etc. The temporary members will have the same powers as ordinary DBC members.
- 2.4.4 For the purpose of continuity and not to delay meetings, the Accounting Officer or delegated official may appoint ad-hoc SCM committee or members to any of the SCM Committees as and when required.
- 2.4.5 The DBC is responsible for considering reports and recommendations made by the BSC and BEC in turn, making a recommendation to the AO or delegated official to make the final award.
- 2.4.6 The Departmental Bid Committee must ensure that:
- (a) all necessary bid documents have been submitted;
  - (b) disqualifications are justified and that valid and accountable reasons/motivations were furnished for passing over of the bid;
  - (c) scoring has been fair, consistent and correctly calculated and applied;
  - (d) bidders' declarations of interests have been taken cognisance of, and
  - (e) ensure that all the recommendations of the SCM Committees complies with the applicable legislative and SCM Policy requirements, advertised bid criteria and due diligence requirements.
- 2.4.7 The relevant SCM Committees must also consider and rule on all recommendations/reports regarding the amendment, variation, extension / expansion, cancellation or transfer/cession/assignment of contracts awarded as per the delegated thresholds.
- 2.4.8 The Departmental Bid Committee also considers the tender specifications and evaluation criteria (excluding the written quotations specifications) as recommended by the BSC in order to ensure that
- (i) Proper and unbiased specifications were compiled for specific requirements;
  - (ii) Proper terms of reference were drawn up for the service required, clearly indicating the scope of the requirement, the evaluation criteria, as well as weights and values;
  - (iii) Strategic sourcing principles were applied and that the market was properly researched and analysed;
  - (iv) Necessary funds are available;
  - (v) The special conditions of contract, in addition to the general terms and conditions of contract, are appropriate, and
  - (vi) The appropriate preference point system is prescribed.
- 2.4.9 All members as well as the secretary of the SCM committees must be cleared at the level of 'Confidential' and must declare their financial interest and whether there may be any conflict of interest for each bid under consideration during the SCM Committees meetings.
- 2.4.10 Each member, as well as all officials rendering administrative support must sign a declaration of interest, impartiality and confidentiality at each of the SCM Committee meeting. Members are to declare that they will:

- a) accept the confidentiality of the meeting;
- b) not make known anything regarding the meeting, unless officially authorised;
- c) not purposefully favour or prejudice anyone;
- d) declare that they have no interest in companies that have submitted bids for consideration, nor will their close family members, partners, or associates have any interest in companies that have submitted bids for consideration.

2.4.11 If a bid other than the one recommended by the Bid Evaluation Committee is recommended by the Departmental Bid Committee, the reasons for such recommendation must be documented and the Accounting Officer or delegated official may after consideration of the reasons for the deviation, ratify or reject the recommendation of the Departmental Bid Committee.

2.4.12 If the Accounting Officer or delegated official approves a bid other than the one recommended by the Departmental Bid Committee, the Auditor-General, the Provincial Treasury and the National Treasury must be notified of the reasons for deviating from such recommendation.

2.4.13 The Accounting Officer or delegated official may, at any stage, refer any recommendation made by the Bid Evaluation Committee or the Departmental Bid Committee or relevant SCM Committee back to that committee for reconsideration.

## **2.5 QUOTATION COMMITTEES**

### **2.5.1 Head Office Quotation Committee**

2.5.1.1 The Head Office Quotation Committee (HOQC) must be established to consider all procurement requests above the value of R100 000 up to R1 Million (inclusive of all applicable taxes) and where required, RFQs or tenders for income-generating contracts.

2.5.1.2 The HOQC will consist of at least three (3) officials, plus a chairperson, appointed in writing by the Accounting Officer or delegated official. At least 50% plus 1 of members must be present when the HOQC execute their functions.

2.5.1.3 The Responsibility Manager who requires the goods/services or RFQs/tenders for income-generating contracts or a representative, will be co-opted to the meeting to give specialist or technical input in respect of the offers received.

2.5.1.4 The function of the HOQC is to consider the RFQs and recommendations made by the Buyer and where necessary, consider inputs from the end user of the goods or services to be procured or where required, tenders for income-generating contracts. This includes the consideration of:

- (a) all mandatory documentation and compliance verifications;
- (b) disqualifications and justifiable reasons were furnished for passing over bids;
- (c) point scoring has been fair, consistent and correctly calculated and applied;
- (d) evaluation of each bidder's ability to execute the contract by meeting the requirements set out in the bid evaluation criteria;
- (e) whether the quotation offers value for money;
- (f) any previous failure or success of contracts between the department and the quoting supplier has been considered;

- (g) the draft specifications prepared by the end user and Buyer where necessary, prior to advertising the RFQs;
- (h) verification of the evaluation criteria, and
- (i) all discussions and decisions taken are recorded by means of Minutes, signed by the secretariat and Chairperson.

2.5.1.5 The Chairperson of the HOQC may approve the award to the value above R100 000 up to R500 000 (inclusive of all applicable taxes) and where required, RFQs or tenders for income-generating contracts. The Deputy Director: SCM Operations may approve an award up to a value of R750 000 (inclusive of all applicable taxes) and where required, tenders for income-generating contracts. The Director: Procurement Management may approve an award up to a value of R1 Million (inclusive of all applicable taxes) and where required, tenders for income-generating contracts, subject to prior recommendation by the relevant HOQC or DBC where applicable.

2.5.1.6 The procurement of goods and services including the RFQs, including for income-generating procurement up to the value of R100 000 is not subject to the recommendation or approval of the Head Office Quotation Committee. The Assistant Director: Specifications and Quotations has the delegation to approve the award up to a value of R100 000 (inclusive of all applicable taxes) subject to evaluation and recommendation of the buyer. This will also be subject to the due diligence and compliance with the applicable SCM Policy requirements.

## **2.5.2 LTSM Quotation Committee (LTSM-QC)**

2.5.2.1 The LTSM Quotation Committee (LTSM-QC) must be established to consider all procurement for learner and teacher support materials, including, furniture and equipment, as and when required up to a value of R1 Million (inclusive of all applicable taxes). This may include RFQs for income-generating contracts.

2.5.2.2 The LTSM-QC will consist of at least three (3) officials, plus a chairperson, appointed in writing by the Accounting Officer or delegated official. At least 50% plus 1 of members must be present when the LTSM-QC execute their functions.

2.5.2.3 The Responsibility Manager who requires the goods/services or a representative, will be co-opted to the meeting to give specialist or technical input in respect of the offers received.

2.5.2.4 The function of the LTSM-QC is to consider the RFQs' and recommendations made by the Buyer and where necessary consider inputs from the end user of the goods or services to be procured. This includes the consideration of:

- (a) all mandatory documentation and compliance verifications;
- (b) disqualifications and justifiable reasons were furnished for passing over bids;
- (c) point scoring has been fair, consistent and correctly calculated and applied;
- (d) evaluation of each bidder's ability to execute the contract by meeting the requirements set out in the bid evaluation criteria;
- (e) whether the quotation offers value for money;
- (f) any previous failure or success of contracts between the department and the quoting supplier has been considered;

- (g) the draft specifications prepared by the end user and Buyer where necessary, prior to advertising the RFQs;
- (h) verification of the evaluation criteria, and
- (i) all discussions and decisions taken are recorded by means of Minutes, signed by the secretariat and Chairperson.

2.5.2.5 The Chairperson of the LTSM-QC may approve the award up to a value of R500 000 (inclusive of all applicable taxes). The Director: Institutional Resource Support may approve an award up to a value of R1 Million subject to prior recommendation by the relevant LTSM-QC or DBC where applicable.

### 2.5.3 Education District Offices (EDO) Quotation Committee(s)

2.5.3.1 The EDO Quotation Committees (EDO-QC) must be established to consider all procurement requests up to a value of R300 000 for general goods and services up to a value of R500 000 for Curriculum Interventions, Learner Transport Services and Security Services (inclusive of all applicable taxes).

2.5.3.2 The EDO-QC will consist of at least three (3) officials, plus a chairperson, appointed in writing by the Accounting Officer or delegated official. At least 50% plus 1 of members must be present when the EDO-QC execute their functions.

2.5.3.3 The Responsibility Manager who requires the goods/services or a representative, will be co-opted to the meeting to give specialist or technical input in respect of the offers received. The function of the EDO-QC is to consider the RFQs and recommendations made by the Buyer and where necessary consider inputs from the end user of the goods or services to be procured. This includes the consideration of:

- (a) all mandatory documentation and compliance verifications;
- (b) disqualifications and justifiable reasons were furnished for passing over bids;
- (c) point scoring has been fair, consistent and correctly calculated and applied;
- (d) evaluation of each bidder's ability to execute the contract by meeting the requirements set out in the bid evaluation criteria;
- (e) whether the quotation offers value for money;
- (f) any previous failure or success of contracts between the department and the quoting supplier has been considered;
- (g) the draft specifications prepared by the end user and Buyer where necessary, prior to advertising the RFQs;
- (h) verification of the evaluation criteria, and
- (i) all discussions and decisions taken are recorded by means of Minutes, signed by the secretariat and Chairperson. The Chairperson of the EDO-QC may approve the award up to a value of R300 000 (inclusive of all applicable taxes). The Director of the respective Education District Office may approve an award up to a value of R500 000 subject to prior recommendation by the relevant EDO-QC where applicable.

2.5.3.4 In instances where the price of the highest total preference point's scorer exceeds the delegation of the Chairperson of the EDO-QC, the recommendation must be submitted for approval to the Director of the respective Education District Office to approve an award up

to a value of R500 000 subject to prior recommendation by the relevant EDO-QC or DBC where applicable.

2.5.3.5 Should the value of the award exceed R500 000 as indicated above, the recommendation must be referred to the HOQC for consideration and approval by the delegated official.

2.5.3.6 In respect of the Quotation Committees at the Education District Offices, please refer to Chapter 25 of the AOS for the SCM processes.

## **2.6 STOCK-TAKE COMMITTEE**

2.6.1 A stock-take committee (STC) must be established for stock taking procedures. The STC must comprise at least three (3) officials, appointed in writing by the Accounting Officer or delegated official. At least [50% plus 1] of members must be present when committees execute their functions.

2.6.2 The functions of the stock-take committee will be to:

- a) Ensure that all moveable assets are subjected to the stock-take;
- b) Ensure that all moveable assets are physically counted and verified against the asset register;
- c) Ensure that all deficiencies and surpluses are recorded and investigated;
- d) Report on the outcome of the stock-take; and
- e) Plan for any continuous stock-take program, which must be approved by the Director: Procurement Management.

2.6.3 The committee shall meet as and when required and minutes of every meeting must be signed by the Chairperson and Secretary and filed for audit purposes.

## **2.7 DISPOSAL COMMITTEE**

2.7.1 The Accounting Officer or delegated official must appoint a Disposal Committee (DC) to dispose of the moveable assets of the Department. The Disposal Committee must comprise of at least three (3) officials plus a chairperson appointed in writing by the Accounting Officer or delegated official. At least [50% plus 1] of members must be present when committees execute their functions. Technical advisors or specialists may be co-opted in respect of the disposal of specific classes of assets.

2.7.2 The Chairperson who must be an official who has the required skill and competencies for moveable asset management and disposal procedures.

2.7.3 Appointed and Co-opted members who have sound knowledge of the moveable assets of the Department; and

2.7.4 Any conflict of interest related to the disposal of an asset must be declared.

2.7.5 The disposal of library material is dealt with by a separate disposal committee in the Directorate: Cape Learning and Teaching Institution.

- 2.7.6 The DC must, when disposing of office furniture in which employee documents are normally kept, inspect the furniture with care, to ascertain that they do not contain any employee documents. A comment confirming this must be noted on the disposal schedule.
- 2.7.7 The committee shall meet as and when required and minutes of every meeting must be signed by the Chairperson and Secretary and kept for record and audit purposes.
- 2.7.8 **Functions of the committee will be as follows:**
- (a) the Chairperson must determine the date when the assets earmarked for disposal have to be inspected and notify the committee members of the relevant details in writing;
  - (b) if the asset is determined to be redundant, obsolete, damaged or unserviceable, record substantiating reasons for same;
  - (c) motivate its recommendations for the disposal of the relevant assets to the relevant delegated officials;
  - (d) remove all barcode labels and cancel the government mark on assets with a cross ("X") to indicate that it is no longer State property; and
  - (e) maintain detailed records of all disposals for audit purposes;
  - (f) inspect the interior of furniture to ensure that they do not contain any official documents which may be lost in the disposal process.

## 2.8 NEGOTIATION COMMITTEE

- 2.8.1 This Negotiation Committee (NC) may be appointed by the Accounting Officer or delegated official for the purpose of negotiating a market-related price with tenderers as well as to negotiate with service providers/suppliers revised terms and conditions in respect of contracts which includes, but are not limited to, additional or decreased services/commodity quantities and increased or decreased prices in those cases where approval is given by the Accounting Officer to undertake such negotiation. At least [50% plus 1] of members must be present when committees execute their functions. The Accounting Officer or delegated official may appoint Ad hoc Negotiation Committee(s), as and when required, to consider and negotiate specific contract requirements.
- (a) Members of the committee must sign the prescribed declaration of interest form declaring their interest;
  - (b) The committee shall meet on an ad-hoc basis or as and when required;
  - (c) Minutes of every meeting shall be kept, and the Chairperson shall sign such minutes; and
  - (d) The Committee may make a recommendation to the Accounting Officer or delegated official for consideration and approval.

## 2.9 DUTIES AND POWERS OF THE VARIOUS COMMITTEE MEMBERS

### 2.9.1 Chairperson

- (a) The Chairperson:
  - (i) has a casting vote as well as a deliberate (ordinary) vote;
  - (ii) retains all his/her rights as a member;



- (iii) may adjourn a meeting;
  - (iv) may rule on points of order which will be final;
  - (v) may withdraw any proposal or other matter under discussion before it is put to the vote; and
  - (vi) convenes extraordinary or ad-hoc committee meetings on request.
- (b) The Chairperson must:
- (i) In the case of the Departmental Bid Committee, determine the dates for committee meetings for each financial year in consultation with the appointed committee members;
  - (ii) In the case of the other committees convene meetings as and when required;
  - (iii) maintain order during a meeting and ensure that business is conducted in an orderly manner;
  - (iv) before opening a meeting, ensure that it is properly constituted and that a quorum is in place;
  - (v) protect the rights of every member;
  - (vi) vacate his / her seat to the Vice Chairperson, should he/she wish to partake in a discussion in a partial manner;
  - (vii) regulate participation in discussions;
  - (viii) deal with items in the sequence of the agenda;
  - (ix) ensure that members know exactly what they are required to vote on;
  - (x) ensure that only one member holds the floor at any one time;
  - (xi) provide guidance by directing the meeting, but shall not dominate;
  - (xii) conduct meetings in a formal manner; and
  - (xiii) formulate clearly the decisions to be minuted, sign and approve the minutes after they have been verified for correctness.

### **2.9.2 Vice-Chairperson (where appointed)**

- (a) The Vice-Chairperson has the same powers and duties as those of members and in addition, where necessary, shall in the absence of the chairperson, preside as chairperson;
- (b) The Vice-Chairperson shall take the seat of and act as chairperson, should the chairperson wish to partake in partial discussions; and
- (c) In the event that both the Chairperson and Vice-Chairperson are absent from a meeting, the members present may elect one of their members to preside at such meeting.

### **2.9.3 Members**

- (a) Members of the SCM Committees shall:

- (i) be fully conversant with the powers and limitations of the Committee as well as all directives pertaining to SCM, including but not limited to, the relevant sections of the Constitution, Public Finance Management Act and accompanying Treasury Regulations, Preferential Procurement Policy Framework Act, Broad-Based Black Economic Empowerment Act and accompanying Regulations, all directives issued by National Treasury/relevant Provincial Treasury as well as the delegated powers issued by the Accounting Officer or delegated official and at all times act in accordance with the above-mentioned legislation and procedures;
  - (ii) apply their minds to matters at hand in order to take meaningful and accountable decisions and in the event of doubt or uncertainty, to propose that matters be referred back for clarification;
  - (iii) in advance, furnish a written apology should he/she not be able to attend a meeting;
  - (iv) strive to be punctual for meetings and to be present for the duration of a meeting;
  - (v) prepare properly for each meeting by studying the agenda and submissions/reports;
  - (vi) be familiar with meeting procedures in order to make a contribution in the correct manner; and
- (b) Members have the right to:
- (i) have advance knowledge of the agenda;
  - (ii) submit proposals and participate in proceedings;
  - (iii) vote;
  - (iv) have a dissenting voice/vote; and
  - (v) have the reasons therefore recorded.

#### **2.9.4 Co-opted members/advisors**

- (a) Co-opted members/advisors have the same powers and duties as members and secundus excluding the right to vote on any matter under discussion.
- (b) Members and secundus of the Bid Evaluation Committee may present their recommendations / reports to the Bid Committee and clarify any issues but shall not have any voting powers.

#### **2.9.5 Observers**

The Chairperson may, on request, allow officials to attend a meeting as observers. Observers have no participation in the proceedings, except to advise the representative (member) or the committee if permitted by the Chairperson. Observers should be cautioned to maintain the confidentiality of the discussions.

#### **2.10 Administrative and Secretarial Support**

- (a) The Secretary must:
  - (i) In conjunction with the Chairperson / Vice-Chairperson compile an agenda for, and determine dates of, meetings;
  - (ii) Give notice of proposed meetings to committee members;

- (iii) Process and distribute all submissions/reports together with the agenda to committee members at least three (3) working days before the actual meeting takes place;
- (iv) Minute all decisions taken at meetings;
- (v) Adhere strictly to the requirements of the National Archives of South Africa Act, No. 43 of 1996 and accompanying directives;
- (vi) Ensure that the proceedings at meetings are recorded;
- (vii) Give written feedback of all decisions taken by the committee; and be responsible for all the administrative tasks of the Committee.
- (viii) Adhere strictly to the stipulations of the National Archives of South Africa Act, 1996 (Act 43 of 1996) and the Provincial Archives and Records Service of the Western Cape Act, 2005 (Act 3 of 2005);
- (ix) If information is appropriately requested from the committee by the department, provide written feedback of all decisions taken by the committee.

## **2.11 Ad Hoc and Specialised SCM Committees**

The Accounting Officer or delegated official may appoint *Ad hoc* and/or Specialised SCM Committees as and when required.

## **CHAPTER 3**

### **ETHICAL STANDARDS**

#### **3.1 COMPLIANCE WITH ETHICAL STANDARDS**

- 3.1.1 The Department expects that all members of staff involved in the procurement processes possess a high level of professionalism and integrity. It must be borne in mind that all SCM practitioners are responsible for the successful implementation of the initiative pertaining to Preferential Procurement. SCM practitioners have a duty to ensure that the system is not abused for any purpose, neither for the sake of the Department nor for any potential contractor/service provider.
- 3.1.2 Any employee suspected of acting contrary to this, will be dealt with in terms of the relevant prescripts and disciplinary procedures. The behaviour of all personnel will be based on the following:
- (a) open, honest and co-operative business relations with colleagues and vendors;
  - (b) confidentiality of both government and commercial information;
  - (c) avoidance of conflict of interest or a perception of bias and disclosure of such to the Head of the SCM unit(s);
  - (d) fair dealings and impartial conduct in the evaluation of bids;
  - (e) high standards of professionalism and competence as well as the encouragement of similar standards amongst colleagues;
  - (f) mutual trust and respect;
  - (g) an environment where business can be conducted with integrity and in a fair and reasonable manner;
  - (h) recognizing and dealing with conflicts or the potential thereof;
  - (i) dealing with suppliers even-handedly;
  - (j) ensuring that they do not compromise the good standing of the state through acts of impropriety, which may arise from the acceptance of gifts and hospitality;
  - (k) the scrupulous use of public property; and
  - (l) providing assistance in the elimination of fraud and corruption.
- 3.1.3 The Accounting Officer or delegated official has the right to request security clearance for any serving or newly appointed official involved in Supply Chain Management.

#### **3.2 CONFIDENTIALITY**

- 3.2.1 Prices, terms and conditions under which many of the suppliers to the Department trade may contain commercially sensitive information. Officials are issued with and given access to these and other official contracts on the understanding that confidentiality is strictly observed.

- 3.2.2 Under no circumstances should any contractual or pricing information be divulged to external sources or used as a “benchmark” for independent negotiation. Divulging such information undermines the Department's reputation as an honest and responsible organisation and can affect the stability of professionally negotiated contracts. There may also be issues associated with breach of contract.

### **3.3 CODE OF CONDUCT/ETHICS FOR SCM PRACTITIONERS**

- 3.3.1 SCM practitioners should ensure that they perform their duties effectively and with integrity, in accordance with the relevant legislation, including the Public Service Regulations issued by the Department of Public Service and Administration, National Treasury Regulations, Provincial Treasury Instructions (PTI's) and directives issued by the Accounting Officer. SCM practitioners should also ensure that public resources are administered responsibly.
- 3.3.2 Practitioners should, at all times, be fair and impartial in the performance of their functions. At no time should any undue preferential treatment be given, to any group or individual. Nor should practitioners unfairly discriminate against any group or individual. Practitioners should not abuse the power and authority vested in them.
- 3.3.3 Practitioners should comply with the Code of Conduct for the Public Service as contained in Chapter 2 of the Public Service Regulations, 2017 and the Code of Ethics as contained in Paragraph 3.8.1 of the PTI's 2019.
- 3.3.4 Practitioners should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties. Practitioners should declare any business, commercial and financial interests or activities undertaken for financial gain that may raise a possible conflict of interest.
- 3.3.5 Practitioners should not take improper advantage of their previous office after leaving their official position.
- 3.3.6 Practitioners are accountable for their decisions and actions to the public and should use public property scrupulously.
- 3.3.7 Only the Accounting Officer or delegated official has the authority to commit the government to any transaction for the procurement of goods and/or services. All transactions conducted by a SCM practitioner should be recorded and accounted for in an appropriate accounting system. Practitioners should not make false or misleading entries into such a system for any reason whatsoever.
- 3.3.8 SCM Practitioners should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only if it is in the public interest to do so.
- 3.3.9 Any information that is the property of the government or its supplier should be protected at all times. No information regarding any bid/contract / bidder/contractor may be revealed if such an action will infringe on the relevant bidder's/contractor's personal rights.
- 3.3.10 Matters of confidential nature in the possession of supply chain practitioners should be kept confidential unless legislation, the performance of duty or the provisions of law requires otherwise.

### **3.4 CONFLICT OF INTEREST**

- 3.4.1 It will be expected that every official involved in supply chain management activities, be it in the development of specifications or management of a contract, sign the code of conduct document as issued by the National Treasury.

Each official involved with the SCM functions and in the line of decision-making will annually be issued with a code of conduct which is to be duly signed by the relevant official and retained for audit purposes. In addition, it will be expected that every official involved in the BSC, BEC, DBC and QC meetings and functions will declare his/her interest each and every time he/she is involved with a procurement related matter, declare any business, commercial interest or financial interest and/or activities undertaken for financial gain that may give rise to a possible conflict of interest as prescribed by the Accounting Officer or delegated official.

### **3.5 GRATIFICATIONS, HOSPITALITY AND GIFTS**

- 3.5.1 The provision of hospitality by suppliers may represent an attempt to circumvent the rules on acceptance of gifts. While modest hospitality may be accepted, its frequency and scale should not be significantly greater than that which the Department would be likely to provide in return.
- 3.5.2 The basic rule is that no gift or money should be accepted. The only possible exception to this rule, are gifts of an inexpensive/seasonal nature such as business diaries, calendars or pens. If accepted, it should be done in accordance with the Departmental Policy on the Acceptance of Gifts by Office based Officials and the extent of the gift should not be so substantial as to lead the reasonable person to believe that it would have had an impact on the decision-making process. Officials may accept small gifts not exceeding R350.00 in value, but officials must ensure that such gifts are duly recorded in the gift register. Should an official receive a gift of a value in excess of R350.00, the gift must be recorded in the Gift Register and the Accounting Officer or delegated official must be requested to condone the receipt of such a gift.
- 3.5.3 The details of any gift that has been accepted must be disclosed in a register administered by a relevant official of the Department, regardless of the value of such gift. The offer of small gifts is an accepted part of commercial life and care must be taken not to offend or damage relationships with suppliers when explaining that acceptance is contrary to the Department's normal practice.
- 3.5.4 Any attempts by suppliers to undermine the honesty of the official by the offering of gifts or other incentives must be reported to the Accounting Officer or delegated official. If doubt exists whether the gift may be accepted, it should rather be declined or referred to senior management.

# CHAPTER 4

## SYSTEMS

### 4.1 INTRODUCTION

- 4.1.1 This chapter deals generically with provincially operated systems that are utilised in the supply chain management and asset management domain. Currently, all Provincial departments are utilising a combination of the Logistical Information System (LOGIS) and e-Procurement Solution (ePS) for their procurement and provisioning requirements.
- 4.1.2 The two systems work hand-in glove to help control the purchasing, retention and disposal of moveable assets in the WCG. First the e-Procurement Solution (ePS) assists procurement by providing an internet-based sourcing solution for obtaining quotations and bids. Secondly, the Logistical Information System (LOGIS) facilitates provisioning and ordering.

### 4.2 LOGISTICAL INFORMATION SYSTEM

- 4.2.1 In order to impact on SCM in its totality, it is required that the operating systems for SCM also be fully aligned to the policy and regulatory frameworks that are currently being reviewed and refined.
- 4.2.2 To align policy and regulatory frameworks, the Provincial and National Treasuries will conduct a systems gap analysis on LOGIS to identify key areas for development that speaks to data integrity, internal control and segregation of duties, standardisation of mandatory systems and reporting requirements.
- 4.2.3 LOGIS remains the provisioning system of the department which is operational in the financial environment and accompanying delegations. The process of ordering goods and/or services follows the departments procurement process, and both are part of the departments SCM process.
- 4.2.4 The department must ensure that institutional policies and standard operating procedures are developed, implemented and maintained for efficient and effective utilisation of LOGIS within the department.
- 4.2.5 The policies and standard operating procedures referred to in paragraph 4.2.4 must provide for, amongst others, the following:
- (a) setting up of new users;
  - (b) amendments due to transfer or relocation of employees and termination of service;
  - (c) identification of inactive user accounts;
  - (d) regular verification of validity of access;
  - (e) access control to the system;
  - (f) responsibilities of individual users;
  - (g) investigation of suspicious transactions; and
  - (h) co-ordination of formal training of system users.

- 4.2.6 The transfer of system access control functions to the Provincial Treasury has enforced the following processes and procedures which are further enforced by the LOGIS User Account Management Policy attached as **Addendum 29**:
- (a) Implement a generic policy pertaining to access and system security;
  - (b) Standardise system structures throughout departments to facilitate management information and reporting requirements;
  - (c) Limit / refuse access to new/ current users who have not completed the required formal training and acquired the requisite degree of competency in accordance with his / her profile;
  - (d) Implement effective user account management;
  - (e) Standardise user I.D's to PERSAL number;
  - (f) Standardise password length;
  - (g) Login password expiry period;
  - (h) Deactivate dormant as well as users who have left the system;
  - (i) Verify and monitor that resubmission queues and exceptions are addressed as a matter of urgency; and
  - (j) Catalogue / request reports on a monthly basis that require ongoing attention by departments / institutions e.g. payments outstanding / older than thirty (30) days.
- 4.2.7 Further refinement of policy and procedures in respect of the utilisation of the systems and monitoring thereof by the Provincial Treasury will ensure:
- (a) Enforcement and adherence to system requirements;
  - (b) Segregation of duties in respect of requisitioning and approvals;
  - (c) Better control measures that will result in efficient and effective systems' utilisation whilst the Province is preparing for the implementation of the National Integrated Financial Management Solutions; and
  - (d) Consolidation of access control and systems configuration.
- 4.2.8 The AO of the department must appoint a departmental LOGIS system controller or administrator, in writing, whose responsibilities must include the following:
- (a) ensure compliance to departmental policies and standard operating procedures;
  - (b) orientation of system users;
  - (c) identification of training needs and the roll-out of appropriate training or interventions;
  - (d) evaluate and recommend system enhancements;
  - (e) monitoring of effective utilisation of the system at departmental level;
  - (f) the issuing of system notices, circulars and to emphasise issues that require attention;
  - (g) compilation and maintenance of standard operating procedures;
  - (h) liaison with Provincial Treasury, where applicable; and



- (i) render an institutional user support (helpdesk) function including assisting with the LOGIS SCM functions for the placing and authorising of official orders and pre-authorisation of payments.

4.2.9 The department must also ensure that:

- a. Where necessary, all goods or services are procured and accounted for on the logistical information system, whether transversal or in-house, utilised by the department;
- b. only the current years' projected expenditure in respect of a long-term contract is committed in the current financial year; and
- c. the relevant system utilised provides for, in addition to an invoice date, for an invoice receipt date, which must be captured on the system.

4.2.10 The system controller or administrator must ensure that new and current system users are subject to formal training in at least the system profile allocated to them to ensure the correct and optimal utilisation of the system.

### **4.3 ALTERNATIVE SYSTEMS SUITE**

4.3.1 Given the delays in the implementation of the Integrated Financial Management Solutions (IFMS) by the National Treasury, it has become necessary for the Provincial Treasury to consider alternative options for the Province in order to give effect to the improvements it had been planning from a systems perspective. This has resulted in a series of engagements with National Treasury.

4.3.2 The following approach was adopted by Provincial Treasury:

- (a) Give effect to all compulsory / mandatory fields identified for LOGIS; and
- (b) As a last resort, reserve the option to acquire an e-Procurement system if the combination initiatives referred to above do not deliver the desired results.

4.3.3 All processes will run concurrently thereby allowing the Province to give effect to envisaged improvements for SCM from a systems' perspective as well as simultaneously prepare for the implementation of the IFMS.

### **4.4 E-PROCUREMENT SOLUTION (ePS)**

4.4.1 The Provincial Treasury implemented the electronic procurement system in the Western Cape Government as part of the overall Western Cape Government Strategy to improve how business interact with the WCG in the procurement process using technology as an enabler as it relates to the procurement of formal quotations.

4.4.2 The e-Procurement Solution (ePS) currently facilitates the procurement of goods and services and infrastructure procurement up to R1 000 000 (inclusive of all applicable taxes). The e-Procurement Solution (ePS), is in line with government's overall strategy to achieve continuing improvement in value for money, enhance competitiveness of suppliers, and provide business communities with a convenient and effective medium, through which companies and individuals alike, could identify and exploit business opportunities, the new ePS has been implemented since 1 December 2021.

- 4.4.3 The Provincial Treasury is responsible for the implementation and maintenance of the ePS, which provides for:
- (a) a supplier evidence bank as a central repository of governance documentation;
- 4.4.4 The ePS must primarily be utilised for invitation of written price quotations (competitive and limited), the receipt thereof and the adjudication of bids submitted by suppliers. The system will default to the below minimum advertising periods linked to relevant procurement threshold. NB: Departments and public entities are required to review the need for adjusting the acceptable timeframes per procurement threshold bearing in mind the adequacy of response times in order for a supplier to appropriately respond to a Request for Quotation:
- i. As per paragraph 5.5.2 (a) and (b) of the Provincial Treasury Instructions, 2019 it is currently a discretionary requirement to utilise the ePS for requirements between R2 000 and R10 000. Where institutions opt to utilise the ePS for procurement between R2 000 and R10 000 (VAT inclusive), such requirement must be advertised for a minimum period of 24 hours;
  - ii. procurement above R10 000 and up to R30 000 (VAT inclusive) must be advertised for a minimum period of 24 hours;
  - iii. the invitation of price quotations above R30 000 and up to R500 000 (VAT inclusive) must be advertised for a minimum period of 48 hours; and
  - iv. all procurement above R500 000 and
  - v. to a maximum of R1 Million (Vat inclusive) must be advertised for a minimum period of seven (7) days.
- 4.4.5 The ePS allow for shortened advertising periods where approval has been granted by the delegated authority for such shortened advertising periods or in respect of emergency procurement. Institutions will be required to select the appropriate reason on the system for the shortened advertising period and will be required to upload the supporting evidence at the finalisation of the RFQ phase. The Department may also allow for shortened advertising periods for urgent cases, as and when required.
- 4.4.6 In the interest of fairness, transparency and competitiveness RFQs (excluding shortened advertised period RFQs) may only be published before 20h00 on weekdays (excluding public holidays) to ensure suppliers are afforded a reasonable timeframe to submit offers during working hours. It must also be noted that the ePS defaults to a weekday (excluding public holidays and weekends).
- 4.4.7 The limitations as per paragraph 4.4.6 above, do not apply to shortened advertising periods as such can be advertised between one (1) and forty-seven (47) hours for quotations above R30 000 and up to R500 000 and between one (1) and six (6) days for procurement above R500 000 and up to a maximum of R1 million, where such approval has been granted by the AO or delegated official to ensure service delivery requirements are met specifically in cases of emergency procurement or urgent cases.
- 4.4.8 The Provincial Treasury ePS Business Processes (**Addendum 37**) for the further requirements and revised cancellation (**Addendum 38**) process/ workflow is attached hereto.
- 4.4.9 All prospective suppliers intending to do business with the Western Cape Government via the ePS must complete a registration process on the ePS as determined from time to time by the Provincial Treasury.
- 4.4.10 Departments may only do business with suppliers that are registered on the ePS. This requirement does, however, not apply when procuring:
- (a) through petty cash or written quotations outside the ePS;
  - (b) from foreign suppliers with no local registered entity; and

(c) any other entity, as may be directed by National Treasury from time to time.

4.4.11 It is incumbent on institutions to advise their current or prospective suppliers to register on the ePS.

4.4.12 The value and benefits of the ePS for business and departments include the following:

**(a) Business**

- (i) Bringing business opportunities within the reach of a larger audience, inclusive of smaller and emerging businesses, thereby stimulating broader spectrum competition; automation of manual processes (streamlining of the procurement processes);
- (ii) Promotes greater understanding and responsiveness amongst buyers, suppliers and other partners in the supply chain process;
- (iii) Limits the risk of irregularities / fraud in the process as only quotations received via the ePS are accepted;
- (iv) Suppliers need only register once and maintain their profile whilst doing business with all Provincial Departments;
- (v) Suppliers are notified by automatic alerts when mandatory documents are about to expire; and
- (vi) The PT Helpdesk and support available on working days from 08:00 – 17:00.

4.4.13 Access to the bid invitations is via a web-based application to suppliers who are duly registered on the Western Cape Supplier Evidence Bank (WCSEB). Access to this is free to the supplier and all that is required is an actively registered status on the WCSEB.

**(b) Departments**

- (i) Automation of manual procurement processes (improved productivity, reduction in paperwork and telephone, fax costs, etc.);
- (ii) Compliance to Section 217 of the Constitution;
- (iii) Sustainable preferential procurement strategy in place to support Small, Medium and Micro Enterprises (SMME's);
- (iv) Up to date and verified supplier information held centrally (valid tax clearance certificate, tax compliance status certificate (not housed on the WCSEB), company registration documents, etc.);
- (v) Fair and transparent system that limits the possibility of irregularities/ fraud and collusion between suppliers and departmental staff (quotes cannot be viewed or printed until the closing date/ time);
- (vi) Facilitates and streamlines provincial internal control processes;
- (vii) Request for quotations (RFQ's) are automatically scored in line with the PPPFA requirements;
- (viii) Provision of appropriate and accurate management information;
- (ix) Audit trail of all transactions; and
- (x) User account management functionalities.

4.4.14 The roles and responsibilities pertaining to the ePS for the SCM units in the department are as follows:

- (i) Orientation of departmental system users
- (ii) Identification of training needs and provide person-to-person training
- (iii) Evaluate and recommend system enhancements
- (iv) Distribute system notice/ circular and emphasise issues that require attention
- (v) Monitor effective utilisation of the system on departmental & institutional level
- (vi) Responsibility for the compilation and maintenance of the departmental manuals and procedures
- (vii) Liaison between departmental system users and Provincial Treasury
- (viii) Render a departmental user support and where necessary refer enquiries to the PT helpdesk.
- (ix) Inform Provincial Treasury of dormant users on the system as well as users who have left the system
- (x) Scheduling/ request specific reports on a monthly basis that requires on-going attention of departments/ institutions

#### **4.5 WESTERN CAPE SUPPLIER EVIDENCE BANK (WCSEB)**

- 4.5.1 The ePS provide for the integration of the Central Supplier Database (CSD) information into the Western Cape Supplier Evidence Bank (WCSEB) housed on the ePS.
- 4.5.2 The evidence bank serves as a central repository of governance documentation to support the WCG to comply with the regulatory framework for supply chain management.
- 4.5.3 The required data and supporting documentation, housed as attachments within the WCSEB, will be verified by Provincial Treasury and if the minimum mandatory requirements are met, a supplier's profile will be approved. The WCG requires that the supplier profiles are maintained and that suppliers are notified when their Tax Compliance status and WCBD 4 and / or BB-BEE status level of contribution certificate are about to expire, within an agreed timeframe prior to expiry. Before a supplier starts the registration process, the supplier needs to accept the Terms & Conditions as stipulated by Western Cape Provincial Treasury.
- 4.5.4 The status of suppliers listed on the National Treasury's database of tender defaulters will be housed on the ePS. Departments may not under any circumstances procure from a supplier listed on the tender defaulter database.
- 4.5.5 The status of suppliers listed on the National Treasury's Register of Restricted Suppliers will be housed on the ePS, however, it remains incumbent on institutions to check the National Treasury register of restricted suppliers on the National Treasury's website before the conclusion of any procurement process. For suppliers listed as restricted, departments must apply due diligence and risk assessment before deciding to proceed with procurement from any such supplier.
- 4.5.6 For the purpose of checking the business interest of employees who are in the service of the state, in suppliers doing business with the Western Cape Government, employee information from CSD will be housed on the ePS.

- 4.5.7 A supplier's profile will only be suspended on the Western Cape Supplier Evidence Bank Database due to:
- (a) An outdated WCBD 4 (Declaration of Interest).
  - (b) Suspended Supplier responses will be made non-compliant to quotation requests by departments.
- 4.5.8 There are procedures for supplier verification on the CSD and WCSEB when procuring via the informal quotation, formal quotation and emergency procurement or urgent case procurement processes.
- (a) If a supplier is not registered on the CSD and WCSEB, the identified supplier must be notified that it must register on both the CSD and WCSEB within seven (7) calendar days of the date of order;
  - (b) If a supplier is suspended on the WCSEB, the supplier must be requested to submit the original and valid WCBD 4 (valid for one year), and where applicable, BB-BEE certificate together with the WCBD 6.1 and the department will avail same to the Provincial Treasury to uplift the suspension on the WCSEB;
  - (c) If a supplier is only registered on the CSD, the supplier may also register on the WCSEB within seven (7) calendar days before the award of the contract;
  - (d) If a supplier is not registered on the CSD but suspended on the WCSEB, the department must obtain the documents in paragraph (b) above. The supplier must register on the CSD within seven (7) calendar days of the date of order;
  - (e) At the time of the awarding of the contract, the bidder must provide written evidence that confirms its tax status. A supplier will no longer be suspended for a non-compliant tax status on the WCSEB. The tax status will be verified via a live link on the CSD that will be available on the WCSEB.
  - (f) The CSD and WCSEB will not apply when procuring via petty cash.
  - (g) Foreign suppliers with a local registered entity are required to register on the CSD and WCSEB, which means that foreign suppliers with no local registered entity/office are excluded from the compulsory registration requirement on the CSD and WCSEB.

## **4.6 CENTRAL SUPPLIER DATABASE (CSD)**

- 4.6.1 The National Treasury has implemented the Central Supplier Database (CSD) since 1 April 2016 to serve as the master data source for all supplier information for all spheres of Government.
- 4.6.2 The purpose of centralising Governments supplier database is to reduce duplications of effort and cost for both supplier and Government, whilst at the same time enabling electronic procurement processes.
- 4.6.3 The CSD currently has several interfaces and linkages with various government departments and agencies which serve as a source for supplier information that augment supplier profiles stored on the CSD.
- 4.6.4 It is currently a mandatory requirement for suppliers to register on the CSD. This requirement, however, does not apply when procuring through petty cash, sundry payments and from foreign suppliers with no local registered entity and any other entity, as may be directed by National Treasury from time to time.

- 4.6.5 If it is not possible to obtain quotations from the list of CSD suppliers, the department must conduct a market analysis to identify possible suppliers, record the process and submit the list of prospective suppliers identified through this analysis to the delegated official for approval.
- 4.6.6 In respect of emergency procurement and urgent case procurement, a supplier that is not registered on the CSD, must register as soon as possible but not later than seven (7) calendar days from the date of order, failing which, no further business may be conducted with such supplier until duly registered. The supplier may also be requested to register on the WCSEB, if required.
- 4.6.7 As opposed to the WCSEB, the CSD is not a repository of supplier information. Consequently, suppliers are required to submit hardcopies of compliance information which must be accessed and verified on the CSD. The key information of prospective suppliers that is to be verified are: Business registration including Directorship and Membership;
- (a) Bank account holder information;
  - (b) In the service of the State status;
  - (c) Tax compliance status;
  - (d) Identity number;
  - (e) BB-BEE status level of contribution;
  - (f) Tender defaulter and restriction status; and
  - (g) Any additional and supplementary verification information communicated by the National Treasury.
- 4.6.8 Proof of registration, certification or accreditation with any industry or board that is not provided by the CSD must be verified through the submission by a bidder of physical documentation and this must be verified through manual procedures.
- 4.6.9 When requesting bids, prospective suppliers must be informed through the tender documentation that they must be registered on the CSD prior to submitting bids, due to the integration of the CSD with LOGIS and BAS. The supplier needs to be duly registered at the time of award.

## **4.7 TAX MATTERS**

- 4.7.1 Status of tax affairs
- a) National Treasury Regulation 16A 9.1 (d) requires an accounting officer or accounting authority to reject any bid from a supplier who fails to provide written proof from SARS that a supplier either has no outstanding tax obligations or has made arrangements with SARS to meet outstanding tax obligations. This requirement has not been replaced or repealed.
  - b) It must be noted that on 18 April 2016, SARS introduced an enhanced tax compliance status system on e-Filing making it easier for taxpayers to manage their tax affairs. It is essential to ensure that persons conducting business with the state are tax compliant at the time of the award of bids as no bids may be awarded to persons who are not tax compliant.
  - c) Where a recommended bidder's tax compliance status cannot be verified or is non-compliant on the CSD, the bidder must be notified in writing of their non-compliant status and the bidder must be requested to submit written proof from SARS of their tax compliance status or proof that they have made an arrangement to meet their outstanding tax obligations within 7 working days. The bidder must thereafter provide the department with

proof of its tax compliance status. This must be verified by the department prior to the award via the CSD and or e-Filing. Any bidder failing to provide proof of tax compliance status on request must be regarded as non-compliant and their bid rejected.

#### 4.7.2 Determining the status of tax affairs

- (a) To assist the department to determine the status of a bidder's tax affairs, a bidder is required, as a bid condition, to register on the CSD and the ePS (if doing business via the ePS) and to provide a copy of their Master Registration Supplier Number (MAAA) on the CSD.
- (b) The bidder may also be requested to include a copy of their tax compliance status personal identification number ("PIN") for use on the e-filing system operated by SARS.
- (c) The tax compliance status of the recommended bidder must be verified either via the CSD or the tax compliance status PIN prior to the award of a bid. The institution must keep proof of this verification as it is critical for audit purposes.
- (d) The AO or their delegate must designate an employee, preferably from the department's SCM unit, to verify thereafter the tax compliance status of the bidder.
- (e) At the time of checking, the employee must take a printed screen view of the tax compliance status, with the time and date clearly indicated or a copy of the CSD report indicating the time and date upon verification. This must be printed and filed with the bidder's documents for auditing purposes.
- (f) If a bidder prints and files with its bid a tax clearance certificate issued by SARS on e-filing, the certificate will be accepted. However, it must be verified by the employee on the SARS e-filing system and the verification results filed by the employee with the bidder's documents as above.
- (g) There is no need to obtain proof of a supplier tax compliance status where goods and services are procured by institutions such as South African Embassies and Missions or any other South African office outside the borders of South Africa for use outside the country.

#### 4.7.3 Foreign suppliers

- (a) Where goods and services are procured from foreign suppliers who, at the time of the award, had existing tax obligations in South Africa, proof of that tax compliance must be obtained from the supplier in the same manner as for local suppliers.
- (b) Foreign suppliers with neither South African tax obligations nor a history of doing business in South Africa must complete the 'Questionnaire to bidding for foreign suppliers' on WCBD 1.
- (c) Where a recommendation for the award of bid has been made to a foreign bidder, the AO or their delegate must submit the bidder's completed WCBD1 to SARS at the following email address: [GovernmentInstitute@sars.gov.za](mailto:GovernmentInstitute@sars.gov.za) SARS will issue a confirmation of tax obligations letter to the AO or their delegate confirming whether or not the foreign entity has tax obligations in South Africa.

#### 4.7.4 Payment

- (a) If goods and services have been delivered to the satisfaction of the department, the service provider must be paid. Payment must not be delayed as a result of outstanding tax matters. These do not constitute a reason to withhold payment, unless otherwise directed by SARS.

## CHAPTER 5

# CONCEPT OF DEMAND MANAGEMENT

### 5.1 INTRODUCTION

- 5.1.1 Demand Management within Supply Chain Management (SCM) is an integral part of a series of cross-functional activities that contributes to achieving the strategic and operational commitments of the Department by understanding and planning what goods, works or services are delivered to the right place, in the right quantity, with the right quality, at the right cost and the right time and from the right source.
- 5.1.2 Demand Management is the first element of the SCM function and is a cross-functional exercise that brings the SCM Practitioner closer to the User, ensuring that value for money is achieved.
- 5.1.3 In Demand Management everything starts with the definition of the customer's service requirements i.e. required reaction time, lead-time reliability, back order and emergency order policies, etc.
- 5.1.4 If successful, the three principal goals of demand management will be met, namely: goods and services are delivered as originally envisaged, with a reliable standard of quality, and to the satisfaction of end-users.
- 5.1.5 Demand management ensures that controls exist for management to detect irregularities early and rectify them in a planned and orderly manner and to foster a culture of compliance, thereby assisting management to achieve its goals.
- 5.1.6 When the Department is planning and managing for results, it should:
- (a) Have a good understanding of the environment that it operates in;
  - (b) Have a clear vision of why it exists, what it needs to achieve and how much it is achieving;
  - (c) Plan the work whilst keeping in mind a clear set of objectives, activities, outputs, outcomes and measures of success;
  - (d) Deliver what has been planned – meeting budget, standards of timeliness, quality, accuracy and in a manner consistent with ethical practice;
  - (e) Take stock of progress by monitoring, measuring, reviewing and evaluating objectives, activities and outcomes;
  - (f) Learn from success(es) and failure(s) and modify processes accordingly;
  - (g) Report publicly on results to promote transparency; and
  - (h) Seek continuous improvement.

### 5.2 DEMAND MANAGEMENT ACTIVITIES

Demand Management includes the following activities:

- (a) Understanding future needs;
- (b) Identifying critical delivery dates;



- (c) Identifying the frequency of need;
- (d) Linking the requirement to the budget;
- (e) Analysing expenditure based on past spend patterns and future needs;
- (f) Determining the specifications;
- (g) Conducting a commodity analysis and checking for alternatives at least in the case of strategic purchases; and
- (h) Conducting an industry analysis in the case of strategic purchases.

### 5.3 PROCUREMENT STRATEGY

5.3.1 The Accounting Officer or delegated official must in terms of the PTIs develop and implement an SCM Procurement Strategy which will be reviewed as and when required when changed circumstance requires it to ensure its continued relevance. Such Strategy may include amongst other, the following:

- (a) Procurement vision of the Department;
- (b) Procurement goals and objectives linked to the Department's strategic objectives;
- (c) Commodity and market analysis in relation to the core functions of the Department;
- (d) Identified strategic and scarce commodities and procurement options;
- (e) Strategic partners where appropriate;
- (f) Stakeholder involvement in the supply chain cycle;
- (g) If required, consider empowerment impact assessments for procurement above an amount of R10 million;
- (h) Implementation of municipal regional indicators;
- (i) Identified cost drivers;
- (j) Risk analysis and mitigation measures; and
- (k) Goods and services or where required, tenders for income-generating contracts to be procured via multi-year contract term/period (at least a 3-year period), where practical; and
- (l) Where applicable, for planning in excess of the 3-year period;
- (m) Just-in-time delivery to reduce the amount of stock on hand.

5.3.2 The SCM Procurement Strategy is attached as **Addendum 2**. The Department may where necessary, develop commodity specific procurement strategies.

### 5.4 ANNUAL PROCUREMENT PLANNING

5.4.1 The Department must have an Annual Procurement Plan, which must be consistent with the Procurement Strategy/(ies) described in paragraph 5.3.1 and 5.3.2 above.

5.4.2 Procurement requirements are linked to the planning and budgeting process to ensure that these requirements are considered in the decision-making process when defining APP requirements and budgets associated with the delivery of such requirements.

5.4.3 The goal is to improve the management of supply chain and moveable assets through the promotion of enhanced procurement planning via strategic sourcing and to optimise the

collating and extraction of data that can lead to improved decision making and thereby ensuring efficiencies in spending and ultimately value for money.

- 5.4.4 The procurement plan must at least contain the following information:
- (a) Goods and services and where required, tenders for income-generating contracts to be procured;
  - (b) Method of Procurement;
  - (c) Timelines to execute the procurement action;
  - (d) Estimated value including all applicable taxes;
  - (e) Confirmation that funds are available; and
  - (f) The responsibility manager.
- 5.4.5 Procurement planning is one of the important sub-processes within Demand Management. Procurement planning will contribute to enhancement and achievement of service delivery objectives.
- 5.4.6 The development of a procurement plan therefore become essential to ensure that procurement activities are timeously executed, and contracts are ideally in place. This will ensure that service delivery commences timeously.
- 5.4.7 Procurement planning must be aligned with the financial year cycle and therefore Responsibility Managers become key drivers in the development of the plan. The linking of procurement requirements to the budget and budget planning process has become a key focus of the budgeting process. The Procurement Plan needs to be aligned with the Annual Performance Plan (APP).
- 5.4.8 Departments are required to capture their Annual Procurement Plan on the automated procurement planning toolkit (hereafter referred to the system).
- 5.4.9 The automated procurement planning toolkit intends to:
- (a) streamline and standardise the procurement planning process within the province to ensure uniformity;
  - (b) influence the budget process by linking procurement requirements to the budget process (draft budgets; final and adjustments budget);
  - (c) digitalisation of the annual procurement plan, quarterly progress report and contract register as well as the ability to extract exception reports and monitor progress on the execution of the procurement plan;
  - (d) utilisation of management performance information for improved decision-making;
  - (e) the ability to link procurement information to expenditure information;
  - (f) enable procurement efficiencies by providing information on spend patterns;
  - (g) enable commodity categorisation and development of sourcing strategies; and
  - (h) improve data integrity.
- 5.4.10 Closely allied to the procurement strategy for the Department is the annual procurement plan for the department. The annual procurement plan should provide a stable link between the strategic priorities and objectives and the detailed operational budget allocations and performance indicators that track delivery over the medium to long term.
- 5.4.11 The Annual Procurement Plan will be based on the Department's final budget submission. The system will provide a budget control sheet reflecting the budget allocations in the draft

and final budgets, in order to link the budget to actual procurement and flag any variances where planned procurement is over budget allocations.

- 5.4.12 The Department is required to submit the Annual Procurement Plan to the Provincial Treasury by 31 March annually via the system, reflecting the main areas of responsibility or service delivery within the department's mandate. All planned procurement of goods and services greater than R100 000 (incl. VAT) must be reflected on it.
- 5.4.13 The Annual Procurement Plan is also the first step in the procurement planning process. Ideally, the relationship that procurement employees have with line function/stakeholder branches/institutions within the department should be so close that they are involved at an early stage of the budgeting round and consulted on the likely cost of given purchases to feed into the budget.
- 5.4.14 In addition to its annual drafting, the department is also required to submit quarterly reports to the Provincial Treasury, by the 15th of the month following the end of the quarter, reporting on the progress of the execution of their procurement plans quarter-to-quarter via system. Monitoring of the procurement plan items is however an on-going process and not limited to end of the quarter and it is recommended that the procurement planning toolkit is updated as and when activities are completed within the procurement process.
- 5.4.15 Plans, however, change over a period of time. When government adopts a new policy that has a bearing on the department's objectives, the Annual Procurement Plan may need to be modified. However, this should generally be done only in response to a specific change in the department's mandate, and not simply because the implementation of a particular government policy is now a priority. In many instances, new policy initiatives relate to existing activities that already are reflected, or can be accommodated, in the existing budget.
- 5.4.16 In order to change the Annual Procurement Plan, proposed amendments (cancel, delay, adjust, remove or add items) must be captured on the system as and when required. The AO or their delegate must approve any amendments and then submit the approved amended annual procurement plan to the Provincial Treasury via the system with the quarterly progress report. This structure will ensure that all reporting is streamlined into a single, automated quarterly submission.
- 5.4.17 **Developing the annual procurement plan through the stakeholder engagement plan**
- (a) The Procurement Plan should be developed from the Departmental Strategic Plan and various planning frameworks that give effect to the service delivery mandate of the Department. The Procurement Plan provides the key link between the Department's objectives and its detailed operational budgets. To provide this link the Procurement Plan should reflect the main areas of responsibility or service delivery within the Department's mandate.
  - (b) Therefore, a stakeholder engagement plan must be developed to accompany the annual procurement plan. The system makes provision for a stakeholder engagement plan in order for the SCM unit to document activities required with line function and to track the progress thereof.
  - (c) Ideally those responsible to drive procurement in the Department should be involved at an early stage of the budgeting process and should be consulted on the likely cost of given purchases to feed into the budget.
  - (d) The relationship that procurement functionaries have with users is important. The users' primary function is to carry out their normal line function duties, but they play a critical role in the demand management process.

- (e) When considering demand planning, procurement functionaries must work with Responsibility Managers to encourage them to consider the process as a convenient and necessary means of achieving their objectives.

5.4.18 Managers/line functionaries in the demand planning process can be summarised as follows:

- (i) Identifying the requirements that they need to procure;
- (ii) Providing input to the annual Procurement Plan;
- (iii) Examining options for the goods, services and works required through the procurement process;
- (iv) Working with other stakeholders and procurement officers to combine requirements to achieve economies of scale;
- (v) Considering packaging options for the requirements with procurement and other stakeholders;
- (vi) Developing requirement specifications;
- (vii) Considering the analyses within individual procurement plans with procurement officers and other stakeholders;
- (viii) Timing their needs; and
- (ix) Weighing their needs against funds in their respective budgets.
- (x) plan with certainty and without surprises;
- (xi) time their procurement to meet their needs; and
- (xii) build effective partnerships with the SCM Unit and, in so doing, procure more effectively.

5.4.19 The Provincial procurement pre-populated template for the Procurement Plan was issued by Provincial Treasury and is attached as **Addendum 3**.

#### 5.4.20 **Developing of a SCM Performance Plan**

- (a) The Provincial Treasury provides departments with a SCM System Insight Report on a quarterly basis. The intent of the aforesaid report is to provide performance information in terms of Supply Chain Management performance to departments in order to improve planning and decision-making processes as well as to measure results or outcomes that has been achieved. This report may be used to inform or assist with the development of the SCM performance plan.

#### 5.4.21 **Advantages of the procurement planning process**

The advantages of the procurement planning process are as follows:

- (a) Links are forged between the users/line function, Management Accounting and procurement team from the earliest notion of there being a requirement. Procurement officials are then alerted to any information on the potential requirements.
- (b) Benefits of economies of scale are gained by uniting the requirements of different areas.
- (c) There are no surprises when requirements manifest themselves in later months.
- (d) Requirements can be timed to the year-end of economic operators that may be tendering so as to achieve better deals.

- (e) Everyone can plan and schedule resources for the coming year more effectively.
- (f) Periodic indicative notices can be published on the basis of the procurement plan (these are not obligatory but can help competition by pre-warning economic operators of new opportunities).
- (g) Cooperation with other contracting authorities is more fruitful.
- (h) The procurement plan is linked to the strategic plan of the department.

5.4.22 By not instituting procurement planning, the Department will inevitably experience the following consequences:

- (a) Stakeholders, the finance department and the procurement department would work in isolation, unaware of each other's needs.
- (b) Requirements would be received by the procurement unit, for which no pre-planning would have been possible.
- (c) Procurement officers would miss information on the potential requirements because they would not know that they existed.
- (d) The benefits of economies of scale would be lost because the requirements of different areas would be processed separately.
- (e) Requirements would not be timed to the year-end of potential economic operators and so better deals could not be achieved.
- (f) Resource scheduling would be difficult.
- (g) Periodic indicative notices would not be published as easily.
- (h) Cooperation with other contracting authorities would be more difficult as visibility of future needs would be limited.
- (i) There would be no Procurement Plan linked to the departmental strategic plan and Annual Performance Plan.

5.4.23 The primary concept of procurement is that advanced planning; scheduling and joint project approach will result in cost savings, more efficient and effective processes, and therefore increased value-for-money. Procurement planning also links the strategy of the Department to procurement activity and individual purchases.

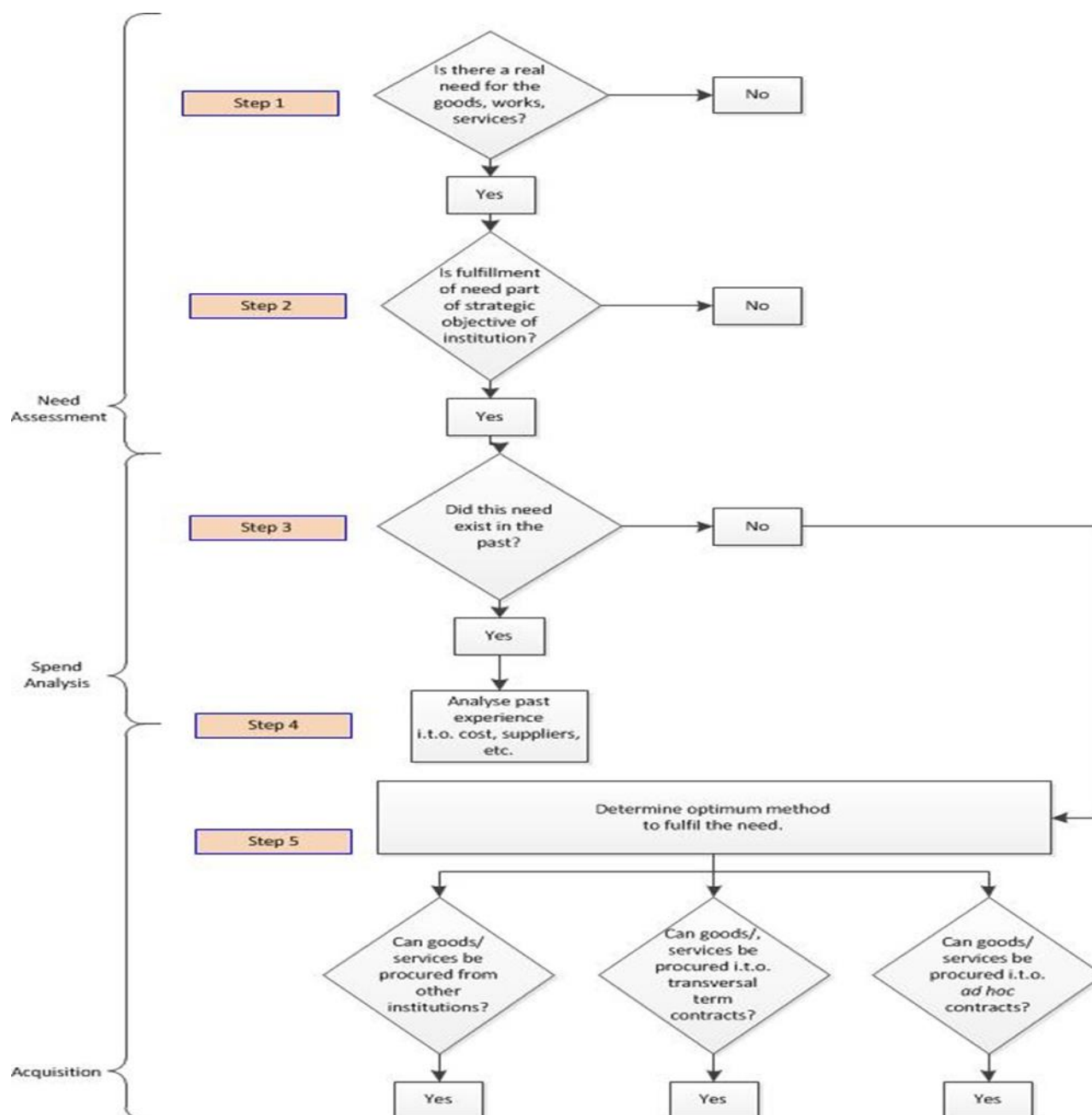
#### 5.4.24 **Role of users/line function during the planning stage**

- (a) The role of users in the procurement process covers the annual planning exercise and the completion of the specific procurement plan.
- (b) The users' primary function is to execute its line function duties. Their involvement in the demand planning process is for them a means to an end. SCM practitioners must treat users as customers/clients, albeit internally.

5.4.25 When considering demand planning, SCM practitioners must work with users to encourage them to consider the process as a convenient means of achieving their objectives.

## 5.5 DEMAND MANAGEMENT IN THE PROCUREMENT PROCESS

5.5.1 The following diagram – **Diagram 1**- depicts the Demand Management process:



## 5.6 IDENTIFICATION OF THE NEED

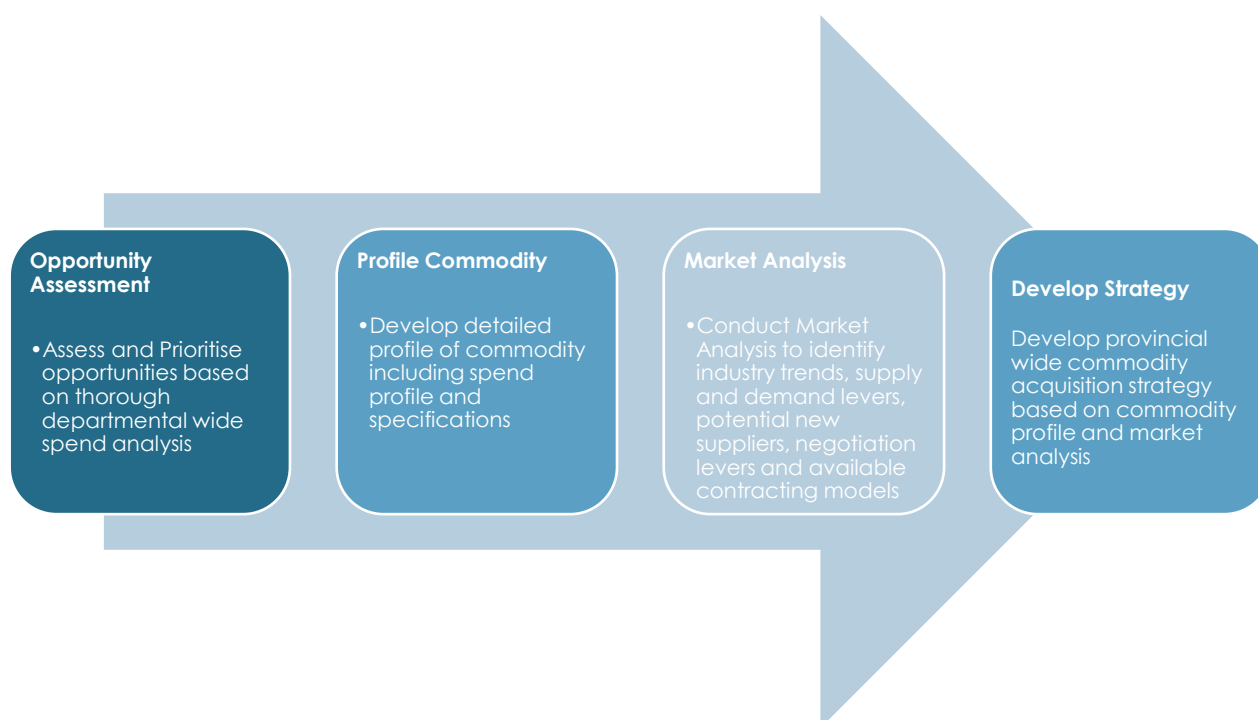
5.6.1 The Department needs to identify the goods and services required to achieve the outcomes envisaged in the Department's Strategic Plan. This is an exercise to be performed by the end user (programme manager/responsibility manager) in conjunction with the supply chain practitioner with the assistance of a technical strategic sourcing specialist / analyst as and when required. The aim is to ensure that value for money is achieved. Both current and future needs should be determined based on the Strategic Plan of the Department and included in the Procurement Plan.

5.6.2 These needs should be documented by the Responsibility Manager in the form of a business case and must contain the following:

- (a) High level statement of needs;
- (b) Links between the needs and the programme's strategic outcomes;
- (c) Comprehensive understanding of the market and operating environment;
- (d) Indication of whole-of-life costs;
- (e) cost/benefit analysis; and
- (f) risk analysis.

5.6.3 The following process may be used to guide conducting a commodity analysis at a high level:

**Diagram 2**

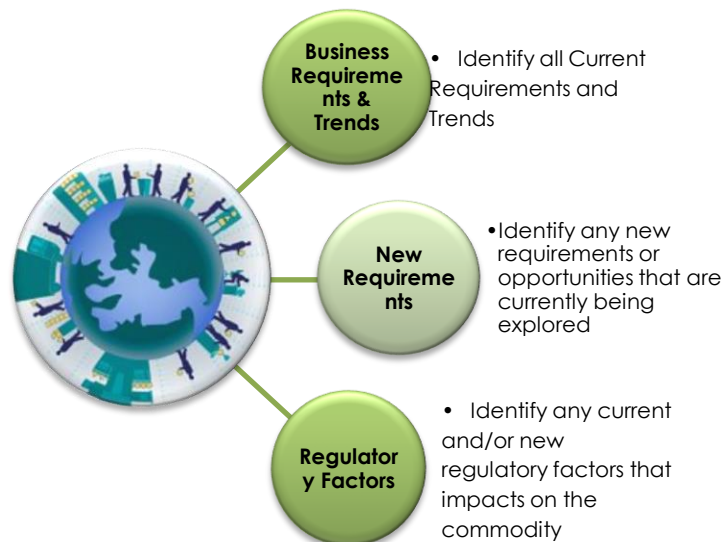


5.6.4 The following approach should be followed to develop the business case which should be per **commodity** (group of related items) and not per individual item.

**Table 1:**

STEP	ACTIVITY
a) <b>Identify the needs</b>	i) Consult with relevant stakeholders: perspectives, needs, wants, concerns, challenges, opportunities and risks; ii) Identify and prioritise the needs; and iii) Develop a high-level comprehensive statement of needs must at least cover the context in Diagram 2 hereunder
b) <b>Review previous procurements</b>	Review previous/current contract (if any) including: i) quality of delivery - on time, on budget, to specification; ii) calculate the whole-of-life cost; iii) supplier's performance; iv) performance in managing the contract and relationships with the supplier and stakeholders; v) benefits, assumptions, intended, and unintended consequences; and vi) opportunities for cost/efficiency benefits/gains.
c) <b>Supply positioning</b>	i) Research operating environment; ii) Identify strategic outcomes and specific business objectives that are to be addressed by the procurement. Also include current and future policy considerations; and iii) Identify sustainability opportunities/issues.

**Diagram 2:**



**5.6.5 Historical date and research**

5.6.5.1 A review of previous related procurement, from the identification of needs through to supplier selection, performance, and results, will greatly inform how to proceed with the project. The automated procurement planning toolkit, e-Procurement Solution, data extracts from LOGIS and BAS may be used for this purpose as well as any other tools the Department may have in place.



5.6.5.2 The review will be facilitated by actively seeking feedback from all stakeholders involved in the previous procurement process. The lessons learnt – both problems and successes - may inform and add value to the upcoming procurement. It may also be helpful to investigate the outcome of other departments' procurement processes for similar goods and services.

5.6.5.3 The context of the historical analysis may be guided by the following:

### Diagram 3:



## 5.6.6 Spend analysis

5.6.6.1 A spend analysis involves identifying all costs related to the delivery of the goods or services. The purpose is to quantify the whole-of-life costs and understand the trends in costs and spending. These figures should be compared with the actual or estimated budget reserved for procurement. If the figures do not match, reconsider the level of budget the department may require and follow the necessary approval processes in terms of adjustments to the budget. If the budget is fixed, the department may need to reconsider what level of needs can be met. The automated procurement planning toolkit, e-Procurement Solution, data extracts from LOGIS and BAS may be used for this purpose as well as any other tools the Department may have in place.

5.6.6.2 There are various tools that are available and that can be used by a department to conduct spend analysis and these include:

**Table 2**

Tools & Techniques	Description
<b>Pareto Analysis</b>	A ranking of spend and relevant data for a supply market category
<b>Trend Analysis</b>	To forecast demand (up to 3 years) to identify future requirements and assist in identifying specific areas for attention
<b>Variety Analysis</b>	Used to highlight potential for consolidating spend across a product range (e.g. through product standardisation)
<b>Spend Fragmentation Analysis</b>	Used to highlight potential for consolidating spend across the supply base divisions (e.g. supplier rationalisation, bringing spend under control of the purchasing department)
<b>Demand Analysis (budget)</b>	A review of expected annual demand to determine patterns of spend across divisions

\*Note that not all tools will be applicable to every supply market

### 5.6.7 Historic Spend

Analysing the spending on previous related procurement will allow for:

- a) understanding of the procurement volumes, economic cost drivers, users, etc.;
- b) patterns of price change by economic operator, by niche, to emerge;
- c) patterns of technology introduction to be seen; and
- d) changes in market to be detected.

## 5.7 MARKET ANALYSIS

5.7.1 The Responsibility Manager is required to complete a Business Case for procurement requests in excess of R100 000 which must contain the market analysis which he/she conducted in respect of the goods/services he/she requires. The Internet makes research a much easier option than it was previously.

5.7.2 Market research involves understanding;

- the full range of current and potential economic operators,
- current and potential products and services, and
- the nature and dynamics of the local and global markets involved, (i.e. cost drivers, name brands, alternatives, where is the market located, etc.).

5.7.3 The Department must not be limited to local country markets; the research may be extended to obtain regional and global information, bearing in mind that this also has costs involved as it relates to transport, rates of exchange, import duties and taxes, etc.). This research complements current knowledge and experience held by the contracting department which may be incomplete, fragmented or out-of-date. It aims to build a systematic, in-depth and comprehensive view of the market for the requirement in question.

5.7.4 A typical market analysis contains the following:

**Table 3:**

Market Segment	Market Indicators
<b>(a) Market profile</b>	<ul style="list-style-type: none"> <li><b>(i)</b> Market size, quantities, local, regional or international nature</li> <li><b>(ii)</b> Commodity make-up</li> <li><b>(iii)</b> Number of economic operators</li> <li><b>(iv)</b> Niches and specialist areas</li> </ul>
<b>(b) Market dynamics</b>	<ul style="list-style-type: none"> <li><b>(i)</b> Market cycles, natural and induced</li> <li><b>(ii)</b> Life cycles and how they are changing</li> <li><b>(iii)</b> New segments being created or old ones dying</li> <li><b>(iv)</b> Impact of current and future technology</li> <li><b>(v)</b> Growth or decline, segment differences</li> <li><b>(vi)</b> Profitability changes, where possible and relevant</li> </ul>
<b>(c) Market diversity</b>	<ul style="list-style-type: none"> <li><b>(i)</b> Fundamentals of supply and demand in the market</li> <li><b>(ii)</b> Changes in capacity – past, present</li> <li><b>(iii)</b> Changes in demand – past, present</li> <li><b>(iv)</b> Impact of transportation, energy, raw material cost shocks, labour costs, etc.</li> <li><b>(v)</b> Possible technology changes and cost implications</li> <li><b>(vi)</b> Substitutes and allied products available</li> <li><b>(vii)</b> Other products available that are not currently used</li> <li><b>(viii)</b> Value-added – what is available?</li> <li><b>(ix)</b> New/better options/uses being created by innovation and technology</li> <li><b>(x)</b> Location of key global geographic centres and currency and duty impacts</li> <li><b>(xi)</b> Geopolitical impacts, historical and future</li> <li><b>(xii)</b> Barriers to entry</li> </ul>

## 5.8 DEVELOPMENT OF SPECIFICATIONS/ TERMS OF REFERENCE (TOR)

- 5.8.1 The Business Case with the market analysis inform the development of the specifications detailing the nature and scope of the goods/services that will be required to satisfy the Department's needs.
- 5.8.2 The specification is the most important document within the tender process. It provides suppliers with a description of the services or goods required, to allow them to propose the most appropriate solution or products at the best price. It forms part of an invitation to bid document. The specification also becomes a key aspect of the contract, so it is important that the specification clearly defines the description of the goods and services.
- 5.8.3 In drafting the specifications, the following must be considered:
- (a) Why are we doing this?
  - (b) What results do we need to achieve?
  - (c) What goods or services are to be delivered?
  - (d) How will the goods or services be delivered?
  - (e) Where will the goods or services be delivered?
  - (f) When will the goods or services be delivered? – Term of Contract?
  - (g) To whom will the goods or services be delivered?
  - (h) What quality for the goods and services is required?
  - (i) How many goods or services are required?

(j) Who will be involved in the delivery?

5.8.4 Specifications may be written in various formats. Often the nature of the format will depend upon the type of procurement. Regardless of the format, however, the specifications all have the same aim: namely a description of the attributes of goods and services required by the department. Some popular formats include:

- (i) Terms of reference
- (ii) Description of services
- (iii) Scope of work
- (iv) Service specification
- (v) Specification of goods
- (vi) Statement of work
- (vii) Scope of requirements

5.8.5 Specifications may be very detailed identifying exactly how a product is used, and which features are most and least important. The following questions should be asked when developing specifications for goods/products and services:

- (i) What specifications are available on different products in the market?
- (ii) Are specifications for these products too high or too low?
- (iii) Are we buying features we do not need?
- (iv) What do the end-users value most: durability, effectiveness etc.?
- (v) Costs and benefits associated with features / services.
- (vi) What if certain features / services were removed (price saving)?
- (vii) Should specifications be drafted strictly or in ways that relax the requirement to meet the specification (i.e. depends on the nature of the good or service needed. The specification must be drafted to reflect the goods/services that are required.
- (viii) Conduct specification meeting before drafting bid documents.
- (ix) Are the specifications unambiguous? (i.e. should not be ambiguous).

5.8.6 Specifications must be written broadly enough to encourage competition. The specifications must not be so narrow that only a specific product can comply, nor may they be drafted around a specific brand. If, as an exception, a specific brand or trademark is used in the specification, it must be accompanied by the words "or similar" or "or equivalent" after the brand name or trademark, unless reasons for not doing so are provided in this respect.

5.8.7 Subjective factors inevitably play a role in the case of certain goods and services. These include aesthetic, personal taste, specific proven expertise, compatibility or creative thinking connected with certain services and compatibility of electronic equipment.

5.8.8 To an extent, these may be taken into consideration in drafting a specification, provided the following broad guidelines are adhered to:

**Table 4:**

SCENARIO	GUIDELINE
<b>Where visible or tangible factors are present, such as the colour or the style of furniture</b>	Being visible or tangible they can be specified and there is usually no reason why experts such as the SABS/SANS should not be approached in good time to draft proper specifications on the grounds of which sound evaluations and recommendations can be made on an organised basis and responsible decisions taken.
<b>Where compatibility with existing equipment is required</b>	Cases where the required item has to function together with existing equipment, such as office automation equipment: All requirements can be specified, one of which will be that the equipment must integrate with the existing equipment, which must also be specified. Naturally, this specific requirement in the specification will then be a primary criterion when adjudicating offers.
	Cases where the item is required as a direct component of existing equipment: The item is regarded as a proprietary spare part and is therefore so specified, with suitable motivation for the restriction of bids to one or more suppliers.
<b>Where the knowledge and/or skills of individuals or companies are required in respect of services, such as marketing services, facilitating services, etc.</b>	Although the field of creative thinking is involved here, the output which is desired can be specified and, for purposes of selecting a contractor, certain evaluation criteria can be specified together with weights (point values) attached to each criterion. Evaluation of offers in such cases is carried out by a panel of knowledgeable people. Each panel member individually evaluates and allocates points in respect of each criterion and the collective results of allocated points are accepted for final award. The individual allocations must form part of the permanent record of the bid.

5.8.9 In respect of technical equipment, apparatus, machinery and fragile goods, the following must be clearly specified so that they may be priced separately for evaluation purposes:

- a) whether installation/erection is required;
- b) whether training is required;
- c) whether servicing/maintenance is required;
- d) the guarantee that is required; and
- e) whether warranty is required for the equipment.

#### 5.8.10 Bidding criteria and their relationship to specifications

5.8.10.1 The bidding criteria are those requirements that a bid needs to meet before the bid may be considered valid and that bid may be evaluated further. They are scored as 'pass/fail' or 'yes/no'. An offer that fails to meet these conditions may be rejected as non-responsive.

5.8.10.2 The bidding criteria should be used considered carefully and the applicability to the critical requirements that are essential to the deliverables. There must be a causal link between the bidding criteria and the purpose for which it is used.

### 5.8.11 Evaluation criteria as part of specifications

5.8.11.1 Evaluation criteria as part of a specification also require that an evaluation methodology is decided upon. When specifications are compiled, the manner in which offers will be evaluated must be considered. In the aforementioned case the following procedure must be followed:

**Table 5:**

AREA	PROCEDURE
<b>Evaluation criteria</b>	<p><u>Establish evaluation criteria</u></p> <p>(a) Prioritise and weight the evaluation criteria.</p> <p>(b) Identify what due diligence checks are appropriate</p> <p>(c) Identify when each due diligence check will occur</p>
<b>Decide evaluation methodology</b>	<p><u>Decide on evaluation model: i.e. lowest price/weighted average etc.</u></p> <p>(a) Is a two-envelope system required;</p> <p>(b) Develop Rating Scale to guide evaluation panel scoring;</p> <p>(c) Determine panel decision making process: mathematical average/panel moderation;</p> <p>(d) Identify the information required from suppliers: supplier details/response to requirements/pricing/ format etc.</p> <p>(e) Identify any required additional steps: interview/presentation/site visit etc.</p> <p>(f) Identify any optional additional steps: reserve the right to interview/presentation/site visit etc.</p>

## 5.9 SUBMISSIONS OF REQUISITIONS

5.9.1 All requests for goods and/or services must be accompanied by the formal submission of the Requisition (LOG1) and supporting documents. Below are the requirements for each method of procurement:

METHOD OF PROCUREMENT	REQUIREMENTS
<p><b>Petty Cash</b> Goods and services may be procured by means of <b>petty cash up to the value of R2000 (inclusive of all applicable taxes)</b> without inviting price quotations or following a bidding process.</p> <p><b>(See Chapter 8 for further requirements)</b></p>	<ul style="list-style-type: none"> <li>• Requisition detailing goods/services required (LOG 1);</li> <li>• IMS Number (optional – for record keeping);</li> <li>• BAS allocation form (PGWC 002);</li> <li>• Valid and original quotation with: <ul style="list-style-type: none"> <li>• Validity period to be indicated;</li> <li>• Date of quotation,</li> <li>• Description and value of the goods/services, and</li> <li>• Signed by the service provider.</li> </ul> </li> </ul>

	Responsibility Managers are required to submit requests for petty cash <b><u>at least 14 days prior to the goods/service being required.</u></b>
<p><b>Written Price Quotations for goods and services below R5 000</b></p> <p><b>(See Chapter 9 for further requirements)</b></p>	<ul style="list-style-type: none"> <li>• Requisition detailing goods/services required (LOG 1);</li> <li>• IMS Number (optional – for record keeping);</li> <li>• BAS allocation form (PGWC 002);</li> <li>• At least 3 written quotations required from services providers registered on the CSD.</li> <li>• The written price quotations must be valid and original with: <ul style="list-style-type: none"> <li>• Validity period;</li> <li>• Date of quotation</li> <li>• Description and value of the goods/services, and</li> <li>• Signed by the service provider.</li> </ul> </li> </ul>
<p><b>Written Price Quotations above the transaction value of R2000 but not exceeding R1 000 000 (inclusive of all applicable taxes)</b></p> <p>Accounting officer or delegated official must invite written price quotations up to a value of R1 Million (inclusive of all applicable taxes) from prospective suppliers who are registered on the Central Supplier Database and the Western Cape Supplier Evidence Bank.</p> <p>The Written Price Quotations must primarily be sourced via the ePS.</p> <p>The following minimum number of days may apply when the Department procures goods or services:</p> <ul style="list-style-type: none"> <li>• R2000 and R10000 (VAT inclusive), such requirement must be advertised for a minimum period of 24 hours;</li> <li>• R10 000 and up to R30 000 (VAT inclusive) must be advertised for a minimum period of 24 hours;</li> <li>• R30 000 and up to R500 000 (VAT inclusive) must be advertised for a minimum period of 48 hours;</li> <li>• R500 000 and up to a maximum of R1 Million (VAT inclusive) must be advertised for a minimum period of seven (7) days.</li> </ul>	<ul style="list-style-type: none"> <li>• Requisition detailing goods/services required (LOG 1)</li> <li>• IMS Number (optional – for record keeping);</li> <li>• BAS Allocation form (PGWC 002)</li> <li>• Draft specification</li> <li>• If above R100k: <ul style="list-style-type: none"> <li>• Detailed description of the goods/services required as per the Procurement Plan (PP) entry;</li> <li>• Approved Procurement Plan line entry number;</li> <li>• Business Case signed on at least DDG level (R100 000 and above);</li> <li>• Approved memorandum/submission (reasons why it is necessary to procure the goods or services).</li> <li>• if not on Approved Procurement Plan, Change Request form (Addendum 36) signed by Accounting Officer.</li> <li>• Draft specification in a format of a WCBD3.4 when necessary.</li> </ul> </li> </ul> <p>The minimum timeline to complete the entire procurement process via written price quotations or ePS is <b><u>90 days</u></b>. This excludes written price quotations where goods or service required are of a technical nature or where specialist inputs are necessary.</p> <p>The envisaged timeline may vary depending on the type of procurement/commodity/category. The envisaged timeline will be consulted and agreed with the Responsibility Managers.</p>

<ul style="list-style-type: none"> <li>• Where deemed necessary, the department may request RFQ's from service providers registered on the CSD only.</li> <li>• Where it is impractical to utilize the ePS, written price quotations may be sourced from service providers registered on the CSD and where necessary, WCSEB. The reasons for not utilizing the ePS must be document and placed on file for audit and record purposes.</li> </ul> <p><b>(See Chapter 10 for further requirements)</b></p>	
<p><b>Above the transaction value of R1 Million (inclusive of all applicable taxes)</b></p> <p>Accounting officer or delegated official(s) must invite open competitive bids for all procurement above R1 Million (inclusive of all applicable taxes).</p> <p><b>(See Chapter 11 for further requirements)</b></p>	<ul style="list-style-type: none"> <li>• LOG 1 Requisition with the detailed description of the goods/services required as per the Approved Procurement Plan (PP) entry;</li> <li>• Approved Procurement Plan line entry number;</li> <li>• IMS Number (optional – for record keeping);</li> <li>• BAS allocation form (PGWC 002);</li> <li>• Draft specification in the format of WCBD 3.4;</li> <li>• Business Case signed on at least DDG level.</li> <li>• If not on procurement plan, Change Request form signed by Accounting Officer.</li> <li>• Approved memorandum/submission (reasons why it is necessary to procure the goods or services).</li> </ul> <p>The minimum timeline to complete the entire procurement process <b><u>above the transaction value of R1 Million is general bids = minimum 3 months and technical bids = minimum 6 months.</u></b></p> <p>The envisaged timeline may vary depending on the type of procurement/commodity/category. The envisaged timeline will be consulted and agreed with the Responsible Managers.</p>
<p><b>Contract items (Departmental, Provincial and Transversal Contracts)</b></p>	<ul style="list-style-type: none"> <li>• Requisition detailing goods/services required (LOG 1);</li> <li>• IMS Number (optional – for record keeping);</li> <li>• BAS allocation form (PGWC 002);</li> <li>• Quotation must be signed by the appointed service provider;</li> </ul>



	<ul style="list-style-type: none"> <li>• Validity period must be indicated on the quote.</li> <li>• For stationery and cleaning materials</li> <li>• Extract from relevant contract.</li> </ul> <p>The minimum timeline to complete the entire procurement process iro contract items is <b><u>30 days.</u></b></p>
<p><b>SITA (ICT equipment and consumables, i.e. laptops, printers, desktop computers, cartridges)</b></p>	<ul style="list-style-type: none"> <li>• Requisition detailing goods/services required (LOG 1) identifying product (i.e. brand and model) as per WCG standards list.</li> <li>• IMS Number (optional – for record keeping);</li> <li>• BAS allocation form (PGWC 002)</li> <li>• If above R100k, detailed description on the Requisition of the goods/services required as per the approved Procurement Plan (PP) entry;</li> <li>• Approved Procurement Plan line entry number,</li> <li>• business case signed on at least DDG level.</li> <li>• If not on procurement plan, change request form signed by Accounting Officer;</li> <li>• Approved memorandum/submission (reasons why it is necessary to procure the goods or services).</li> <li>• Additional documentation for hardware: Approved ITOPSCOM application for relevant financial year.</li> <li>• Requestors to note ETA is dependent on whether goods/services are in the RSA. Minimum import period 4-6 weeks (subject to confirmation with the appointed service provider).</li> </ul> <p>The minimum timeline to complete the entire procurement process via the SITA procurement process is <b><u>90 days.</u></b> This excludes written price quotations where goods or service required are of a technical nature or where specialist inputs are necessary.</p> <p>The envisaged timeline may vary depending on the type of procurement/commodity/category. The envisaged timeline will be consulted and agreed with the Responsible Managers.</p> <p>Requests for ICT related goods and services not included in a SITA Transversal contract will be submitted to SITA to advise on the procurement process applicable in such instances.</p>

<p><b>Travel requests (Accommodation, flights, shuttle services, car hire)</b></p> <p>Minimum advertisement time is <b>24 hours</b>.</p> <p>The approval will be required from the Accounting Officer or Delegated Official in the case of emergency situations or urgent cases. In such instances the approval may include a shortened period for the advertising or requesting of RFQs.</p> <p>Where the department has a contract in place for such services, the RFQs and orders will be placed as and when required.</p>	<ul style="list-style-type: none"> <li>• For domestic travel: <ul style="list-style-type: none"> <li>• Requisition detailing goods/services required (LOG 1);</li> <li>• IMS Number (optional – for record keeping);</li> <li>• BAS allocation form (PGWC 002);</li> <li>• VA 26 signed by requestors' supervisor (at least Director level);</li> <li>• Copy of ID of the traveller;</li> <li>• Invitation request soliciting the travel;</li> <li>• Email indicating date that invitation was sent.</li> </ul> </li> <li>• For shuttle service only, the details must also be stipulated on the VA26A form.</li> <li>• For international travel: <ul style="list-style-type: none"> <li>• ALL of the above PLUS submission signed by the Head: Education, Director-General, Minister for Education and the Department for International Relations.</li> </ul> </li> </ul>
<p><b>Procurement by Other Means: Limited Bidding (regardless of threshold)</b></p> <p><b>(See Chapter 12 for further requirements)</b></p>	<ul style="list-style-type: none"> <li>• Requisition detailing goods/services required (LOG 1);</li> <li>• BAS allocation form (PGWC 002);</li> <li>• IMS Number (optional – for record keeping);</li> <li>• Draft specification in the format of WCBD 3.4;</li> <li>• Business case signed on at least DDG level.</li> <li>• If not on procurement plan, Change Request form signed by Accounting Officer;</li> <li>• Limited bidding application form signed by at least Director;</li> <li>• In the case of a sole service provider – request must be accompanied by proof of an Intellectual Property Rights or Patent Rights;</li> <li>• Approved memorandum (via reporting structures of relevant branch – why is it necessary to procure this service via Limited Bidding).</li> </ul>
<p><b>Procurement by Other Means: Emergency procurement and Urgent case procurement (regardless of threshold)</b></p> <p><b>(See Chapter 13 for further requirements)</b></p>	<ul style="list-style-type: none"> <li>• Requisition detailing goods/services required (LOG 1);</li> <li>• BAS allocation form (PGWC 002);</li> <li>• IMS Number (optional – for record keeping);</li> <li>• Business case signed on at least DDG level, if above R100 000;</li> </ul>

	<ul style="list-style-type: none"> <li>• If not on procurement plan, Change Request form signed by Accounting Officer;</li> <li>• Limited bidding application form signed by at least Director;</li> <li>• Certificate of emergency declaring said emergency signed by at least Director;</li> <li>• Motivation for the urgent case procurement needs to be provided.</li> <li>• Detailed specification (in this case the scope of work performed);</li> <li>• Valid and signed quotation received from the service provider rendering the emergency or urgent case, goods or services.</li> </ul>
<b>Unsolicited Bids</b>	<ul style="list-style-type: none"> <li>• Please refer to Chapter 14.</li> </ul>
<b>Public Private Partnerships</b>	<ul style="list-style-type: none"> <li>• The National Treasury Regulation and Instructions will apply to the procurement of the Public Private Partnership requests.</li> <li>• The requestor of a PPP must provide the following: <ul style="list-style-type: none"> <li>- Project Proposal including the reasons, motivation, cost benefit analysis, why normal procurement processes cannot be followed and how the PPP falls within the strategic mandate of the department. The Provincial and National Treasury may require additional information.</li> <li>- Only the National Treasury has the mandate and authority to approve PPP agreement or contract.</li> </ul> </li> </ul>

## 5.10 GENERAL PROVISIONS

- 5.10.1 Procurement of goods and services may not be deliberately split into parts or items of a lesser transaction value in order to circumvent the prescribed procurement process.
- 5.10.2 When determining transaction values, where required goods and services consist of different parts or items, said parts or items must as far as possible be treated as a single transaction for the purposes of determining which procurement process to follow.
- 5.10.3 All requisitions for the procurement of asset related items must indicate whether this is for an "increase in capacity" or "replacement quantity". If the latter, inventory/personnel to be completed as well as accompanied by the disposal requisition.
- 5.10.4 The requisitions must also be completed with the following requirements as well:
- a) All requisition to indicate whether "normal request" or "petty cash request" in top left-hand corner.

- b) Chief User full name to be indicated;
- c) Requestor reference no. to be indicated, i.e. requisition number;
- d) Item description to be commensurate with description used on procurement plan;
- e) Remarks/motivation to indicate funding available and/or contract number in the event of contract purchases;
- f) ALL BAS forms to indicate sufficient funding available and to be signed by SCM Champion or Responsibility Manager.
- g) If the requisition is not signed by the Director, request to be accompanied by an acting letter of appointment as Director or may be signed by the Chief Director or Branch Head.

5.10.5 Accounting officers / authorities may:

- a) lower, but not increase, the different thresholds issued by the National Treasury and;
- b) direct that a competitive bidding process be followed for any procurement below R1Million either on a case-by-case basis or for a category of goods and services.

5.10.6 Upon receipt of all the required information, an SCM official will be assigned for the procurement process.

## CHAPTER 6

# PLANNING FOR THE APPOINTMENT OF CONSULTANTS

### 6.1 INTRODUCTION

6.1.1 Not all expertise required is to be found in government. Sometimes, external consultants need to be hired. For the purpose of this AOS, the term "consultant" includes consulting firms, engineering firms, construction managers, management firms, procurement agents, inspection agents, auditors, multinational organisations, investment and merchant banks, universities, research agencies, government agencies, non-governmental organisations, and individuals. Any external person or external entity having a skill required by government could, conceivably, be a consultant.

6.1.2 The National Treasury in Supply Chain Management Practice Note 3 of 2003 and the Guide for Accounting Officers, 2004, defines the term for consultant, as follows:

***"consultant includes, among others, consulting firms, engineering firms, construction managers, management firms, procurement agents, inspection agents, auditors, other multinational organizations, investment and merchant banks, universities, research agencies, government agencies, Non-Governmental Organisations (NGOs), and individuals."***

6.1.3 National Treasury Instruction - Cost Containment Measures has prescribed revised measures which must be taken into account upon the appointment of consultants (professional service providers).

6.1.3 In general, the demand management procedures and the acquisition management procedures apply to the appointment of consultants. Only the peculiarities of appointing consultants are dealt with herein, as the services to which these procedures apply are of an intellectual and advisory nature.

6.1.4 However, the aforementioned procedures do not apply to general services such as construction works, manufacture of goods, operation and maintenance of facilities or plants, surveys, exploratory drilling, aerial photography, satellite imagery, catering, cleaning and security in which the physical aspects of the activity predominate.

### 6.2 PLANNING FOR CONSULTANTS

6.2.1 Consultants may be appointed to assist in a wide range of activities such as policy advice, Accounting Officer's reform management, engineering services, construction supervision, financial services, procurement services, social and environmental studies and identification, preparation, and implementation of projects to complement and comply with the Department's strategic objectives or mandate in these areas.

6.2.2 Consultants should only be engaged when the necessary skills and/or resources to perform a project/duty/study are not available within the Department and it cannot be reasonably expected either to train or to recruit people in the time available. The prescribed form "Application for the appointment of Consultants" (Addendum 34) must be completed and approved by the Branch Head.

- 6.2.3 The relationship between the Department and the consultant will be one of purchaser/provider and not employer/employee. The work undertaken by a consultant will be regulated by a contract. The end-user directorate will be, responsible for monitoring and evaluating contractor performance and outputs against project specifications and targets and should take remedial action if performance is below standard. All non/mal-performance must be reported to the SCM unit who will report the non/mal-performance to the Accounting Officer or delegated official via the Bid Committee.
- 6.2.4 Consultants may either be appointed in terms of the procurement processes of the Department or in terms of the Public Service Act, 1994 (Act No 103 of 1994). However, National Treasury has advised that where the latter may not be the most appropriate option, consultants should be appointed by means of the competitive bidding processes, whenever possible.
- 6.2.5 Should the department experience additional work demands that are not permanent and there are no suitable vacancies available for the recruiting and appointing of additional employees, the department will consider appointing persons on contract. A person may only be appointed for a maximum period of 12 months on contract. Under no circumstances should a person be appointed as a consultant merely to be granted higher remuneration packages.
- 6.2.6 Accounting Officers must ensure that consultants are appointed only where this is a cost-effective alternative to the utilisation of staff employed by the institution. The appointment of consultants must be supported by a motivated business case setting out the underlying skills gap and a diagnosis of requirements and specified deliverables as approved by the accounting officer/accounting authority.
- 6.2.7 It should be noted that the appointment of Transaction Advisors as defined in Treasury Regulation 16 to the PFMA, who are to be appointed by institutions to render advice in relation to Public-Private Partnerships, such appointment should be done in terms of the practice note No. 02 of 2004 issued by the National Treasury specifically for that purpose.
- 6.2.8 The procedure to appoint consultants applies to all contracts for consulting services. In procuring any consulting services the Accounting Officer or delegated official should be satisfied that the:
- (i) procedures to be used will result in the selection of consultants who have the necessary professional qualifications;
  - (ii) selected consultant will carry out the assignment in accordance with the agreed schedule, and
  - (iii) the scope of the service is consistent with the needs of the project.
- 6.2.9 Consultants will be appointed in accordance with the various forms of procurement as prescribed in the relevant regulated industries and the various forms of procurement as set out in the Provincial Treasury Instructions, 2019. Processes and procedures outlined in Acquisition Management will be followed when appointing consultants.

- 6.2.10 Bid documentation for the appointment of consultants must include a clause that rates of remuneration will be subject to negotiation, not exceeding the applicable rates as listed here-under in paragraph 6.2.11.
- 6.2.11 Consultants may only be remunerated at the rates:
- (a) determined in the "Guideline on fees for Audits" done on behalf of the Auditor-General of South Africa (AGSA), as issued by the South African Institute of Chartered Accountants (SAICA);
  - (b) set out in the "Guide on Hourly Fee Rates for Consultants" as issued by the Department of Public Service and Administration (DPSA); or
  - (c) prescribed by the body regulating the profession of the consultant.
- 6.2.12 When negotiating cost effective consultancy rates for international consultants, accounting officers/accounting authorities may also consider the relevant international and market-determined reference rates.
- 6.2.13 Where possible consultants must be appointed on an output specified basis, subject to a clear specification of deliverables and associated remuneration. When consultants are appointed on a time and cost basis regular monitoring and reporting on activities, outputs and deliverables.
- 6.2.14 All contracts of consultants must include penalty clauses for late performance and these clauses must be invoked where deemed necessary.
- 6.2.15 Consultants must specify whether contract price is inclusive or exclusive of travel and subsistence disbursements. Where possible the use technology must be advocated (teams, skype, zoom) for meetings instead of physical meetings. This can assist with the reduction of costs.
- 6.2.16 Alternative travel and subsistence arrangements for international consultants and expert advisors, considering relevant cost efficiency measures can be approved by the accounting officer/accounting authority.
- 6.2.17 Appropriate monitoring and reporting requirements must be set for all consultancy contracts and that penalty provisions are invoked when deemed necessary.
- 6.2.18 The appointment of consultants must be approved by the Accounting Officer or the delegated official on the recommendation of the Departmental Bid Committee in instances where the SCM processes are followed.

### **6.3 NEEDS ANALYSIS**

- 6.3.1 The appointment of consultants must be supported by a written motivation setting out an analysis of the underlying skills gap and a diagnosis of requirements and specified deliverables, as approved by the accounting officer of the department. Needs-based issues that should specifically be identified are:
- (a) why the need for consultants;
  - (b) whether it is a once-off requirement or a recurring requirement;
  - (c) if it is a recurring requirement, whether provision will be made for this recurring requirement in the departmental establishment, or not; and

(d) whether if any transfer of skills is required.

6.3.2 Further, as instructed in NTI Cost Containment Measures, the Department must:

- (a) Ensure that consultants are appointed only where this is a cost-effective alternative to the utilisation of staff employed by the department;
- (b) The appointment of consultants must be supported by a motivated business case setting out an analysis of the underlying skills gap and a diagnosis of requirements and specified deliverables.

## **6.4 TERMS OF REFERENCE (TOR)**

6.4.1 "Terms of reference" is used to describe specifications of work for consultants. The end user/line function in consultation with the department's SCM Unit should prepare the TOR. The TOR should clearly define the objectives, goals, and scope of the assignment and provide background information, including a list of existing relevant studies and basic data (if available), to facilitate the consultants' preparation of their bids.

6.4.2 The business case and market analysis inform the development of the specifications detailing the nature and scope of the goods/services that will be required to satisfy the Department's needs. The Responsibility Manager should prepare the TOR. The TOR should clearly define the task directive (methodology), objectives, goals and scope of the assignment and provide background information, including a list of existing relevant studies and basic data, to facilitate the consultants' preparation of their bids.

6.4.3 The scope of the services described should be compatible with the available budget. Timeframes linked to various tasks should be specified as well as the frequency of monitoring actions. The respective responsibilities of the consultant should be clearly defined. The evaluation criteria, their respective weights, the minimum qualifying score for functionality and the values that will be applied for evaluation should be clearly indicated.

6.4.4 The evaluation criteria should include at least the following:

- (a) consultant's experience relevant to the assignment;
- (b) quality of the methodology;
- (c) qualifications of key personnel; and
- (d) transfer of knowledge and skill (where applicable);
- (e) pre-bid briefing sessions or presentations by bidders as part of the evaluation process where needed.

6.4.5 If the assignment / contract includes an important component for training or transfer of knowledge and skills, the Terms of Reference (TOR) should indicate the objectives, nature, scope and goals of the training programme, including details of trainers and trainees, skills to be transferred, timeframes and monitoring and evaluation arrangements. The cost for the training programme should be included in the consultant's contract and in the budget for the assignment.

## **6.5 METHOD OF SELECTING CONSULTANTS WHEN COMPILING TOR**

6.5.1 When developing the TOR, the means of selection of consultants must be considered. In general, the ordinary requirements that apply to the acquisition of goods and services also apply to the appointment of consultants. Consultants should, therefore, be appointed in



accordance with the various forms of procurement applicable to the threshold values of the PTI.

6.5.2 The need to evaluate bids or quotations based on functionality, depends on the nature of the required service. When functionality is used as an evaluation ground, the department must make clear:

- (a) the evaluation criteria for functionality;
- (b) the weight of each criterion; and
- (c) the applicable point weighting values and minimum acceptable threshold for functionality.

6.5.3 The following approaches can be followed although the quality and cost-based selection (QCBS) approach is preferred as it is based both on the quality of the services to be rendered and on the cost of the services to be provided.

**Table 6**

<b>Approach</b>	<b>Type of assignment</b>
Quality-based selection (QBS)	QBS is appropriate for complex or highly specialised assignments for which it is difficult to define precise TOR.
Selection under a fixed budget	This method is appropriate only when the assignment is simple and can be precisely defined and when the budget is fixed.
Least -cost selection	This method is more appropriate to selection of consultants for assignments of a standard or routine nature (audits, engineering design of non-complex works, etc.) where well-established practices and standards exist and in which the contract amount is small.
Selection based on Consultants' Qualifications	This method may be used for very small assignments for which the need for preparing and evaluating competitive proposals is not justified.
Single-source selection	Single-source selection of consultants does not provide the benefits of competition in regard to quality and cost and lacks transparency in selection and should therefore be done in conjunction with limited bidding as outlined in the Accounting Officer's System.
Selection of individual consultants	Individual consultants may normally be employed on assignments for which: <ul style="list-style-type: none"> <li>• teams of personnel are not required;</li> <li>• no additional outside (home office) professional support is required; and the experience and qualifications of the individual are the paramount requirement.</li> </ul>

## **6.6 OTHER AREAS TO NOTE:**

### **6.6.1 Conflict of Interest**

- (a) Consultants should not be hired for any assignment that would be in conflict with their prior or current obligations to other clients, or that may place them in a position of not being able to carry out the assignment in the best interests of the department.
- (b) A firm, which has been engaged by the AO or their delegate to provide goods for a project and any of its affiliates, should be disqualified from providing consulting services for the same project.
- (c) A consultant hired to provide consulting services for the preparation of the bid specifications of project, as well as any of the firm's affiliates, is not automatically prohibited from bidding for the implementation of that project or even being awarded that bid. However, such a bid – and any possible award – would be unusual. Should such a scenario be encountered, the department is advised to seek advice from Legal Services on the propriety of the matter.
- (d) Consultants or any of their affiliates should not be hired for any assignment which, by its nature, may be in conflict with another assignment of the consultants. As an example, consultants hired to prepare an engineering design for an infrastructure project should not be engaged to prepare an independent environmental impact assessment for the same project. Similarly, consultants assisting a client in the privatisation of public assets should not purchase those assets, nor give advice to potential purchasers of such assets.

### **6.6.2 Associations between Consultants**

- (a) Consultants may associate with each other to complement their respective areas of expertise. Such an "association" may be for the long term (independent of any particular assignment) or for a specific assignment. The "association" may take the form of a joint venture or a sub-consultancy.
- (b) In the case of a joint venture, all members of the joint venture should sign the contract and are jointly and severally liable for the entire assignment. Once the bids or Request for Proposal ("RFP") from service providers are issued, any association in the form of joint venture or sub-consultancy among firms should be permissible only with the approval of the AO or their delegate.

# CHAPTER 7

## ACQUISITION MANAGEMENT

### 7.1 INTRODUCTION

7.1.1 The many stages of public procurement are ultimately aimed at acquiring goods or services that will meet the requirements of the department and assist it to fulfil its service delivery mandate. Like the other stages, acquisition has its own, controlled process.

7.1.2 Acquisition management is the process of inviting, evaluating, and awarding bids. To ensure lawful and proper acquisition management, the AO or their delegate must direct that the SCM system of the department functions so that:

- (a) goods and services are procured in accordance with authorised processes;
- (b) the threshold values for different procurement processes are adhered to;
- (c) bid documentation and special conditions of contract are in accordance with all applicable legislation; and
- (d) expenditure on goods and services are provided for in the Approved Procurement Plan and budget of the department.

7.1.3 Acquisition management is a critical part of the SCM system. It necessitates direct contact between the department and private parties. Those parties have a legal, enforceable right to a lawful and structured acquisition management process.

7.1.4 To both protect this right and guide effective procurement, there are several issues to consider when embarking upon the acquisition process. These are:

- (a) the legislative framework that guides the procurement process;
- (b) all SCM prescripts issued by the National and Provincial Treasury; and
- (c) the financial and SCM delegations. These will indicate the precise powers held by a delegated employee, along with any conditions or limitations attached to such powers.

### 7.2 FORMS OF PROCUREMENT

7.2.1 The acquisition management process makes provision for different forms of procurement for different forms or types of purchase. The forms are:

- (a) Petty Cash purchases;
- (b) Written Price Quotations
- (c) Competitive bidding;
- (d) Limited bidding;
- (e) Emergency procurement;

- (f) Unsolicited bids;
- (g) Provincial Transversal Contracts;
- (h) National Transversal Contracts; and
- (i) Contracts procured by other organs of state.

7.2.2 The procurement of goods and services by "other means" includes-

- (a) Limited Bidding;
- (b) Written Price Quotations not within the threshold determined by National Treasury Instruction or prescribed in this Policy, and
- (c) Procurement in Emergency situations and urgent cases.

## CHAPTER 8

### PETTY CASH

#### 8.1 PETTY CASH PURCHASES:

- 8.1.1 Petty Cash is a means whereby the Department may **utilise cash** to procure goods or services up to a threshold value of R2 000 per request.
- 8.1.2 The following requirements must be utilised as control measures when dealing with petty cash purchases:
- (a) The Responsibility Managers must obtain a valid and duly signed quotation per Petty Cash request. Such request must be submitted together with all the required as a listed in Chapter 5.
  - (b) The maintenance of a petty cash register must be entrusted to a responsible person and such person must enter all payments and replenishments in the petty cash register on a daily basis.
  - (c) A supporting voucher must be obtained for each payment.
- 8.1.3 The CSD and WCSEB will not apply when procuring via petty cash.
- 8.1.4 The Standard Operating Procedure for Petty Cash is attached as **Addendum 4**.

## CHAPTER 9

# WRITTEN PRICE QUOTATIONS FOR GOODS AND SERVICES BELOW R5 000

- 9.1 As an alternative to the use of petty cash, written price quotations up to the threshold value of R5 000 (inclusive of all applicable taxes) may be obtained from at least three (3) different suppliers who:
- (a) are duly registered on the CSD and may be registered on the WCSEB and;
  - (b) which quotations comply with the minimum requirements as set out in **Chapter 5**.
- If it's not possible to obtain at least 3 quotations, the reasons must be documented for record and audit purposes.
- 9.2 In relation to paragraph 9.1 above, the use of written price quotations for goods and service below R5 000 is only permitted in the following instances;
- (a) Procurement of goods and services is required for effective and efficient service delivery needs. This will reduce the admin burden and timeline for the procurement of the goods and services.
  - (b) Urgent and emergency instances as referred to in Chapter 13 and as per the delegations (Addendum 8);
  - (c) Procurement through approved SITA contracts where quotations have to be sourced from approved vendors for the relevant commodities;
  - (d) Procurement of travel, accommodation and car hire (should there be no departmental contract in place);
  - (e) The maintenance of equipment by the supplier of such equipment or its approved service agent in which case certification of the appointment as an agent must accompany the quotation. This should not be construed as limited bidding as referred to in Chapter 12 of this AOS; and
  - (f) Instances as approved by the Accounting Officer or delegated official as a deviation from the normal procurement procedures. This will be deemed as procurement by "other means."
- 9.3 In the event of urgent and emergency procurement, a written motivation substantiating the urgent or emergency event must be submitted by an official on at least the level of Director and which motivation must outline the reasons, nature of the event, its likely causes, whether the event could be categorised as foreseen and unforeseen as well as the implications should immediate action not be undertaken.
- 9.4 The following are applicable in respect of written price quotations referred to in Chapters 10, 11,12 and 13 of this AOS:
- 9.4.1 The WCBD4 bidding document of the successful supplier/bidder must be verified as complete and current on the WCSEB and;

- 9.4.2 Where the selected supplier is not duly registered on the WCSEB, the Department must ensure that the supplier has submitted a duly completed and signed WCBD4. The supplier must also be registered on the CSD.
- 9.4.3 The procurement template - **Addendum 5** - must be duly completed by the buyer for each purchase for the monetary value between R0 and R1 Million (inclusive of all applicable taxes) and signed by the Chairperson of the relevant Quotation Committee and where required, the delegated official up to the threshold of R1 Million for the Head Office SCM unit.
- 9.4.4 Furthermore, the procurement template – **Addendum 5 (2)** - must be duly completed by the buyer for each purchase for the monetary value between R0 and R100 000 (inclusive of all applicable taxes) and signed by the Assistant Director: Specifications and Quotations up to the threshold of R100 000 for the Head Office SCM unit.
- 9.4.5 **Addendum 6** must be completed by the Chairperson of the Quotation Committee at Education District Offices for each purchase for the monetary value between R0 and R300 000 for general goods and service and R500 000 for Curriculum Intervention, Learner Transport and Security Services Contracts (inclusive of all applicable taxes).

## CHAPTER 10

### WRITTEN PRICE QUOTATIONS

- 10.1 Goods or services between the estimated value of R2 001 and R1 Million (inclusive of all applicable taxes) may be procured via the e-Procurement Solution (ePS) or via written price quotations, from suppliers who are duly registered on the Central Supplier Database (CSD). The suppliers may also be registered on the Western Cape Supplier Evidence Bank (WCSEB). The Accounting Officer may lower this threshold stipulated for use of the ePS if so required to manage its own risks.
- 10.2 The minimum number of days for the invitation of written price quotations and RFQs via the ePS, must be in line with the requirements of Chapters 4 and 5.
- 10.3 The threshold limit for the Education District Offices is R300 000 for general goods and services, inclusive of all applicable taxes. For Curriculum Interventions, Learner Transport and Security Services Contracts, the threshold limit is R500 000 for the Education District Offices. This may be changed subject to the approval of the Accounting Officer or delegated official when the need arises as required by specific service delivery mandates and deliverables of the Department.
- 10.4 Quotations obtained through the written price quotations and via the ePS are deemed to be competitive formal quotations. All interested suppliers may submit a quotation in their relevant fields of business and per their commodity registration on CSD and the WCSEB, where applicable.
- 10.5 The 80/20 preference points system will apply to written price quotations or RFQs advertised via the ePS as per the PT Interim Arrangements issued to departments.
- 10.6 An award is made to the acceptable offer that scored the highest total number of points (inclusive of all applicable taxes).
- 10.7 The prescribed Contract Form (WCBD 7.1) must be issued to the successful supplier.
- 10.8 The minimum number of days for advertising of an RFQ on the ePS or via a written price quotations process is stipulated in Chapter 4. This minimum number of days for advertising may be lowered by the Accounting Officer or delegated official subject to written motivation. The Department may, adjust the period upward as required depending on the complexity and to allow potential suppliers the appropriate timeframe to prepare and produce a reasonable submission.
- 10.9 The prices obtained must be reasonable and rationally connected to the market value of the goods or services. Where prices are exorbitant or not market-related, the process must be cancelled and re-advertised.
- 10.10 Where fewer than 3 quotations are received via ePS or the request for written price quotations, the department must evaluate the responses received. The evaluation must be in terms of responsiveness to the quotation specification requirements and cost effectiveness and if an award is made, the department must record all reasoning for its decision. This includes noting the number of offers received on the procurement template.



- 10.11 The ePS make provision for the validity period of price quotations after the closing date. The ePS Buyer will make the selection on the ePS per event prior to requesting quotations. The minimum validity period is 30 days. In the case of the travel and accommodation related services, the “*best fare of the day*” applies and such quotations may only be valid for a period of 24 hours.
- 10.12 Where the department is sure that sufficient exposure has been given to suppliers registered on the CSD and WCSEB and no responses were received via ePS, it must:
- (a) request quotations from suppliers known to the Department but not yet registered on the CSD and WCSEB;
  - (b) ensure that selected suppliers are tax compliant; that WCBD 4 has been completed; that a B-BBEE certificate and WCDB 6.1 has been completed, where preference points are claimed;
  - (c) ensure that the selected supplier is registered on the CSD and where required the WCSEB, or afforded sufficient time to register at the time of awarding the contract; and
  - (d) in cases where the supplier is suspended on the WCSEB due to the lapse of mandatory documentation, such as a WCBD4, the department must obtain such documents from the supplier and submit to PT for the update of the supplier on the WCSEB. Copies of such documentation must be kept for record and audit purposes.
  - (e) The Department must proceed with the procurement process and not wait until the WCSEB has been updated. The Department must keep copies of the documentation submitted to the PT on file to support its decision and to note compliance to regulatory requirements.
- 10.13 The adjudication on ePS must as far as possible be finalised for all awarded quotations to ensure integrity of procurement information and data.
- 10.14 The award will be made to the compliant supplier that scored the highest number of preferential procurement points (i.e. total points). A bid may be awarded to a tenderer that did not score the highest points only if additional objective criteria, advertised from the outset of the procurement process, are in use. Objective criteria may include the degree to which a bidder satisfied the functionality standard of a bid.
- 10.15 The department must see to it that the recommended supplier is not listed on National Treasury's Register for Tender Defaulters or List of Restricted Suppliers. Under no circumstances may the department be permitted to procure from suppliers listed on the Register for Tender Defaulters. For suppliers listed on the List for Restricted Suppliers, the department must apply due diligence and assess the risk before deciding to proceed with procurement from the supplier.
- 10.16 All employees involved in the obtaining of the quotations and appointing the service provider must declare their interest.
- 10.18 A recommendation on the relevant prescribed procurement template must be formulated and where required, submitted via the relevant Quotation Committee for recommendation or approval.

- 10.19 Where an employee is found to have an interest in the transaction, he/she must recuse themselves from the process.
- 10.20 If it is deemed necessary to request the extension of the validity period of price quotations, all communication between the parties needs to be documented and mutual agreement with bidders obtained.
- 10.21 The department may where necessary, deviate from utilising the e-procurement system in accordance with the requirements of paragraph 5.6 of the Provincial Treasury Instructions, 2019. Poor planning or wilful deviation from utilising the ePS is unacceptable, unless otherwise determined by the Accounting Officer and delegated official.
- 10.22 **In the event that it is impractical to obtain quotations via the ePS:**
- 10.22.1 Written price quotations may be obtained from suppliers known to the Department and reasons for such must be recorded and approved by the Accounting Officer or delegated official;
- 10.22.2 Ensure that:
- (a) selected suppliers are registered on the CSD and tax compliant,
  - (b) the WCBD 4 has been duly completed and signed,
  - (c) the B-BBEE certificate and WCDB 6.1 has been completed where preference points are claimed; and
  - (d) the selected supplier submits registration form together with the supporting documentation to PT for registration on the WCSEB within seven (7) calendar days of being awarded the contract (registration form and guide to be used).
- 10.23 **Where the ePS are not functional** for a period of time and time is of the essence for the delivery of goods and services, the Department may use the procurement method referred to in Chapter 9.
- 10.24 Where it is impractical to utilise suppliers who are duly registered on the WCSEB, the requirements as prescribed in Chapter 4 must be applied.
- 10.25 Where a sourcing process originates as a formal quotation and all resulting offers exceed R1 Million (vat inclusive), the quotations should be rejected, and the process cancelled. The Department must assess the procurement process in terms of determining whether the offers received were exorbitant or not and whether it warrants a second formal quotation process to be followed. Should the Department determine that the market has adequately responded, and a formal competitive bidding process be followed, the matter should then be referred to the AO or the delegated authority to reclassify the matter as one suitable for formal competitive bidding. The formal bidding process will, thereafter, be followed.
- 10.26 Procurement of travel, accommodation, shuttle services and car hire may be obtained via the written quotations from at least three (3) travel management agencies who are willing to accept the WCED orders without opening an account. The travel agencies must be registered on the CSD and may also be registered on the WCSEB. The procurement process will be in line with the requirements of the National Treasury Cost Containment Measures for travelling and subsistence including the National Travel Framework. The SCM practitioner must ensure that the procurement for documents travel, accommodation, shuttle services

and car hire are documented accordingly for record and audit purposes. If less than 3 quotations are obtained, the reasons must be documented for record and audit purposes.

- 10.27 Should the Department have in place a contract for the Travel Management Company and related services, then the RFQs must be requested from the appointed service provider in accordance with the requirements of the required services and contract deliverables.
- 10.28 The Accounting Officer or delegated official may, in terms of this AOS, the Departmental Travel Policy and where applicable the finance policy and delegations, approve the following:
- a) domestic and international trips with its related expenses, including the approval for domestic accommodation costs that exceed the maximum allowable rates;
  - b) domestic and international chartering of aircraft (passenger/cargo);
  - c) upgrade of fare class for domestic and international air travel;
  - d) upgrade of accommodation to a higher star grading for domestic and international accommodation;
  - e) changes to existing domestic and international travel arrangements;
  - f) domestic and international after-hours reservations or emergency travel arrangements;
  - g) reimbursement of travel expenses, subsistence allowances and travel advances;
  - h) International trips undertaken by the Head of Department, subject to approval by the relevant MEC and where applicable the Office of the Director-General or Premier or DIRCO.
- 10.29 Written quotations outside of the ePS in respect of Travel Management and related services will be procured up to R10 000 per request.

# CHAPTER 11

## COMPETITIVE (OPEN) BIDDING

### 11.1 COMPETITIVE BIDDING

Competitive bidding is the procurement of goods and services or income generating procurement (based on the threshold value) by way of a formal tender process. This process is governed by the requirements of National Treasury Regulations, 2005, 16A.6. All prospective bidders should be provided with timely and adequate notification of a department's requirements and an equal opportunity to bid for the required goods or services.

### 11.2 PROCESS

For all procurement in excess of R1 Million (inclusive of all applicable taxes), bids must be advertised in at least the Government Tender Bulletin (GTB) or eTender Publication Portal and other media, if deemed practical or necessary by the Department. In respect of infrastructure there may be an additional requirement to advertise an event on the CIDB website. This provides an opportunity for all prospective bidders to make an offer and to compete on an equal basis.

### 11.3 BID DOCUMENTATION FOR COMPETITIVE BIDS

11.3.1 To ensure uniformity, all bids excluding construction and construction related projects, will be based on the General Conditions of Contract (GCC), issued by the National Treasury. The standard wording of the GCC must not be amended. Any aspect not covered by the GCC must be dealt with in the Special Contract Conditions (SCC).

11.3.2 SCC regulates conditions relevant to a specific bid and should be recommended by the Bid Specification Committee and approved by the Accounting Officer or delegated official. In the case of conflict between the SCC and the GCC, the provisions in the SCC shall prevail. The SCC will typically include:

- (a) a preamble explaining the reasons for concluding the contract;
- (b) governance protocols and rules for the contract;
- (c) requirements for reporting on performance;
- (d) period reviews of the contract if it extends over a lengthy period of time;
- (e) rights and responsibilities of the parties;
- (f) expected levels of service; and
- (g) incorporation of all other documents as annexures.

- 11.3.3 In addition to the GCC and the SCC, the mandatory WCBD documents are required.
- 11.3.4 To give effect to the requirements of the National Treasury Regulations and the Public Service Regulations prohibiting an employee from conducting business with an organ of state and/or holding a directorship in a private or public company doing business with an organ of state, the Provincial Treasury has issued a consolidated bidding document, referred to as the WCBD4 (Declaration of Interest). The WCBD4 bidding document captures the following:
- (a) declaration of the bidder's past performance in relation to contracts;
  - (b) declaration pertaining to bid rigging and collusive practices; and
  - (c) conflict of interest.
- 11.3.5 Suppliers are required to annually complete the Declaration of Interest (WCBD4) which must be housed on the WCSEB. The onus is on suppliers to update their profile should any information on the Declaration of Interest change. Any suppliers found to have submitted false information on the Declaration of Interest in any respect will be suspended from the database. The Declaration of Interest is valid for a period of twelve (12) months from the date of signature.
- 11.3.6 The Department is not required to request completion of the WCBD4 for every bid process. If the supplier is duly registered on the WCSEB, then departments must use the supplier evidence bank information for this purpose. The relevant WCBD4 must be downloaded from the supplier evidence bank and kept in the bid file for reference, but only for the successful bidder. However, should the WCBD 4 be requested with the bid, then this must be completed for each and every bid process. To give effect to the PPPFA and PPR 2022, the WCBD 6.1 bid document functions as the preferential procurement claim form.
- 11.3.7 SCM Practitioners must use the information supplied by the bidders in the table (shareholders) on the WCBD4 and verify same against the Department's establishment. In this process, where it is established that there are employees of the institution (defined as the WCG) it must be ascertained whether these officials have obtained approval for remunerative work outside the public service (RWOPS).
- 11.3.8 Potential suppliers are required to annually complete the WCBD 6.1 Preference Points Claim Form which must be housed on the WCSEB. The onus is on suppliers to update their profile should any information on the WCBD 6.1 Preference Points Claim Form change. However, given that there are different preference points thresholds, the correct form must be availed to bidders if it is found that the one housed on the WCSEB does not meet the claim requirements of the bid threshold.
- 11.3.9 Any suppliers found to have submitted false information on the WCBD 6.1 Preference Points Claim Form will be suspended from the WCSEB and such supplier must be dealt with in terms of Regulation 9 of the Preferential Procurement Regulations, 2022. Any fronting will be dealt with in terms of the National Department of Trade and Industry prescripts on fronting. However, should the WCBD 6.1 be requested with the bid, then this must be completed for every bid process.

11.3.10 In the event that the WCBD 6.1 Preference Points Claim Form is not yet available on the WCSEB, the Department must obtain a fully completed WCBD 6.1 Preference Points Claim Form from the recommended bidder before the conclusion of the procurement process.

11.3.11 WCBD 7.1 consolidates two separate National Treasury forms, and functions as the contract form for goods and services.

11.3.12 A complete list of WCBD forms is as follows:

WCBD 1: Invitation to bid and terms and conditions for bidding;

WCBD 3.1: Pricing schedule – firm prices (purchases);

WCBD 3.2: Pricing schedule – non-firm prices (purchases);

WCBD 3.3: Pricing schedule (professional services);

WCBD 4: Declaration of interest; Bidders Past SCM Practices and Independent Bid Determination;

WCBD 5: National Industrial Participation Programme;

WCBD 6.1: Preference Points Claim Form in terms of the PPR,2022 and Codes of Good Practice

WCBD 7.1: Contract Form for Purchase of Goods and Services; and

WCBD 7.2: Sale of Goods

Note: WCBD 2 was repealed.

## **11.4 PUBLIC INVITATION FOR COMPETITIVE BIDS**

### **11.4.1 Bid Invitation**

- (a) Bids must be advertised by the relevant Supply Chain Management Unit in the Government Tender Bulletin and on the e-Tender Publication Portal of the National Treasury for a minimum period of 21 days before bid closure as required by the National Treasury Regulations (NTRs). In respect of infrastructure procurement, the event must be advertised on the CIDB website. Where a compulsory information session is required, a bid must preferably close at least two (2) weeks after the compulsory information session.
- (b) Whilst a minimum period of 21 days for advertisement is required, the Department may on a case-by-case basis approve a longer bid advertising period. The reason for this is to grant bidders sufficient time to acquire the relevant bid documentation, evaluate their resources to determine whether they are able to meet the bid requirements, to complete the bid documents, and submit the bid documents.
- (c) In justifiable circumstances the Accounting Officer may allow for the shortening of the closing date for bids. In terms of the NTRs, such shortening of advertising periods may only be done in cases as approved by the Accounting Officer or delegated official.
- (d) When shortening advertising periods, cognisance must also be taken of the fact that the shortening of the closing date must not disadvantage any potential suppliers from bidding for the requirements.

- (e) When deciding on a shorter advertising period, the monetary value as well as the complexity of the bid, must be taken into account as well as the medium in which the bid is to be advertised. Even a shortened period should remain fair and reasonable for the circumstances.
- (f) If this process does not require that the bid be advertised in the Government Bulletin or the e-Tender Publication Portal permission in this instance must be granted by the delegated official on the provision of proper documented reasons or motivation.
- (g) Where large works or complex items of equipment are involved, the Department may on a case-by-case basis determine the advertising period and closing date for bids.
- (h) In the interest of uniformity, fairness and in order to maintain bidders' confidence in the system, it is essential that a definite cut-off time be set for submitting bids and that it is strictly adhered to. The cut-off time for closure of formal bids issued by the Western Cape Government is 11:00 on the day stipulated in the bid documents unless otherwise approved by the delegated official in a specific instance.
- (i) The Department must include the following or similar notification within all formal bid documents:

Compulsory registration on the Central Supplier Database and Western Cape Supplier Evidence Bank

The Provincial Government of the Western Cape will ONLY contract with businesses duly registered on the Central Supplier Database and Western Cape Supplier Evidence Bank.

All prospective service providers intending to do business via the e-Procurement Solution (**ePS**) are invited to register as a supplier on the Western Cape Supplier Evidence Bank and Central Supplier Database.

Enquiries regarding the registration process may be referred to PT at the WCSEB Helpdesk email: [wcseb@westerncape.gov.za](mailto:wcseb@westerncape.gov.za) – telephone number 0861 225 577 or the walk in centre. Or National Treasury at the CSD Helpdesk – telephone 012 315 5509/email: [csd@treasury.gov.za](mailto:csd@treasury.gov.za)  
Or register on line via <https://secure.csd.gov.za/Home/RegistrationProcess>

All suppliers who are currently registered on the database are also invited to update their status by contacting the WCSEB Call Centre – telephone numbers 021 680 4666 / 021 680 4632 / 021 680 4630

- (j) Bidders are allowed to collect bid documents or bid documents may be posted or emailed to potential bidders upon their request. The former is preferable unless practicality necessitates otherwise. The Department must keep a register of bids collected and mailed which must include at least the following:
  - (i) name of the bidders to whom documents were issued;
  - (ii) bid number;
  - (iii) name of the person who collected the bid;
  - (iv) firm/company on whose behalf the document is collected;
  - (v) phone number, the fax number, contact person;
  - (vi) date and time the document was collected; and/or
  - (vii) date the document was posted or emailed.

- (k) The register serves as a record in the event of disputes. It also provides all the details of the bidders who collected documents in the event where amendments have to be affected to the bid document and availed to those potential bidders.
- (l) The preferred method of receiving bids by the Department is via depositing of bid documents in the Departments' designated bid box. However, in certain circumstances it may necessitate bids being received via post or courier services.
- (m) When bids are received by post or courier services, record thereof must be contained in the relevant bid register. The following details must be captured/ recorded:
  - (i) bid number
  - (ii) closing date of the bid
  - (iii) date and time the bid was received
  - (iv) name of the company who forwarded the bid or from whom the bid was received
  - (v) how the bid was received, i.e. through courier services, or registry
  - (vi) the state in which the bid was received upon receipt, for example was it opened?
  - (vii) whether the bid was received on time
  - (viii) whether the bid was opened by the receiving officials and the reasons why the bid was opened
  - (ix) signature of the person who received the bid
- (n) In the case of an advertised bid, the bid closing date must only be postponed if the new date is advertised in the Government Tender Bulletin (GTB), e-Tender Publication Portal and other media, if deemed practical or necessary before the original closing date. This will ensure that all bidders intending to bid are made aware of the postponement. If it is not possible, the original bid invitation must be cancelled, and fresh bids must be invited. Bidders who have already collected bid documents may be informed of the postponement once approval has been granted by the accounting officer or delegated authority.
- (o) Bidders must be informed of any amendment to the bid documents in writing before the original closing date.
- (p) Bids must not, as far as possible, be advertised to close over the period 15 December to 15 January as most suppliers/firms are closed during these period and responsive bids may not be guaranteed. Similarly, bids for building and related services must not be advertised or issued during the builders' holiday period and the closing date for bids must be set for no later than one (1) week prior to the commencement of the holiday and at least three (3) weeks after the end of the holiday period.
- (q) However, if it becomes necessary for the Department to advertise a bid during this period, a submission must be made to the Accounting Officer/delegated official in this regard for approval.
- (r) Bidders are required to submit bids valid for a period specified in the bidding documents. This period should be sufficient to enable the Department to evaluate the bids, make a recommendation and award the contract. As a norm, this is usually set for a minimum period of ninety (90) days, unless otherwise approved.
- (s) An extension of bid validity, if justified in exceptional circumstances, must be requested in writing from all bidders before the expiration date. The extension must be for the



minimum period required to complete the evaluation, obtain the necessary approvals and award the contract.

- (t) In the case of fixed price contracts, requests for second and subsequent extensions must be permissible only if all bidders agree to the requested further extension of validity.

## **11.5 BIDS INVITED WITH CAPABILITY AND ABILITY CRITERION**

11.5.1 The inclusion of capability and ability as a criterion depends on the nature of the specific commodity or service, taking into account quality, reliability, viability and durability of a service and the bidder's technical capacity and capability to execute a contract.

11.5.2 When a Department invites a bid or request for quotation that will also be evaluated on the basis of capability and ability as a criterion, the evaluation criteria may include criteria such as: relevant experience, quality, and qualifications of key personnel; reliability, and durability of materials; other criteria as may be relevant for a particular function.

### **11.5.3 Objective criteria**

- (a) Bids may also be adjudicated on the presence or absence of 'objective criteria'. However, a contract may be awarded to the tenderer that did not score the highest number of points if objective criteria justify making the award to another tenderer.
- (b) If the department intends to apply objective criteria, this must be included in the bid documents. Objective criteria do not include advancing historically disadvantaged persons, nor does it include items already scored by points. Objective criteria may, however, include the criteria used to assess capability and ability.

## **11.6 CLOSING OF BIDS**

11.6.1 Upon the closing time of bid(s) on a particular day, the bid box is closed at exactly 11h00 and all the bids should be removed for opening. The bids should be date stamped on the envelope, sorted according to particular bid numbers, recorded and sorted accordingly with those already received of similar bid numbers. In the interest of transparency this information is available for the scrutiny of interested parties on request.

11.6.2 All bids not received in envelopes, must be sealed in an envelope and the bid number and closing date must be written on the envelope, if ascertainable. Bids received in envelopes (sealed or unsealed) without the bid number on the envelope, must be opened, the bid number ascertained, the envelope sealed and the bid number and closing date written on the envelope.

11.6.3 For security purposes all the pages of the bids received must be date stamped, and checked for any correction fluid marks, write-overs, deletions, signature omissions (especially on the bid forms), alternative offers, documents that should have been submitted with the bid, etc. Where the official who checks the bid finds correction fluid marks, write-overs or deletions, the official is required to initial next to it, co-initialled by a second official. Where certain forms, which require signatures, have not been signed, notes to that extent must be made on the temporary cover of the bid. The same applies to forms not included. Such bids must be evaluated. The information must be brought to the attention of the evaluation team when the bids received are handed over for evaluation.

11.6.4 Where forms are unsigned, a note to that effect must be made on the bid cover and brought to the attention of the Bid Evaluation Committee. The committee must consider whether

there was a mandatory requirement to sign. If so, the committee must further consider whether the purpose of the mandatory requirement has nonetheless been fulfilled, despite the absence of the signature. If so, the bid may be evaluated.

- 11.6.5 The bids received, must be forwarded to the evaluation team for evaluation together with a covering letter. A copy of the covering letter must be placed on the main file (the file that was opened for the bid).

## **11.7 UNSIGNED BIDS**

- 11.7.1 The bid document should be structured and drafted in such a manner that it is clear, once the bidder signs their written offer (the bid), it is the intention of the bidder to be bound by such offer. WCBD 1 is the main document in this regard.
- 11.7.2 For the same reasons, it is important that the signatures of certificates, questionnaires and/or specification forms are evaluated against the advertised criteria. The Bid Evaluation Committee or the Departmental Bid Committee may invalidate a bid if it is unsigned or not signed in indelible ink. As this is a very drastic step under the circumstances, and may be a mere oversight by the bidder, care should be taken not to invalidate a bid as a matter of course. Depending on circumstances, bidders should be approached to determine whether they would be willing to sign the particular documents and such signature must take place before acceptance. It must be noted that this is only permissible in the instance of missing signatures. No other amendments to the documentation are permissible.

## **11.8 LATE BIDS**

- 11.8.1 Bids are late if they are received at the address indicated in the bid documents after the closing time or at an address not advertised in the bid advertisement and in the bidding document. A late bid must not be considered and where feasible must be returned unopened to the bidder accompanied by an explanation. The onus will be on the bidder to submit *prima facie* proof that the bid was delivered timeously. No exceptions to this rule should be entertained.
- 11.8.2 After the details of a late bid have been entered in the bid register, it must be returned to the bidder, preferably unopened unless circumstances dictate otherwise. If the sender's address is not indicated on the envelope, it must be opened to check the bidder's details, closed again and sent back to the bidder. Where bids are received through deposits in the bid box, and because the bid box is only opened on the closing time for a particular bid, two scenarios are possible: Bids may either be received in the bid box prior to the closing time of the bid (i.e. if it is a different bid than the one that closes on the particular day), or it may be received in the bid box on the closing date and time of the bid (i.e. a bid that closes on that particular day). In both instances, where applicable, all the details as indicated above are entered in the bid register.

## **11.9 CONTROL MEASURES FOR THE HANDLING OF BIDS**

- 11.9.1 The following controls must be in place for the proper handling of bids:
- (a) A designated office for the receipt of bids and a secure room (eg. a strong room) for the storing of bids, as information contained in the documents is privileged.
  - (b) A bid box that is accessible to bidders 24 hours per day 7 days a week including weekends and public holidays to ensure free access at all times.

- (c) Where a bid box is not accessible 24/7, it should be brought to the bidders' attention and should be reflected as such on the cover of the bid documents that have been issued to the bidders.
- (d) Date stamps must be used to stamp date of receipt of bids to indicate whether or not bids have been received on time.
- (e) At least two persons must be involved in performing the following functions:
  - (i) Advertisement of bid
  - (ii) receiving of bids;
  - (iii) maintenance of bid; and
  - (iv) opening, processing and recording of bids.
- (f) This also serves to protect officials involved in the abovementioned processes from potential irregular practices and to confirm and serve as witness for the late submission of bids and whether/not due process was followed. In this way the risks for the Department are also minimized, and operations are done in a spirit of consistency with the SCM Regulations.
- (g) All bids received are to be entered into a bid register. In the interest of transparency this information is available for the scrutiny of interested parties on request.
- (h) All samples submitted by bidders must be received, retained and returned to the bidders once the contract has been awarded/ cancelled, according to an approved Standard Operating Procedure (SOP).
- (i) After the closing date and the receiving of bids, a lockable office preferably with a safe must house all bids received, as information contained in the bids is confidential.

## **11.10 EVALUATION OF BIDS**

11.10.1 All bids duly lodged should be taken into consideration and evaluated by a Bid Evaluation Committee. The Department is not obliged to accept the lowest, highest or any bid. In considering bids for acceptance or before a formal contract is concluded, the following tests must be applied:

- (a) Compliance with bid conditions (legitimacy test).
- (b) Compliance with bid specification(s).
- (c) Consideration of any other factors that might have an influence on the award of the bid.
- (d) Comparison of prices and the allocation of preference points. The calculation of prices by the bidder must be checked and if discrepancies are detected, the price must be verified.
- (e) The bidder must acknowledge in writing that an error was indeed made. It is only in such instances that a different price to that recorded in the bidding document may be considered (a bidder does not get a further opportunity after bid closure to submit a price).
- (f) Due diligence process (the capacity and ability of the bidder to execute the bid deliverables)
- (g) Consideration of any objective criteria.

- 11.10.2 The above-mentioned includes but is not limited to:
- (a) The financial standing of a bidder;
  - (b) The bidder's good standing with the South African Revenue Service (SARS);
  - (c) Bidder's ability to manufacture, and/or supply goods or to render the required service.
- 11.10.3 It must be noted that a situation may arise where bids are received despite the notice referred to in paragraph 11.4 above which formed part of the bid invitation (i.e. bid documents), from suppliers who are not duly registered on the CSD and WCSEB. This may be due to a suspended status on the supplier database or due to the fact that bids are advertised broadly on the GTB, eTender Publication Portal and/or other media which has a broader reach than the database suppliers.
- 11.10.4 In the interest of just administrative action, given that compulsory registration is a Provincial requirement and not a regulatory requirement, courts will consider whether or not the WCG did everything in its power to make suppliers aware of this requirement as well as whether or not the bidder had sufficient opportunity to register. In instances like these, the Department should ensure that bidders who are not registered on the CSD and WCSEB are given sufficient opportunity to do so within a specified time as long as the registration process is concluded before the award of the bid.
- 11.10.5 Where it is impractical to utilise suppliers who are duly registered on the CSD and WCSEB, the requirements as prescribed in Chapter 4 must be followed.
- 11.10.6 Bids should be evaluated in terms of the following phases:
- (a) **Phase 1:**  
Checking of compliance with conditions and compulsory requirements of the bid (i.e. Active registration on the CSD/WCSEB, tax compliance – to be confirmed at award phase, requested documents, attendance of a compulsory information session, if applicable, etc.). Only bids that complied with all requirements set out in Phase 1 of the evaluation process will proceed to the next phase.
  - (b) **Phase 2:**  
Evaluate compliance with bid specifications and the bidder's capability and ability to perform. Only bids that complied with all requirements set out in Phase 2 of the evaluation process will proceed to the next phase.
  - (c) **Phase 3:**  
Application of the Preference Point System (80:20 / 90:10). A bid must be awarded to the bidder that scored the highest total number of points, unless objective criteria justify otherwise.
- 11.10.7 If service providers bid for the rendering of goods or services, it may be required that the names and relevant qualifications of the actual people (the directors, trustees or members) who will be responsible for the goods or services or works be stated.
- 11.10.8 When evaluating against a technical specification, bidders are required to comply with all technical requirements as far as possible. It is imperative that such specifications be drafted with great care in the bid drafting phase, to avoid the need to amend specifications at a later date. Amendments are dangerously risky as they are likely to attract legal liability.
- 11.10.9 If it is found that a bidder complies with all the technical requirements, extra features of that product/service offered cannot be taken into consideration unless the Department decides that the feature that the bidder has offered should be part of the specifications. Other bidders should then also be allowed to offer such features.

- 11.10.10 As a general rule it is acceptable to allow the submission of alternative offers which are almost but not strictly to specification irrespective of whether the bidder also submits offers conforming strictly to the specification criteria. The exception to this rule is to stipulate that bidders may not submit such offers. In such cases, this decision must be stated unequivocally in the bid invitation in order to avoid a situation where different offers are submitted on one set of bid documents, thereby compromising / prejudicing the position of the bidder. Factors to be considered are:
- (a) The department must be convinced that other bidders' competitiveness is not adversely affected by the acceptance of a bid, which is not strictly to specification.
  - (b) The Accounting Officer or delegated official is not convinced that the offer that is not strictly to specifications may not be considered by the acceptance of a bid.
- 11.10.11 Where alternative offers differ materially from the specification, the following approach must be taken:
- (a) Consider in the first instance whether or not the best option would be cancellation (consult with Responsibility Manager).
  - (b) Ensure an open and fair process, affording equal opportunity to bid.
  - (c) Determine whether or not a specification is inherently proprietary / unique to that particular bidder.
  - (d) Stipulate the set cut-off date for offers to reach the Department.
  - (e) Late offers are unacceptable.
  - (f) Care must be taken not to expose the bid price of the bidder who initiated the altered specification.
  - (g) All these offers must be opened simultaneously after the closing.
- 11.10.12 The connection to original suppliers must always be known to the department. This is to ensure that the bidder can deliver what they promise to deliver. If the bidder is a supplier but not the actual manufacturer and will be sourcing the product(s) from another company, a letter from that company(ies)/supplier(s) confirming firm supply arrangement(s) in this regard, has to accompany such bid and failure to submit such document may invalidate the bid. This requirement must be stated upfront in the bid documents.
- 11.10.13 It is a requirement that the taxes of bidders must be in order or that satisfactory arrangements have been made with the SARS. The CSD and/or SARS e-Filing or proof that arrangements have been made with SARS will be considered when determining a bidder's tax compliance. Should the bidder's tax status indicate a 'non-tax compliance status', the Department must afford the recommended bidder sufficient time to correct same or alternatively provide proof of arrangements made with SARS in terms of its tax obligations.
- 11.10.14 Prior to the award of any contract, the delegatee should ensure that neither the recommended bidder nor any of the directors are listed as companies/directors/persons restricted to do business with the public sector. This list of restricted suppliers is managed and maintained by the Office of SCM within the National Treasury. This list can be accessed on the National Treasury website: [www.treasury.gov.za](http://www.treasury.gov.za). Departments must ensure that the recommended bidder is not listed in National Treasury's Database of Tender Defaulters and Register of Restricted suppliers. Under no circumstances is the Department allowed to procure from suppliers listed on the Tender Defaulters' Database. For suppliers listed on the Register for Restricted Suppliers, the Department must apply due diligence and risk assessment before deciding to proceed with procurement from the supplier.

- 11.10.15 In order to give effect to the National Industrial Participation Programme, all contracts that have an imported content and a value  $\geq$  R10 million must within five (5) days after award be reported to the Department of Trade and Industry at the following address:

**Chief Director: Industrial Participation**

**Secretariat**

**Department of Trade and Industry**

**Private Bag X84**

**Pretoria**

**0001**

- 11.11.2 A bid will be considered further for price and preference points – under either the 80/20 or 90/10 systems. A bid that fails to meet the advertised bidding and evaluation criteria must be disqualified.
- 11.11.3 Scoresheets must be prepared and provided to the BEC to evaluate the bids. The scoresheets should contain all the criteria to be applied for evaluation as indicated in the bid documents.
- 11.11.4 Each BEC member may, after thorough evaluation sign the evaluation sheet and if necessary, written motivation may be requested from panel members where there are discrepancies in the evaluation of the bid.
- 11.11.5 A consolidated and consensus sheet should be completed and signed by the Chairperson of the BEC only as it relates to the evaluation of the bid.

**11.11.6 Application of the 80/20 or 90/10 preference point system**

Only bids that achieve the minimum qualifying criteria must be evaluated further in accordance with the 80/20 or 90/10 preference points systems prescribed in the Provincial Treasury Circular No. 1/2023 on the Interim Arrangements dated 13 January 2023.

**Phase 2: Application of 80/20 or 90/10 preference point systems**

- (a) Only bids that achieve the minimum qualifying criteria must be evaluated in this phase.
- (b) Contracts must be awarded at market related prices. If the Department has sufficient time it may approach the Department of Trade and Industry and Competition (DTIC) to assist with benchmark prices, value for money and economies of scale; and
- (c) Prices may be negotiated with the recommended bidders, but it must not prejudice other bidders. It is further subject to the Accounting Officer's or delegated official's approval and bidders have been identified as preferred bidders through a competitive bidding process.

**Awards**

- (a) Contracts must be awarded at market related prices, considering the cost effectiveness and value for money. The Department may approach the DTIC to assist with establishing benchmark prices, value for money and economies of scale.

## 11.12 EVALUATION OF BIDS THAT SCORED EQUAL POINTS

11.12.1 In the event that two or more bids have scored equal total points, the successful bid must be the one that scored the highest points for B-BBEE.

11.12.2 In the event that two or more bids are equal in all respects, the award must be decided by the drawing of lots.

11.12.3 It is important that, as provided for in the Constitution of the Republic of South Africa (Act 108 of 1996), the process of drawing of lots should provide for an objective, fair and open procedure to determine the successful bidder. The process determined should ensure that there is no prejudice against any of the equal bids and further that the award may be made without interference and with impartiality.

11.12.4 The following is the preferred procedure when drawing lots:

- (a) An opaque, non-transparent, container (e.g. box or hat) is used with a hole sufficiently small so that a hand may be placed inside, but not large enough so that the lots may easily be seen.
- (b) Pieces of paper may be used as lots, but it should be ensured that there is at least double the amount of lots than there are equal bids. The extra lots should be left blank.
- (c) The lots should in all respects be equal, i.e. the same colour, weight, size, texture etc. Before the lots are inserted the names of each of the equal bids are written or printed on a lot and all lots are inserted in the box.
- (d) The container is then shuffled, and an independent party or chairperson of the relevant SCM Committee then draws one lot at a time in front of at least three witnesses, until the first lot with a name written or printed thereon is drawn.
- (e) The first lot to be drawn is the successful bidder.

## 11.13 DISCOUNTS

When calculating comparative prices: -

- (a) unconditional discounts must be taken into account for evaluation purposes;
- (b) conditional discounts must not be taken into account for evaluation purposes but considered only when payment is made.

**11.14** A bidder must not be awarded the points claimed for B-BBEE status level contribution if it is indicated in the bid documents that such a bidder intends sub-contracting more than 25% of the contract value to any other enterprise that does not qualify for at least the same number of points that the bidder qualifies for, unless the intended subcontractor is an Exempted Micro Enterprise (EME) that has the capability to execute the sub-contract.

## 11.15 AWARD OF BIDS

- 11.15.1 A bid must be awarded to the bidder who scored the highest total number of points in terms of the preference point system.
- 11.15.2 A contract may be awarded to a bidder who did not score the highest total number of points, only in accordance with Section 2(1)(f) of the PPPFA (Act 5 of 2000). This may be done when objective criteria are contemplated in addition to specific goals as contemplated in sub-sections (d) and (e) of the PPPFA, which require that:
- (a) specific goals may include-
    - (i) contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender or disability;
    - (ii) implementing the programmes of the Reconstruction and Development Programme (RDP) as published in *Government Gazette* 16085 dated 23 November 1994; and
  - (b) any specific goal, for which a point may be awarded, must be clearly specified in the invitation to submit a tender.

## 11.16 REJECTION OF BIDS

- 11.16.1 Awards need not necessarily be made for every tender advertised. Departments have the authority to cancel a tender before it has been awarded. A tender may be cancelled –
- (a) Due to a change in circumstances – for example there is no longer a need for the goods or services specified in the tender invitation;
  - (b) There are no funds available to cover the cost of the expenditure;
  - (c) No acceptable tender offerings have been received;
  - (d) There is a material irregularity in the tender process
- 11.16.2 The notice of cancellation of a tender must be published in the same way the original tender invitation was advertised.
- If all bids received were rejected, the Department must review the causes justifying the rejection and consider making revisions to the specific conditions of contract, design and specifications, scope of the contract, or a combination of these, before inviting new bids. If the rejection was due to most or all of the bids being unacceptable, new bids may be invited from the initially pre-qualified firms, or with the prior written agreement of the Accounting Officer or delegated official, from only those that submitted bids in the first instance.
- 11.16.3 Bids must not be rejected for the purposes of obtaining lower prices, if the lowest evaluated acceptable bid exceeds the Department's estimated costs, unless the approved budget for the procurement process dictates otherwise. However, if the lowest bid price exceeds the approved budget for the procurement process, then the Department will be compelled, and permitted, to reject all bids and start again.
- 11.16.4 The Department may negotiate the price with the highest point scorer if the price is not market related. Should the bidder not agree to a market related price, the department may cancel the bid.



11.16.5 Individual bids may be disregarded in the following circumstances:

- (a) Where a bidder/ contractor/ service provider fails or has failed to comply with any of the conditions or compulsory requirements of the bid;
- (b) Where a bidder has withdrawn an offer;
- (c) Where a bid is late;
- (d) Where the bidder has amended an offer after the closing time for receipt of offers;
- (e) If it is determined that the supplier recommended for award, has engaged in corrupt or fraudulent activities in competing for the contract in question; and
- (f) any rejection of bidders should be motivated and recorded for record and audit purposes.

## **11.17 CONCLUSION OF CONTRACT**

11.17.1 A contract is concluded and becomes binding when a bid is accepted by the Accounting Officer or delegated official and a signed letter of acceptance, by an authorised person, has been sent to the recommended bidder and the relevant bidder has accepted the award by signing the requisite WCBD 7.1 Contract Form. Any decision regarding the awarding of a contract will be final and, on written request, reasons for the decision of the Department will be provided without revealing any information of any bidder that is afforded protection under the PAIA or POPIA.

11.17.2 The contract will consist, at a minimum, of:

- (a) GCC;
- (b) SCC, where applicable;
- (c) submitted bid documents;
- (d) documentation for the claiming of price and preferential procurement points;
- (e) proof of tax compliance status;
- (f) letter of acceptance
- (g) WCBD 7.1 Contract Form; and
- (h) where applicable, a service level agreement.

11.17.3 Successful bidders will be notified, in writing, of the acceptance of bids. With the exception of period contracts, the under-mentioned particulars of the successful bidder must be published in the Government Tender Bulletin, the e-Tender Publication Portal and/or other media of the National Treasury for general information:

- (a) Name of the Contractor;
- (b) Contract description and bid number;
- (c) The relevant price;
- (d) Contract period;
- (e) The brand name of the product or the name of the manufacturer;
- (f) Where applicable, the B-BBEE status of the successful bidder; and
- (g) Where no bid has been accepted, particulars of the bids received are not to be made public.

(h) Date of award.

- 11.17.4 All correspondence, including letters of acceptance, must be signed on behalf of the Accounting Officer or delegated official and in accordance with the relevant delegations. This is an administrative arrangement and although the Accounting Officer or delegated official accepts accountability for the contract that is concluded, the signatory remains co-responsible for the contract and for the correctness of the data supplied. The letters of acceptance and/or Service Level Agreement (SLA) serve as the basis for placing orders and for the administration of the contract as well as for the settlement of disputes. The format and contents of the letters of acceptance must be written in a manner to enable SCM practitioners to carry out the above-mentioned actions in a meaningful and responsible manner. All relevant information must be included in the letters of acceptance. It is essential that any conditions or stipulations, laid down by the Department, be clearly and unambiguously included in the bid documents or letters of acceptance.
- 11.17.5 Care must be taken that letters of acceptance and/or SLAs do not contain conditions, or do not even imply the approval of conditions that the delegated official has not approved. Any special conditions set by the bidder, that has not been withdrawn, as well as any special conditions that have been approved and which have financial implications, may also be included in the letters of acceptance and/or SLAs, where required.
- 11.17.6 In the case of joint bids or bids on behalf of companies still to be incorporated, the Department's rights must be protected at all times by binding all parties to the contracts both jointly and severally. The companies and/or persons concerned must therefore each receive a letter of acceptance/copy of the SLA addressed to their own addresses and care must be taken that they all have signed the bid documents appropriately. In the case of a company to be established, the contract must be ceded to the company as soon as it has been incorporated. In the case of period contracts where a large number of items are at stake, the contract notice may be used as part of the letter of acceptance and/or SLA.

### **Letter of acceptance**

- 11.17.7 The letter of acceptance is issued to the successful bidder and becomes binding when a bidder's bid is accepted by the department. The successful bidder must then confirm the acceptance thereof and return the duly signed WCBD7.1 to the Department. A copy of this letter of acceptance must be retained on file by the department. Successful bidders must be notified by registered post or by email of the award of their bids. However, if goods and services valued at less than R10 000 are procured, the acceptance of such quotation may be affected by placing an order within the validity period of such offer, and there need not be notification of the service provider in writing, prior to the placement of the order.
- 11.17.8 All relevant information must be included in the letters of acceptance. It is essential that any conditions or stipulations, laid down by the department be clearly and unambiguously included in the bid documents or letters of acceptance.
- 11.17.9 Care must be taken that letters of acceptance and SLAs do not contain conditions, or do not even imply the approval of conditions, that were not part of the bid documents.
- 11.17.10 In the case of joint venture bids or bids on behalf of companies still to be incorporated, the department's rights must always be protected by binding all parties to the contracts both jointly and severally. The companies and/or persons concerned must, therefore, each receive a letter of acceptance and a copy of the SLA addressed to their own addresses and care must be taken that they all have signed the bid documents appropriately. In the case of a company still to be established, the contract must be ceded to the company as soon as it has been incorporated. In the case of period contracts, entered into for the supply of

goods or services for a specified period of time and where a large number of items are at stake, the contract notice may be used as part of the letter of acceptance and the SLA.

11.17.11 In all cases, mistakes in the letters of acceptance or WCBD7.1 or SLA must be reported to the Accounting Officer or delegated official and corrected immediately. Every effort must be made without delay to retract and issue the correct letter of acceptance to the service provider. The SCM practitioner must ensure that the information and correct letter of acceptance or WCBD7.1 or SLA is placed on the relevant bid and contract file for record and audit purposes.

11.17.12 Where further documentation is signed by all parties concerned as an agreement in addition to the letter of acceptance and WCBD 7.1, it is defined as a Service Level Agreement (SLA). It is not in all instances that an SLA is required. An SLA is a document, which defines the relationship between the parties: the provider(s) and the recipient. This is clearly an extremely important document for both parties. It should:

- (a) Identify and define the Department's needs;
- (b) Provide a framework of understanding;
- (c) Simplify complex issues;
- (d) Reduce areas of conflict;
- (e) Encourage dialogue in the event of disputes; and
- (f) Eliminate unrealistic expectations.

11.17.13 Furthermore, SLA's should embrace a wide range of issues which include, amongst others, the following:

- (a) Services to be delivered;
- (b) Performance, Tracking and Reporting;
- (c) Problem Management;
- (d) Legal Compliance and Resolution of Disputes;
- (e) Service provider and Department's duties and responsibilities;
- (f) Security;
- (g) Confidential Information; and
- (h) Termination.

11.17.14 All SLA's must be done in consultation with and vetted by Legal Services.

## **11.18 NEGOTIATIONS WITH PREFERRED BIDDERS**

11.18.1 Negotiations with bidders identified as preferred bidders through a competitive bidding process may take place provided that approval has been obtained from the Accounting Officer or delegated official and such a process does not allow the bidder concerned a second (unfair) opportunity, is not to the detriment of any other supplier/bidder and does not lead to a higher price than the bid as submitted.

- 11.18.2 At the end of the evaluation process, a preferred bidder is normally identified. This is the bidder who has scored the highest number of points, or to whom objective criteria justify the award of the contract. If approved by the AO or their delegate, the department may begin negotiating with the preferred bidder. Successful negotiations result in the award of the contract and the implementation of that contract.
- 11.18.3 Negotiations should include discussions of the Terms of Reference (TOR), the methodology, staffing, Accounting Officer's or delegated official's inputs, and special conditions of the contract. These discussions should not substantially alter / affect the original TOR or the terms of the contract, the quality of the final product and the relevance of the initial evaluation process. Major reductions in work inputs should not be made solely to meet the budget. The final TOR and the agreed methodology should be incorporated in "Description of Services," which should form part of the contract. The selected firm should not be allowed to substitute key staff, unless both parties agree that undue delay in the selection process makes such substitution unavoidable or that such changes are critical to meet the objectives of the assignment. If this is not the case and if it is established that key staff were offered in the proposal without confirming their availability, the service provider may be disqualified, and the process continued with the next ranked service provider.
- 11.18.4 The key staff proposed for substitution should have qualifications equal to or better than the key staff initially proposed. Financial negotiations should include clarification of the consultants' tax liability. Proposed unit rates for staff-months and reimbursable items should not be negotiated, since these have already been a factor of selection in the cost of the proposal, unless there are exceptional reasons. If the result of the negotiations is materially different from that which was specified in the bid specifications, unsuccessful bidders may have grounds to challenge the tender process and its subsequent award for lack of fairness.
- 11.18.5 If the negotiations fail to result in an acceptable contract, the Accounting Officer or delegated official should terminate the negotiations and invite the next ranked compliant bidder for negotiations or consider the cancellation of the bid.
- 11.18.6 The tenderer scoring the highest points should be informed of the reasons for termination of the negotiations. Once negotiations are commenced with the next ranked compliant bidder, the Accounting Officer or delegated official should not re-open the earlier negotiations. After negotiations are successfully completed, the Accounting Officer or delegated official should promptly notify other bidders that they were unsuccessful.

The preferred bidder should not be permitted to substitute key staff, unless both parties agree that undue delay in the selection process makes such substitution unavoidable or that such changes are critical to meet the objectives of the contract. The key staff proposed for substitution should have qualifications equal to or better than the key staff initially proposed.

#### 11.18.7 **Points of note**

- (a) As one goes into a negotiation, there is one striking question that one needs to ask oneself: "Is the price the only subject for negotiation?"
- (b) To achieve all this, negotiators may require the necessary skills in order to effectively negotiate for a win-win outcome. As the parties go into negotiations, there is a need to have a clear strategy and a mandate to make decisions. To negotiate successfully, a negotiator should:
- (i) focus on common ground rather than differences;
  - (ii) try to address needs and interests, not positions;
  - (iii) be committed to meeting the needs of all parties involved;

- (iv) exchange information and ideas;
- (v) develop options for mutual gain;
- (vi) use objective criteria for standards of performance;
- (vii) be committed to honesty and integrity;
- (viii) be trusted;
- (ix) plan and prepare for meetings;
- (x) set clear objectives and targets;
- (xi) know when to use certain strategies;
- (xii) know and understand suppliers and the supply market;
- (xiii) know how to use financial knowledge to influence outcomes;
- (xiv) know how to influence and close the deal;
- (xv) know how to turn a 'no' into 'yes'; and
- (xvi) understand negotiation behaviours.

## **11.19 CANCELLATION AND RE-INVITATION OF BIDS**

11.19.1 Bids may be cancelled, and fresh bids invited if:

- (a) conditions, specifications or any other information have to be changed due to a change in need / or mistakes are discovered in the documents before or after the closing date;
- (b) all bidders cannot be informed of the changes of the bid timeously;
- (c) in the event that, in the application of the 80/20 preference point system as stipulated in the bidding document all bids received exceed the estimated rand value of R50 Million. It should be noted that if one or more of the acceptable bids received are within the prescribed threshold of R50 Million, all bids received must be evaluated on the 80/20 preference points system;
- (d) in the event that, in the application of the 90/10 preference point system as stipulated in the bidding document all bids received are above the estimated Rand value of R50 Million. It should be noted that if one or more of the acceptable bids received are below the prescribed threshold of R50 Million, all bids received must be evaluated on the 90/10 preference points system;
- (e) due to changed circumstances, there is no longer a need for the goods or services, works specified in the invitation;
- (f) funds are no longer available to cover the total envisaged expenditure; and
- (g) no acceptable bids are received.
- (h) There is a material irregularity in the tender process.
- (i) The validity period of the bids has expired.

11.19.2 Should the Department decide to cancel a bid, a submission must be drafted and submitted via the relevant SCM Committee to the Accounting Officer or delegated official regarding the cancellation of the bid. Where the latter decides to cancel the bid, cancellation must be communicated to all bidders who collected bids. A tender invitation can only be cancelled for the second time with the prior approval of Provincial Treasury.

## **11.20 COMMUNICATION WITH BIDDERS**

- 11.20.1 During consideration of bids, communication with bidders, may take place only within the delegated powers as set out by the SCM delegations. Communication with the bidder is only allowed when there appears to be ambiguity in documentation provided, and there is a need to confirm prices where there is uncertainty. The extent and purpose of the communication must be documented.
- 11.20.2 If bidders set their own conditions, which might contradict or be in conflict with the bid conditions and it is in the interest of the Department to accept these conditions set by the bidder, and insofar as those conditions do not prejudice other bidders, recommendations for acceptance may be made via the relevant SCM Committee to the Accounting Officer or delegated official.
- 11.20.3 However, where it is not in the interest of the Department to accept same, or prejudice to other bidders is inevitable, the bidder may be requested to renounce/withdraw these conditions. Where such conditions have financial implications or their withdrawal implies a second chance to bid, the facts must be pointed out to the Accounting Officer or delegated official. If the condition is of such a nature that it is materially unacceptable, the bid may be invalidated. In this instance the bidder must be informed in clear terms of the (that) consequence should the bidder fail to adhere to the abovementioned request. Cognisance of the legal implications should be taken when exercising these steps.

## **11.21 REPORTING**

- 11.21.1 All contracts valued at greater than R10 million must, within five (5) days of the award, be reported by the AO or their delegate to the DTIC. The following information must be contained in the report:
- (a) bid number;
  - (b) description of the goods or services;
  - (c) date on which the contract was awarded;
  - (d) name, address and contact details of contractor; and imported content of contract, if present.

## CHAPTER 12

### LIMITED BIDDING

#### 12.1 INTRODUCTION

12.1.1 **Deviation from Normal Bidding Process** – If in a specific case it is impractical to invite competitive bids, the Accounting Officer may procure the required goods and services by other means, provided that the reasons for deviating from inviting competitive bids must be recorded and approved by the Accounting Officer. Procurement by “other means” includes:

- (a) Limited Bidding
- (b) Written price quotations not within the threshold determined by National Treasury Instructions;
- (c) procurement that occurs in emergency situations and urgent cases.

12.1.2 Limited bidding is the process whereby bidding is reserved for a specific group or category of possible suppliers/service providers/contractors. It should be viewed as an **exception and not the rule** as this imposes a limitation on the provision of competitiveness. Departmental limited bidding will be permitted in instances where:

- (a) A written motivation (business case) clearly indicates that a limited bidding process is the appropriate form of procurement because there is confirmed, limited competition in the supplier field, or there is the confirmed presence of a sole source in the supplier field. The motivation (business case) must, include an appropriate market and expenditure analysis of the relevant goods and services. Given the exceptional nature of a limited bidding process, the motivation must, in addition to the findings, present and substantiate the methodology used for such analysis and determinations
- (b) a competitive bidding process or invitation of quotations was initiated, but the bids received were all non-responsive or unaffordable and time is of the essence. In such cases re-invitation of bids can be limited to those suppliers who initially submitted bids;
- (c) goods or services are designed or manufactured solely by an identified supplier or the supplier is the owner of the intellectual property necessary to create the goods or services. Written confirmation of such design, manufacturing or ownership of intellectual property must be obtained from the supplier and retained on the bid file;
- (d) there exists legislative, technological or safety requirements or standards that reasonably permit only a limited number of suppliers or contractors who meet the requirements or standards. Invitations to bid may, if desired, be limited to those proven to meet said requirements or standards. The afore-mentioned requirements or standards must be recorded by the Department and retained on the bid file;
- (e) the Department has a specific need and may procure for exceptionally low prices for a limited period of time from a specific supplier. Written confirmation of the offer and the reasons for it must be provided by the supplier and retained on the relevant bid file as well as an indication that other relevant suppliers could not match the offer.
- (f) Until such time that a transversal contract has been arranged for the utilization of a travel management agency, written quotations will be obtained from at least three (3) travel management agencies who are willing to accept WCED orders without opening an account. However, the department may procure its own term tender or consider participation in a contract procured by another organ of state for such services

- 12.1.3 When procuring goods or services through a limited bidding process, the SCM unit must ensure that, where relevant:
- (a) the prescribed bidding documents have been completed;
  - (b) the preferred bidder is duly registered on the CSD;
  - (c) the preferred bidder's tax compliance is in order;
  - (d) the bid is evaluated in terms of the preference point system;
  - (e) there has been compliance with the required demand management process;
  - (f) all goods or services above the threshold of R1 Million be recommended through the bid adjudication process prior to an award being made by the relevant delegate;
  - (g) all limited bids over the value of R1 Million (all applicable taxes included) must be reported to the Provincial Treasury and the Auditor-General within 14 working days after finalisation of the procurement transaction;
  - (h) all limited bids over the value of R5 million (VAT inclusive) be executed in consultation with the Provincial Treasury prior to the award being made; and
  - (i) reasons for the decision are documented and readily available to give effect to the Promotion of Access to Information Act, 2000 (Act 2 of 2000) and the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000).
- 12.2 Limited Bidding above the threshold of R1 Million should follow the same procedure as competitive bidding for RFQ or bid documentation, closing dates, opening of bids, bid evaluation, and tender awarding.

### 12.3 FORMS OF LIMITED BIDDING

- 12.3.1 **Sole source** where there is no competition in the market and only one supplier is able to provide the goods and services.
- 12.3.2 **Single source** where a thorough analysis of the market and a transparent and equitable pre-selection process is used to decide on one supplier among a few prospective bidders to make a proposal.
- 12.3.3 **Multiple source** where a thorough analysis of the market indicates that there is limited competition and only a few prospective bidders are requested to make a proposal.

### 12.4 SYSTEMS AND PROCESSES FOR THE PROPER HANDLING OF LIMITED BIDDING

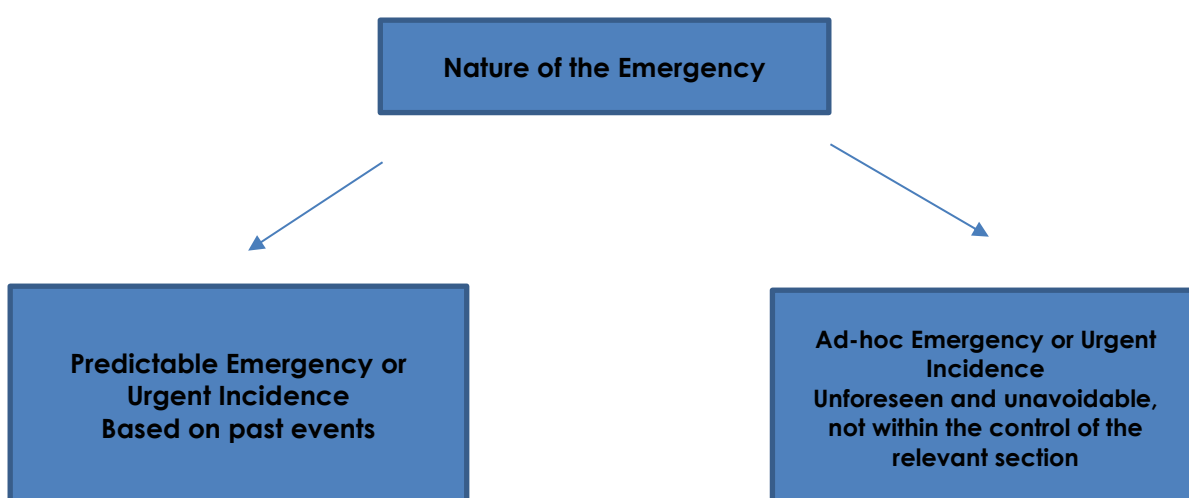
- 12.4.1 With the exception of those cases specifically mentioned in the SCM Delegations, limited bidding must follow the same procedure relating to RFQ or bid documentation, closing dates, opening of bids, evaluation and awarding as is the case in competitive bidding.
- 12.4.2 A Standard Operating Procedure for Limited Bidding Procurement together with an Application for Limited Bidding and Checklist is attached as **Addendum 7**.



## CHAPTER 13

### EMERGENCY AND URGENT CASE PROCUREMENT

- 13.1 An "Emergency" is defined as a serious and unexpected situation that poses an immediate risk to health, life, property or environment which calls for urgent action and there is insufficient time to follow a competitive bidding process. An urgent case means where early delivery is critical, and the invitation of competitive bids is either impossible or impractical.
- 13.2 The Department may in cases of emergency and urgent, dispense with the invitation of competitive bids if impossible or impractical and may obtain goods or services by other means. This must be done in accordance with the Department's Emergency and Urgent Procurement Policy.
- 13.3 The following diagram sets out the nature and conditions warranting an emergency:



- 13.4 The SCM Emergency and Urgent Procurement Policy together with the Standard Operating Procedures for the procurement of goods/services (*ad-hoc* and predictable) in emergency situations is attached as **Addendum 8**.
- 13.5 Conditions warranting an Emergency or urgency should include the existence of one or more of the following:
- (a) The possibility of injury or death;
  - (b) The prevalence of human suffering or deprivation of rights;
  - (c) The possibility of damage to property or a resultant of loss of property;
  - (d) Interruption of essential services or support services critical to the effective functioning of the WCED;
  - (e) The possibility of serious damage occurring to the natural environment; and
  - (f) The possibility that the failure to take the necessary action may result in the WCED not being able to render an essential service to the community.
  - (g) Delay in the procurement may have a negative impact on the urgent operational requirements and service delivery needs and mandate of the Department.
- 13.6 The prevailing situation should be of such a scale and nature that it could not allow for the full formal procurement process to be followed. Emergencies or urgent case procurement should not be granted in respect of circumstances other than those contemplated above

and/or further specified Instructions received from the Provincial and National Treasuries. Please refer to **Addendum 8. It must be noted that poor planning does not justify an emergency and urgent procurement incidence.**

- 13.7 In these instances, registration is not fatal to a supplier. The emergency will supersede the lack of registration. The supplier will, instead, be requested to register on the CSD and WCSEB after the award, and to do so within seven (7) days of the award.
- 13.8 In the event that goods and services are procured as an emergency procurement, the AO or their delegate must report the award within fourteen (14) working days after the finalisation of the procurement transaction to Provincial Treasury and the Auditor-General. The procurement may not be deliberately split into parts to avoid this reporting requirement. The report must be submitted in the format determined by the National Treasury.

## **CHAPTER 14**

### **UNSOLICITED BIDS**

#### **14.1 INTRODUCTION**

An unsolicited proposal means any proposal received by the Department outside its normal procurement process. The Department is not obliged to consider any unsolicited proposal. Within ten (10) working days of receiving such a proposal, the AO or their delegate must inform Provincial Treasury of said receipt.

#### **14.2 CRITERIA FOR CONSIDERATION OF AN UNSOLICITED PROPOSAL**

14.2.1 An unsolicited proposal may be considered if the proposal includes at least the following information:

- (a) Proof of ownership of design, manufacturing, intellectual property, copyright or any other proprietary right of ownership or entitlement of the bidder;
- (b) an offer in writing clearly setting out the proposed cost of the goods/ services; and
- (c) a value proposition which demonstrates a clear measurable, foreseeable efficiency gain for the Department.

14.2.2 If the decision is to consider the unsolicited proposal, a registered letter must be sent to the proponent confirming the decision to consider the proposal.

14.2.3 The following information must be requested from the proponent, if not already provided for in the initial proposal:

- (a) the proponent's name, address, identification or registration number (if a corporation), VAT registration number and the contact details of its authorised representative;
- (b) identification of any confidential or proprietary data not to be made public;
- (c) the names of other South African departments that have received a similar unsolicited bid;
- (d) a declaration from the proponent to the effect that the unsolicited bid was not as a result of any non-public information obtained from officials of the Department or any other department;
- (e) a concise title and abstract (approximately 200 words) of the proposed good or service;
- (f) a statement of the objectives, approach and scope of the proposed good or service;
- (g) a statement describing how the proposal is demonstrably innovative and supported by evidence that the proponent is the sole provider of the innovation;
- (h) a statement of the anticipated benefits or cost advantages to the Department including the proposed price (as in the initial proposal) or total estimated cost for providing the good or service in sufficient detail to allow a meaningful evaluation by the Department;
- (i) a statement showing how the proposed project / offer supports the Department's strategic growth and development plan and its other objectives; and

- (j) the period of time for which the proposal is valid for consideration, which may not be less than six (6) months.

14.2.4 When procuring goods or services as a result of an unsolicited proposal/bid, the Accounting Officer must ensure that:

- (a) the prescribed bidding documents have been completed; and
- (b) a recommendation is made through the relevant SCM Committee process prior to a final award being made by the Accounting Officer.

14.2.5 The authority to approve a final award as a result of an unsolicited proposal/bid may not be delegated by the Accounting Officer.

### **14.3 REJECTION OF AN UNSOLICITED PROPOSAL**

14.3.1 An unsolicited proposal must be rejected if the proposal:

- (a) relates to known departmental requirements that may, within reasonable and practical limits, be acquired through conventional competitive bidding methods;
- (b) relates to goods or services which are generally available;
- (c) does not fall within the Department's powers and functions;
- (d) has not been submitted by an authorised representative of the proponent; and
- (e) does not comply with paragraph 14.2.1 above.

14.3.2 If the unsolicited proposal is rejected the Department will:

- (a) notify the authorised representative of the proponent by registered post that the Department has rejected the unsolicited proposal;
- (b) ensure that it does not make use of any of the intellectual property or proprietary data in the unsolicited proposal; and
- (c) return to the proponent by registered mail all documents received in the unsolicited proposal including any copies of these documents.

### **14.4 EVALUATION OF UNSOLICITED PROPOSALS**

14.4.1 If the decision by the AO or their delegate is to consider the unsolicited proposal, a registered letter must be sent to the proponent confirming the decision to consider the proposal.

14.4.2 An unsolicited proposal is compliant if:

- (a) the good(s) or service(s) offered is a unique, innovative concept that will be exceptionally beneficial to, or have exceptional cost advantages for the Department;
- (b) the person who made the proposal is the sole provider of the good(s) or service(s); and
- (c) the need for the good(s) or service(s) has been established during the strategic planning and budgeting processes.

14.4.3 If the above conditions are met, the Department may enter into direct negotiation with the proponent outside the normal competitive bidding process.

- 14.4.4 When procuring goods or services as a result of an unsolicited bid an accounting officer or accounting authority must ensure that:
- (a) supplier is registered on the CSD; and
  - (b) recommendation is made through the bid adjudication process prior to a final award being made by the accounting officer or accounting authority.

## **14.5 PUBLIC PRIVATE PARTNERSHIP (PPP) COMPLIANT UNSOLICITED PROPOSALS**

- 14.5.1 If the unsolicited proposal is a PPP, the necessary National Treasury Regulation should be complied with.

## **14.6 NON-PPP UNSOLICITED PROPOSALS**

- 14.6.1 If the unsolicited proposal is not compliant to the requirements for PPP's, a comprehensive evaluation of the unsolicited proposal must be undertaken. This includes a feasibility study that evaluates the costs and benefits of procuring the good(s) or service(s) from the proponent including, as appropriate, an assessment of:

- (a) any unique, innovative, researched or meritorious methods, approaches or concepts demonstrated in the unsolicited proposal;
- (b) the overall scientific, technical, or socio-economic merit of the unsolicited proposal;
- (c) the potential contribution of the unsolicited proposal to the Department's strategic growth and development plan;
- (d) an assessment of whether the proposed cost of the project is realistic, affordable and justified; and
- (e) any other fact which, in the opinion of the Department, is relevant to the particular unsolicited proposal.

- 14.6.2 If at the conclusion of the feasibility study, a clear business case has been established and the good(s) or service(s) involves an innovative design or involves an innovative approach to project development and management or presents a new and cost-effective method of service delivery, the Department must proceed with the processes to develop and execute an unsolicited bid agreement as set out in paragraph 14.7.1 below. If the feasibility study does not reveal the above, the Department must reject the unsolicited proposal as prescribed in paragraph 14.3.1 above.

## **14.7 UNSOLICITED PROPOSAL AGREEMENT**

- 14.7.1 If the Department proceeds with the unsolicited proposal, the Accounting Officer must negotiate an unsolicited proposal agreement with the proponent, in order to establish amongst others:
- (a) the methodology for determining any costs to be reimbursed to the proponent, should the procurement processes set out in paragraph 14.9.3 below result in an award for the good(s) or service(s) being made to a party other than the proponent;
  - (b) the procedure for further developing the project and responding to issues raised by the Department;

- (c) the allocation of responsibility for developing bid documents in accordance with the Department's supply chain management systems, provided that the development of the documentation must always be under the supervision of the Department;
- (d) the information in the unsolicited proposal must be treated as confidential; and
- (e) the purchase of intellectual property rights, if any.

## **14.8 CALCULATION OF COSTS**

- 14.8.1 In calculating costs for the purposes of paragraph 14.7.1 (a) above, the Department and the proponent must restrict their consideration to direct costs incurred by the proponent in developing technical and other materials in meeting paragraph 14.7.1, above.
- 14.8.2 If the Department and the proponent cannot reach consensus, the Department will not be responsible for any costs which the proponent has incurred in preparing and submitting the unsolicited proposal. The Department may not implement the project proposed in the unsolicited proposal for the current or next financial year and may not utilise at any time the proprietary information provided by the proponent as part of its unsolicited proposal.

## **14.9 PROCUREMENT**

- 14.9.1 The authority to approve a final award as a result of an unsolicited bid may not be delegated by the AO.
- 14.9.2 If the unsolicited proposal agreement is concluded, the Department must prepare and issue the prescribed bidding documents to the proponent for completion.
- 14.9.3 The process to be followed when procuring goods and services from a provider shall include:
  - (a) the preparation of a Request for Qualification (RFQ) to test the market for the existence of other private entities capable of providing the goods/services;
  - (b) the preparation of a draft contract for the provision of the good(s) or service(s) should there be no adequate response to the RFQ;
  - (c) the preparation of a Request for Proposal (RFP) with a draft contract should there be one or more adequate responses to the RFQ;
  - (d) conducting a competitive bidding process among the firms qualified in the RFQ and the proponent and receiving all properly completed prescribed bidding documents;
  - (e) recommendation through the bid committee process prior to the final award being made by the Accounting Officer or delegated official;
  - (f) the final award must be approved by the Accounting Officer; and
  - (g) reimbursement of the proponent should the proponent not be awarded the contract for the provision of the good(s) and service(s) at the conclusion of the competitive bidding process. The quantum of the reimbursement shall be those audited costs of the proponent from the point in time where the Accounting Officer was solicited by the proponent to the conclusion of the competitive process in terms of the unsolicited proposal agreement.

14.9.4 The foregoing bid processes must –

- (a) be developed by the Department;
- (b) disclose that the bid originated from an unsolicited proposal;
- (c) provide the agreed costs and terms of payment to the proponent, and require that all bidders, save for the proponent, make allowance for these costs and pay such costs to the proponent directly, if their bid is successful.

#### **14.10 USING EXTERNAL CONSULTANTS TO ASSIST IN EVALUATING UNSOLICITED PROPOSALS**

14.10.1 After receiving an unsolicited proposal and before accepting or rejecting the proposal, independent consultants or experts may be approached by the Department to assist in evaluating such proposal.

14.10.2 These consultants must however undertake that any confidential material or information provided by the proponent will not be disclosed to anyone other than an employee or agent of such a third party who will, in turn, treat the information or material as confidential and give an undertaking to do so. The cost of obtaining independent advice must be covered by the Department, unless the proponent withdraws the proposal prior to entering into an unsolicited proposal agreement, in which event the proponent will be liable to the Department for these costs.

14.10.3 The appointment of such external consultants will be done in accordance with the requirements as stipulated in Chapter 6.

#### **14.11 USE OF UNSOLICITED PROPOSALS**

14.11.1 The Department may not use any data, concept, idea, or other part of an unsolicited proposal as the basis or part of the basis, for a solicitation or in negotiations with any other firm unless the project proceeds to procurement and the proponent is notified of and agrees to the intended use, provided that, this prohibition does not preclude the use of any data, concept or idea in the proposal that also is, or becomes, available from another source without restriction. The Department further will not disclose any information identified in the unsolicited proposal agreement as confidential.

#### **14.12 REPORTING**

14.12.1 The Provincial Treasury must be notified in writing within ten (10) working days of receipt of an unsolicited proposal whether such proposal had been considered or rejected by the Department.

14.12.2 The Department must record all proposals/unsolicited bids received and rejected/awarded. All concluded unsolicited proposal agreements must be reported in the Department's annual report.

## CHAPTER 15

### TRANSVERSAL CONTRACTS

- 15.1 A transversal contract is one centrally arranged to meet the need for goods or services required by more than one department.
- 15.2 Provincial Transversal contracts will be arranged by the following three departments as per the Provincial Treasury Instructions:
- 15.2.1 Department of the Premier for Corporate Shared Services (CSC) in respect of human resources, organisational development, provincial training, corporate communication and information technology related goods or services where it has a financial or contractual impact on other departments;
- 15.2.2 Department of Transport and Public Works for accommodation requirements where such provision has a financial or contractual impact on other departments generally; and
- 15.2.3 Provincial Treasury for goods or services where no single department may be determined as the custodian for the provision of such goods or services.
- 15.2.4 The three departments mentioned above will obtain written application from other Accounting Officers or accounting authorities to participate in the arrangement of the contemplated transversal contract.
- 15.3 Where the Department opts to participate in a transversal contract facilitated by the National Treasury, Provincial Treasury and Provincial Departments, the Department **will not** solicit bids for the same or similar product or service during the tenure of the transversal term contract.
- 15.4 If it is believed that a transversal contract will be relevant to the department, will result in either lower unit costs, or economies of scale, or other corporate advantages, then Provincial Treasury must investigate and facilitate a transversal contract.
- 15.5 **National Transversal Contracts**
- 15.5.1 The Western Cape Government will not consider itself obligated to participate in National Treasury transversal contracts and will exercise its discretion and will only participate in such contracts if due process was followed, the specifications meet the Western Cape Government's requirements, participation is economically viable, and it makes sound financial sense.
- 15.5.2 When an accounting officer opts to participate in a transversal contract facilitated by the National Treasury, the accounting officer may not solicit bids for the same or similar product or service during the tenure of the transversal contract. In instances where the Auditor-General wishes to peruse procurement documents relating to a transversal contract facilitated by the National Treasury, these must be requested from the other organ of state. If any non-compliance to the required prescripts is found, this must be dealt with by the other organ of state where the actual procurement process took place.



## CHAPTER 16

### CONTRACTS PROCURED BY OTHER ORGANS OF STATE

- 16.1 The Department may procure goods and services under a contract secured by another organ of state, when the following are satisfied:
- 16.1.1 the contract secured by that other organ of state is supported by a business case, analysing the commodity, the market and the appropriate sourcing method;
  - 16.1.2 there is no potential conflict of interest between officials of the Department and the service provider;
  - 16.1.3 there is a clear advantage to be gained by the Department in terms of resources saved;
  - 16.1.4 the Department has no reason to believe that such contract was not validly procured;
  - 16.1.5 the other organ of state and relevant service provider consented to such procurement in writing;
  - 16.1.6 the Department procures under the same terms and conditions as provided for in the original contract or more beneficial terms or conditions;
  - 16.1.7 a separate service level agreement is concluded for this purpose which clearly stipulates the duration of the contract with particular emphasis on the start and end date. Such start and end dates must not be outside the contract period of the other organ of state.
- 16.2 When another organ of state wishes to procure from the Department, a written request outlining the following must be submitted to the Department:
- 16.2.1 Detailed reasons for the request must;
  - 16.2.2 Clearly demonstrate the benefits that the organ of state will achieve from procuring from the contract;
  - 16.2.3 Clearly demonstrate that the five pillars of procurement will not be infringed; and
  - 16.2.4 Written consent that the organ of state will conform to the terms and conditions of the existing contract.
- 16.3 In instances where the department opted to purchase from contracts procured by other organs of state, it is deemed that the procurement process as required by National Treasury has been followed and is compliant. In these instances, the department is not procuring but purchasing off a contract already procured or in existence and for all intents and purposes may not procure outside of such contracts.
- 16.4 In instances where the Auditor-General wishes to peruse procurement documents, these must be requested from the other organ of state. If any non-compliance to the required prescripts is found, this must be dealt with by the other organ of state where the actual procurements process took place.

# CHAPTER 17

## MANAGING CONTRACTS

### 17.1 INTRODUCTION

- 17.1.1 Contract management is the process that enables both parties to enter into contract to meet their obligations in order to deliver the objectives required from the contract. It also involves building good working relationships between the customer and provider. It continues throughout the duration of a contract and involves proactive management to anticipate future needs and reacting to situations that may arise.
- 17.1.2 The aim of contract management is to obtain the goods or services as agreed in the contract and to achieve value for money. This means optimising the efficiency and effectiveness of the services or the relationship described by the contract, balancing costs against risks and actively managing the customer-provider relationship. Contract management may also involve aiming for continuous improvements in performance over the duration of the contract.
- 17.1.3 The practices and principles that shape contract management are set out in Contract Management Best Practice Guidelines, Chief Directorate: Legal Services, Corporate Services Centre, Western Cape Government, March 2013, which accompanies Provincial Treasury Circular 21/2013. That guide must be consulted and read in conjunction with this Volume.

### 17.2 CONTRACT MANAGEMENT ACTIVITIES

- 17.2.1 Contract management activities are grouped into three areas:
- (a) Service delivery management: ensures that the service is being delivered as agreed, to the required level of performance and quality. This is the role of the line management component using the contract.
  - (b) Relationship management: keeps the relationship between the two parties open and constructive, aiming to resolve or ease tensions and identify problems timeously. This responsibility is primarily that of line management supported by SCM.
  - (c) Contract administration: handles the formal governance of the contract and changes to the contract documentation. This is the role of SCM.
- 17.2.2 All three activities must be managed optimally to ensure effective and efficient contract management.
- 17.2.3 Adequate preparation and concluding the correct type of contract are essential foundations for good contract management. The arrangement must be flexible to accommodate change. A key factor is "intelligent customer capability": the knowledge of both the customer's and the provider's business, the service being provided and the contract itself. The capability, which touches all three areas of contract management, forms the interface between supply and demand that is, between the business needs of the customer (which refers to the line management) and the provider.
- 17.2.4 Contracts need to be managed according to the Contract Management Framework (CMF) outlined in the Contract Management Guide (CMG) issued by National Treasury in August 2010. Contract Management best practice guidelines issued by the Chief Directorate Legal Services Corporate Services Centre dated March 2013.

### 17.3 ELEMENTS OF CONTRACT ADMINISTRATION

The elements of contract administration include the following:

- (a) Ensuring that all relevant documentation setting out the rights and obligations of both parties are in place, and signed;
- (b) Ensuring change control, i.e. managing changes, amendments and variations to any part of the original agreement (only by written amendment signed by both parties);
- (c) Implementing corrective action whenever significant/unacceptable deviations against the original agreement occur;
- (d) Managing the payment system especially the 30-day period within which payments must be made; and
- (f) Managing the process of default and application of penalties.

### 17.4 ELEMENTS OF CONTRACT MANAGEMENT

The elements of contract management include the following:

- (a) Measuring performance against contract requirements or service level agreements;
- (b) Managing compliance to delivery instructions, quality and quantity control
- (c) Report on supplier poor performance to the Contract Administration section.

### 17.5 NOTIFICATION OF ACCEPTANCE

17.5.1 Successful bidders shall be advised, in writing, of the acceptance of their bid/s. Awards shall be published in the Government Tender Bulletin and on the eTender Publication Portal of National Treasury as well as other media by means of which the bids were advertised. Bids are not available for perusal by the public, but, at the written request of a Bidder or interested party in terms of the procedures for the Promotion of Access to Information Act, the following particulars may be furnished where the information has not been published in the Government Bid Bulletin. The particulars to be published are as follows:

- (a) name of the contractor;
- (b) the relevant price and delivery method;
- (c) the brand name of the product or the name of the manufacturer, and
- (d) where applicable, the preferences claimed.

17.5.2 Where no bid/s has/have been accepted, particulars of the bids received are not made public. The application to advertise must preferably be lodged with the Government Printer or eTender Publication Portal or any other media after the letter of acceptance and Service Level Agreement (SLA) is issued.

17.5.3 Where practical, the letter of acceptance and/or SLA (where applicable) must preferably be collected by the contractor and signed at the WCED Head Office. Where impractical in respect of learner transport contracts, it must be sent to the Education District Office where the bidder is requested to sign the documents. However, the documents may be sent by registered mail / faxed or scanned and submitted via e-mail when the aforementioned cannot be achieved. The date of signature on the WCBD 7.1 Contract Form shall be regarded as the date of notice of acceptance of the offer and resultant contract. Therefore,

the contract is effective from the time that the letter of acceptance is registered/faxed/emailed to the successful bidder.

- 17.5.4 Letters of acceptance and SLAs are signed by an official delegated the authority to do so. This is an administrative arrangement and although the Accounting Officer accepts accountability for the contract which is concluded, the signatory remains co-responsible for the contract and for the correctness of the data/information supplied.
- 17.5.5 The letters of acceptance and the SLAs serve as the basis for placing orders and for the administration of the contract as well as for the settlement of disputes. The format and contents of the letters of acceptance must therefore be such that supply chain management practitioners may carry out the aforementioned actions in a meaningful and responsible manner. Therefore, all relevant information must be included in the letters of acceptance. In particular, it is essential that any conditions or stipulations, laid down by the WCED must be clearly and unambiguously included in the Bid Documents or letters of acceptance.
- 17.5.6 Care must be taken that letters of acceptance and the SLA contain no conditions and do not imply the approval of conditions that the delegated person has not approved. All SLAs must be legally vetted by Legal Services before they are issued to contractors. Any conditions set by the bidder as well as any special conditions that may have been approved, must also be included in the letters of acceptance and SLAs.
- 17.5.7 In the case of joint bids or bids on behalf of companies still to be incorporated, the Department's rights must be protected at all times by binding all parties to the contracts both separately and individually. The firms and/or persons concerned must therefore each receive a letter of acceptance and copy of the SLA addressed to their own addresses and care must be taken that they all have signed the bid documents.
- 17.5.8 In the case where a company is to be established, the contract must be ceded to the new company as soon as it has been incorporated.
- 17.5.9 Error and/or mistakes in the letters of acceptance must, in all cases, be reported to the Director: Procurement Management immediately. As the very first step, the original letter must be retracted, in writing, without delay. If the successful bidder refuses to accept the corrective notice, it must be reported to the Director: Procurement Management immediately. Where it is not possible to recover the letter of acceptance unconditionally, all particulars of the incorrect acceptance must be reported to the Accounting Officer or delegated official via the relevant SCM Committee together with a recommendation regarding the corrective steps which are envisaged. A legal opinion may be obtained where necessary.
- 17.5.10 Where further documentation is signed by all parties concerned as an agreement in addition to the letter of acceptance, it is regarded as part of the formal contract. An SLA is a document, which defines the relationship between two parties: the provider and the recipient. This is an extremely important document for both parties. If used properly it must:
- (a) Facilitate service delivery in line with the specification;
  - (b) Provide a framework for understanding;
  - (c) Simplify complex issues;
  - (d) Reduce areas of conflict and lay down procedures for resolution;
  - (e) Encourage dialogue in the event of disputes; and
  - (f) Eliminate unrealistic expectations.

17.5.11 Specifically, it must embrace a wide range of issues. Amongst these are the following:

- (a) Services/product to be delivered;
- (b) Performance, Tracking and Reporting;
- (c) Problem Management;
- (d) Legal Compliance and Resolution of Disputes;
- (e) Customer Duties and Responsibilities;
- (f) Security;
- (g) Confidential Information; and
- (h) Termination clauses.

## **17.6 CONTENT OF CONTRACTS**

The contract concluded must amongst others consist of:

- (a) general conditions of contract issued by the National Treasury;
- (b) where applicable, special conditions in relation to the specific goods or services procured;
- (c) Service Level Agreement (SLA), where applicable;
- (d) submitted bid documents;
- (e) documentation for the claiming of preferential points (WCBD6.1);
- (f) WCBD4;
- (g) a valid tax compliance status verified on the CSD; and
- (h) letter of acceptance.
- (i) WCBD7.1 Contract form

## **17.7 GCC, SCC, AND SLA**

The GCC, SCC, and SLA were discussed earlier in this AOS. Their management and maintenance form a particularly important part of Contract Administration.

## **17.8 GENERAL CONDITIONS OF CONTRACT**

General Conditions of Contract issued by National Treasury must form part of all bid documents and may not be amended.

## **17.9 SPECIAL CONDITIONS OF CONTRACT/SERVICE LEVEL AGREEMENT**

The special conditions should include, but are not limited to:

- (a) a preamble that serves to explain the rationale for the conclusion of the contract or to provide contextual or background information;
- (b) governance protocols;
- (c) reporting on performance in terms of the contract or agreement in respect of contracts that extend over a period of time;

- (d) a periodic review of the contract or agreement by the parties in respect of contracts that extend over a period of time;
- (e) clauses that clearly and unambiguously set out the rights and obligations of the parties, relevant to the specific subject matter in respect of which the contract is entered into;
- (f) service levels, if applicable; and
- (g) incorporation of other documents as annexures.

## **17.10 CONTRACTS IN RELATION TO INFORMATION TECHNOLOGY**

- 17.10.1 Contracts relating to information technology must be prepared in accordance with the State Information Technology Agency Act, 1998 (Act 88 of 1998), State Information Technology Agency Amendment Act, 2002 (Act 38 of 2002) and any regulations issued in terms of the Acts.
- 17.10.2 National Treasury SCM Practice Note 5 of 2009/10 and National Treasury SCM Circular no 2 of 2017/18 provides guidance to the procedures to be followed when procuring ICT related goods/services through SITA.

## **17.11 LEGAL VETTING OF CONTRACTS**

- 17.11.1 The Accounting Officer must ensure that all contracts entered into by the Department are legally sound. Where Service Level Agreements are part of the contract it must be forwarded to Legal Services for vetting. In the event of any uncertainty, the matter must be referred to the Deputy Director-General: Legal Services in the Department of the Premier. (DoTP)

## **17.12 ACCESS TO CONTRACTS/INFORMATION**

- 17.12.1 Under normal circumstances, bids (awarded) are not accessible to the public. However, on written request, interested parties may request the following information in terms of the procedures for the Promotion of Access to Information Act (PAIA), if said information has not been published in the Government Tender Bulletin:
  - (a) names and addresses of all bidders;
  - (b) the prices and basis of delivery offered by all bidders;
  - (c) the brand name of the product and the name of the manufacturer, in respect of the accepted bid (only the accepted bid); and
  - (d) the preference points claimed by the successful bidder.
- 17.12.2 In addition to the information provided in paragraph 16.10.1 (Provincial Treasury SCM Practice Note 1, Chapter 2 and the PAIA), any further information may be furnished, as deemed necessary, by the Department and as guided by the applicable legislation, the Constitution, POPIA and relevant case law.
- 17.12.3 Any information requested, if not provided in terms of the Promotion to Information Act, will be furnished at the discretion of the Department and will be guided by legislation and policy. The Department may withhold information or publication of the information if:
  - (a) it will impede law enforcement; or
  - (b) it will not be in the public interest;
  - (c) it will harm the legitimate interest of the Department;
  - (d) it might hinder fair competition between suppliers, bidders or contractors; and
  - (e) a case/matter is *sub judice*.

## 17.13 MONITORING

17.13.1 Constant monitoring by Responsibility Managers who requested the goods/services is essential to ensure that contractors meet their contractual obligations and that contracts are executed with as little disruption as possible. There are several ways in which monitoring may be undertaken:

(a) Regular site inspections.

In respect of a service, where the service is being rendered at the departmental site or at the contractor's own site, the relevant Responsibility Manager must visit the site regularly to ascertain whether the service is being rendered in accordance with the contract.

(b) Regular meetings

The relevant Responsibility Manager should have regular meetings with contractors to discuss contract issues i.e. progress, foreseeable contract problems, price variations, etc.

(c) Reporting

- (i) Regular reports from contractors as well as the SCM Unit are crucial for efficient contract management. Contractors must be informed via the SLA that reporting must take place on predetermined issues. The timeframes for this reporting must also be made known to the contractor prior to the start of the contract.
- (ii) For products, a contractor may be requested to report on the following issues:
  - Number of orders received;
  - Date of orders and from what component;
  - Quantities ordered on individual items; and
  - Delivery date of orders.
- (iii) The information must be scrutinised and matched with the Department's records to ascertain whether there are any anomalies in the rendering of the service or delivery of the product.
- (iv) When the Department renews an existing contract or enters into a new contract, these reports play a crucial role in the Demand Management phase as it provides crucial historical/current contract/item information. This in turn, has a direct influence on the Acquisition Management phase as it influences the form of bidding used.
- (v) Requirements for service performance reports and management information should be defined before and during contract negotiations and confirmed during the transition period of the contract. Information requirements may change during the lifespan of the contract, which should be flexible enough to allow for this. Where possible, the provider's own management information and performance measurement systems should be used.

## CHAPTER 18

# ENFORCEMENT AND ADMINISTRATION OF CONTRACTS

### 18.1 BREACH OF CONTRACT

18.1.1 Breach of contract is when one of the parties to the agreement breaches a term thereof and does not comply thereto or indicates that it will not or be able to comply with the terms of the agreement.

18.1.2 Breach may be committed in several ways, i.e:

- (a) A supplier may fail to perform on or before the date fixed for performance and the supplier would then be said to be *in mora* (in default) in respect of the obligation in question.
- (b) Where no definite time for performance is agreed upon, the Department must demand performance within a specified time (must be reasonable in the circumstances) and if the Contractor or service provider has failed to perform in that time, he is regarded as being *in mora* (breach of time aspect).
- (c) The supplier may render performance on time but deviate from the performance required by the agreement (e.g. use materials of inferior quality).
- (d) The supplier may repudiate his/her obligation(s) in the sense that he/she may, before or after the due date for performance, make it plain by his/her words or actions that he/she does not intend to perform, or perform properly, in terms of his/her obligation(s). The test in each case is whether the supplier has acted in such a manner as to lead to a reasonable conclusion that he/she does not intend to fulfil the obligation(s). If a supplier repudiates his/her obligations after having breached these obligations in some other way, the Department could (if the situation is not amicably resolved) claim relief on the basis of either form of breach.

18.1.3 If a service provider repeatedly does not perform, or under-performs, and their actions cause the department serious inconvenience, loss, or embarrassment, corrective steps should be taken. All substantiated complaints regarding the performance of service providers must be recorded.

18.1.4 Where cancellation of a contract is considered as a remedy for breach, it is always advisable to obtain legal advice in order to minimise risk for the department. Cancellation should be regarded as the last resort. However, should this remedy be used it must be done in consultation with Legal Services.

18.1.5 Cancellation of a contract is usually prejudicial to the Department. Therefore, serious thought must be given to the grounds for considering cancellation. Clarity must be reached beforehand on the question of whether the contractor will have a claim against the Department or not, and if so, whether the cancellation may be justified. If a contract is cancelled, the matter must be fully documented, and the following be taken into account:

- (a) The particular contract condition empowering the action;
- (b) What further arrangements will be made for completing the contract and
- (c) Whether additional costs will be recovered from the contractor
- (d) If the additional costs cannot be accurately determined, a careful estimation thereof must be made;



- (e) Any claim for the recovery of additional costs must be limited to the minimum actual amounts. Therefore, in such cases, the Department cannot summarily authorise purchasing to the best advantage, since this might prejudice the recovery of the additional costs from the original contractor. There may be other avenues of action that might result in lower additional costs. As an alternative, a new contract may be concluded through the normal bidding procedures. In this process, account must be taken of the time elapsed between the closing of bids and the cancellation of the contract and the effect of the cancellation on the Department's schedules.

## 18.2 REMEDIES FOR BREACH

The following remedies should be considered before the cancellation of a contract is contemplated:

### 18.2.1 Specific Performance (Enforcement)

- (a) The most obvious remedy for breach of contract is an order for specific performance, i.e. an order compelling the defaulter to perform what he has undertaken to do or restraining him from what he has agreed not to do. The court always has the discretion to refuse an order for specific performance, for instance where it is impossible for the contractor or service provider to perform; it would produce an inequitable result or would be against public policy. If enforcement is denied it would be possible to claim damages from the contractor or service provider.

### 18.2.2 Damages

- (a) An award for damages is an order to pay a sum of money for losses suffered. The primary rule being that the sufferer can claim so as to be put in the economic position he would have occupied if the contract had been properly performed. The aim is to compensate the innocent party for its real pecuniary (monetary) losses. The rules of Unjustified Enrichment must be applied. The onus of proof should as far as possible be placed on the contractor or service provider to make provision for situations where damages might be claimed.
- (b) There is a duty on the innocent party (party who wants to claim damages) to mitigate its losses or damages. The sufferer cannot recover damages for losses that he could reasonably have avoided. Thus, the Department must, as far as possible, minimise (mitigate) damages, if and when it occurs.
- (c) Where a party makes it clear, by their words or actions, that it will not perform its contractual obligations prior to the date for performance ("repudiation"), the innocent party may ignore the repudiation and claim specific performance or damages in place of the performance when the due date arrives.

### 18.2.3 Penalties

- (a) The parties may include in the contract a provision regulating the amount of damages to which the aggrieved party is entitled on breach. These penalties (also any forfeiture) are governed by the Conventional Penalties Act, 1962. In view thereof, if a contract contains a penalty clause or stipulation, damages may not be claimed in addition to the penalty, nor, unless the contract expressly provides otherwise, *in lieu* of it.

- (b) Breach, no matter how serious it is, does not, cancel the agreement. This is so even if the agreement contains a provision that indicates that, on default occurring, the agreement will *ipso facto* (by the fact itself) become null and void. It is only where the aggrieved party cancels the agreement on account of the breach that it comes to an end. In the absence of cancellation, each party remains liable to carry out or complete their respective performance, although, if the aggrieved party chooses to claim damages in lieu of performance, the defaulter is *pro tanto* (to this extent) relieved of his/her duty to perform.

#### 18.2.4 Cancellation

- (a) Generally, cancellation operates retrospectively (*ab initio*). This means that the parties are put in the positions they would have been in, had the contract never been concluded. Each party is relieved of the duty to perform further and is obliged to restore to the other any performance(s) received in terms of the agreement (*restitutio integrem*). There are exceptions to this general rule.
- (b) Because cancellation has legal consequences on the reciprocal rights and obligations of the parties, it is available only where the parties have incorporated a cancellation clause in the contract or where the breach is of a sufficiently serious nature. If the breach relates to time, the question is whether time could be said to be 'of the essence of the contract'.
- (c) If the breach consists of a failure to perform according to the strict terms of the agreement, other tests would apply, i.e. is the breach sufficiently serious, does it go to the root of the contract?
- (d) Breach, no matter how serious, does not automatically cancel the contract. This is so even if the contract contains a provision that indicates that, on breach occurring, the contract will automatically become void. It is only where the aggrieved party takes active steps to cancel the contract on account of the breach that the contract comes to an end. In the absence of cancellation, each party remains liable to carry out or complete their respective contractual obligations. However, if the aggrieved party chooses to claim damages in place of performance, the defaulter is, to that extent, relieved of their duty to perform.
- (e) Generally, cancellation operates retrospectively. This means that the parties are put in the positions they would have been in, had the contract never been concluded. Each party is relieved of the duty to perform further and is obliged to restore to the other party any performance(s) received in terms of the agreement. There are, however, exceptions to this general rule.
- (f) Where repudiation of the whole contract is concerned, it is usually regarded as sufficiently grave to justify cancellation. Cancellation clauses frequently contain a rider to the effect that the innocent party may only exercise his right to cancel on account of breach if he has given the defaulter notice of the breach and the latter has failed to remedy it within a certain period. A provision of this sort is binding and, in general, the innocent party must bring himself strictly within its wording if he wishes to enforce his right to cancel. However, a notice provision is not applicable where the defaulter has repudiated the agreement (unless the provision expressly says so).

- (g) Cancellation should be regarded as the remedy of last resort. Cancellation of a contract is usually prejudicial to the department. Therefore, serious thought must be given to the grounds for considering cancellation. Clarity must be reached beforehand on the question of whether the service provider will have a legal claim against the department for unwarranted cancellation, and if so, whether the cancellation may be justified. If a contract is cancelled, the matter must be fully documented, and the following be taken into account:
- (h) the particular contractual term empowering cancellation;
- (i) what further arrangements will be made for completing the contract;
- (j) whether additional costs incurred in completing the contract will be recovered from the service provider;
- (k) if the additional costs cannot be accurately determined, a careful estimate thereof must be made; and
- (l) any claim for the recovery of additional costs must be limited to the minimum actual amounts. The department cannot simply authorise new purchasing to the best advantage of the department, since this might prejudice the recovery of the additional costs from the original contractor. There may be other avenues of action that might result in lower additional costs. As an alternative, a fresh contract may be concluded through the normal bidding procedures. In this process, account must be taken of the time elapsed between the closing of bids and the cancellation of the contract and the effect of the cancellation on the department's schedules.
- (m) If a contract is cancelled, the service provider must be requested to indicate to the department, within a given time limit, how goods in possession of the department must be disposed of and warned that if they do not react to the request, the goods will be returned to the service provider at their own cost.
- (n) When a department has to buy out goods and services at the service provider's expense, the loss to the department must always be restricted to the minimum, since it is difficult to justify the recovery of unreasonable additional costs from the service provider.

### **18.3 ELECTION OF REMEDIES**

- 18.3.1 When goods or services do not comply with the provisions or requirements of the contract, or problems are experienced in the execution of the contract, the matter must be brought to the attention of the contractor/service provider in writing.
- 18.3.2 When correspondence is addressed to the service provider, reference must be made to the bid or contract number, and to the item number and number and date of any relevant invoice, statement, or letter received from the service provider.
- 18.3.3 On breach, the innocent party has a choice of remedies. If cancellation is not permitted, he may claim specific performance or damages *in lieu* of performance. In either case, he/she may claim damages for any further losses resulting from the breach. If the contract contains a cancellation clause, or if the breach is sufficiently serious to warrant cancellation, the innocent party has the further alternative of cancellation and damages (including damages for further losses).
- 18.3.4 In general, the aggrieved party is not obliged to cancel where cancellation is permissible. He is entitled to keep the contract alive and seek an order for specific performance or an award of damages in lieu of specific performance. This is so, even where the defaulter repudiates

the entire contract prior to the date for performance. The sufferer may ignore the repudiation and claim performance or damages in lieu of performance when the due date arrives.

- 18.3.5 Before action is taken (relating to breach), the Department must inform the contractor/service provider that action will be taken in accordance with the contract conditions unless he complies with the contract conditions and satisfactorily delivers goods or services within a specified reasonable time. If the contractor/service provider does not perform satisfactorily despite the warning, the Department may consider cancelling the contract concerned and/or enforcing other appropriate remedies.
- 18.3.6 When correspondence is addressed to the contractor/service provider, reference must be made to the bid or contract number, the item number and the number and date of any relevant invoice, statement or letter received from the contractor/service provider. Otherwise the number and date of the order, a short description of the goods or service and details of the destination if applicable, must be supplied.
- 18.3.7 Details of all cases where equipment, vehicles, implements, machinery, apparatus, etc. fail during the guarantee period and have to be replaced or repaired, or where the provision of spares or service is unsatisfactory, must be recorded, irrespective of whether the Department has satisfactorily finalised the matter with the contractor/service provider. The purpose of this requirement is for the Department to keep a record of unsatisfactory performance of services and defective goods/ products delivered.
- 18.3.8 If a contract is cancelled or rejected, the contractor/service provider must be requested to indicate to the Department, within a given time limit, how goods in possession of the Department must be disposed of and warned that if he does not react to the request, the goods will be returned to him at his cost. If he ignores the request, the Department must act accordingly.
- 18.3.9 When the Department has to buy out goods and services at the contractor's/service provider's expense, the loss to the Department must always be restricted to the minimum since it is difficult to justify the recovery of unreasonable additional costs from the contractor/service provider.
- 18.3.10 If a contractor/service provider repeatedly fails to perform or there is non/mal-performance and these actions cause the Department serious inconvenience, loss or embarrassment, corrective steps should be taken. All substantiated complaints regarding the performance of contractors, including contracts concluded in terms of the delegated powers, must be recorded. A register must be maintained.
- 18.3.11 If the contractor/service provider does not deliver the goods or services within the contract period, the Department may after informing the contractor/service provider, at their own discretion, either deduct an amount as a percentage of the value of the contract amount as a penalty for each day that the delay continues, or instead of such a penalty, claim compensation for any actual damage or loss suffered, provided that where beneficial use of the completed portion is enjoyed, the penalty shall be applied to the value of the outstanding portion only.

## **18.4 NEGOTIATING A SETTLEMENT OR AMENDING THE CONTRACT**

- 18.4.1 A settlement is an agreement whereby a dispute (usually but not exclusively regarding an uncertainty as to the terms of a legal relationship, or even whether or not such a relationship exists at all) is resolved by way of compromise or negotiation. The purpose thereof is to avoid extreme measures such as litigation. It is advisable that in this instance, the Department

consults with Legal Services and where required obtains a legal opinion before making a decision of negotiating or amending a contract.

- 18.4.2 In the same way the parties to the contract (being the Department and the Contractor) may, by consensus/agreement, amend the contract or terms thereof. Once again, the Department must consult with Legal Services, and where required, obtain a legal opinion in this regard.
- 18.4.3 For the sake of protecting both parties to the agreement, the settlement or amendment must be in writing and signed by the parties involved or any authorised party representing those parties. These actions are subject to the provisions of the formal contractual requirements between the parties as well as the Common Law of Contract.

## **18.5 REMEDIES IN TERMS OF MISREPRESENTATION**

- 18.5.1 Misrepresentation in this context means that a bidder/service provider/contractor provided certain information or put forward certain facts in his bid or additional documentation knowing that such facts are untrue or incorrect. The bidder would have intended to misrepresent the facts as such misrepresentation would not have been as a result of a *bona fide* mistake by the bidder. This section provides for remedies in the case of misrepresentation.
- 18.5.2 In order to implement these remedies, the Department has to be sure that the information provided was indeed incorrect. The misrepresentation has been proved factual and not merely an expressed opinion by the Department. The stated fact (misrepresentation) must be sufficiently material that a reasonable person would have regarded such 'fact' as important in deciding whether to enter into the contract or not. Furthermore, to be successful with a claim for misrepresentation, it will have to be shown that the particular fact (or misrepresentation) induced the Department to contract and had the Department known the misrepresented fact(s) it would not have contracted or would have contracted on different terms. If the Department would have contracted even though the facts have been misrepresented, it would not be entitled to the remedy of rescission. However, if the Department would have contracted on other terms if it had known that the facts had been misrepresented, the Department may be entitled to the remedy of damages.
- 18.5.3 Where the Department wishes to rescind the contract and obtain restitution (i.e. both parties return what is due to each other as if the contract had not been initiated), certain rules are applicable. First, on becoming aware of the fact that there has been a misrepresentation, the Department must not do anything, prior to rescission, which would lead the other party reasonably to believe that he intends to abide by the contract and not rescind it: it must not, for instance, exercise an act of ownership over an article purchased or service rendered etc. Secondly, the Department must communicate its decision to rescind to the supplier/contractor within a reasonable time of becoming aware of the misrepresentation. Failure to follow these rules could be construed as the Department having waived its right to rescind the contract. After rescission, restitution (restoration to the position one would have been in had the misrepresentation not take place) must take place.

## **18.6 RECOVERING DAMAGES BY SET-OFF**

- 18.6.1 Set-off consists in the automatic extinction of debts by operation of law on grounds of policy, or a dispositive act whereby one party gives effect to the extinction of the debts by means of a unilateral legal act. This means that the Department may hold back monies due to the contractor/service provider in the event of cancellation by the Department as a result of non/mal-performance by the Contractor, or for any loss, damage or additional cost the

Department incurred due to defective performance by the contractor/service provider. It enhances efficiency by promoting the speedy settlement of debts without the need for a costly and cumbersome duplication of performance. Thus, it may be interpreted to be a means of enforcing a claim indirectly.

- 18.6.2 In order to enforce this remedy the following considerations must be taken into account:
- (a) The Department must have suffered damages or incurred a loss directly or consequentially.
  - (b) Set-off may also be used for damages such as additional cost the Department might have incurred in obtaining the service of a third party to remedy the defects which the current contractor failed to remedy within a reasonable time.
  - (c) This remedy may also be used to claim for latent defects in the product/service provided by the contractor or for any other defect resulting in the product/service not conforming to conditions / specifications of contract.
- 18.6.3 In order to use this remedy there are certain requirements that must be met, such as:
- (a) The debt must be mutually owed.
  - (b) It must be *iusdem generis* (of the same kind). For example: a money debt cannot be set-off against a claim for delivery of property.
  - (c) The debt must be due, enforceable and payable. Set-off does not operate if the debt is subject to a suspended condition or only enforceable at a future date.
  - (d) The debt must be liquidated.

## **18.7 CANCELLATION AS A RESULT OF FORCE MAJEURE / VIS MAJOR**

- 18.7.1 *Force majeure / Vis major* may be defined as an act of God, i.e. a natural disaster or some other circumstance beyond the control of the contractor/service provider. The *force majeure* clause is a common clause in contracts that essentially frees both parties from liability or obligation when an extraordinary event or circumstance beyond the control of the parties, such as a war, strike, riot, crime, or an event described by the legal term *act of God* (such as hurricane, flooding, earthquake, volcanic eruption, etc.), prevents one or both parties from fulfilling their obligations under the contract.
- 18.7.2 Cancellation of a contract entails the termination of the consequences of a valid contract, i.e. performance. This remedy is available only in exceptional circumstances.
- 18.7.3 Firstly, the party responsible for performance must give written notice within three (3) days (business days) of the date on which the *force majeure / vis major* occurred. Where reasonably possible, the party responsible for performance must do everything possible to deliver or comply with the terms of the contract. Dates and times allowed for the performance shall be agreed upon by both parties.
- 18.7.4 Failure to give notice of the *force majeure*, allows the aggrieved party to the contract the right to refuse amendment of the date and time on which performance was due and that the aggrieved party may exercise the remedies available for breach.

- 18.7.5 In practice, most *force majeure* clauses do not excuse a party's non-performance entirely, but only suspends it for the duration of the *force majeure* unless the party responsible for the performance (as opposed to the party first affected by the *force majeure*) agrees in writing to render such performance.
- 18.7.6 The Department may cancel the contract without prejudice to any other rights it might have if the *force majeure* persists after a period of 21 days or as soon as reasonably possible. If the department wishes to have these remedies at its disposal, it must ensure that the contract caters for these provisions.

## **18.8 INSOLVENCY**

- 18.8.1 The Department has various rights, which it may exercise in the case of liquidation, sequestration or judicial management of contractors/service providers.
- 18.8.2 When the estate of a contractor/service provider is liquidated for whatever reason, the department may where necessary consult with Legal Services on whether to claim against the estate or not. The risk to the Department is the determining factor and the choice with the smallest degree of risk is preferred. All action must nevertheless be taken in accordance with the relevant National Treasury Regulations.
- 18.8.3 Where an estate is involved, all claimants accept responsibility for both assets and liabilities. Therefore, if a claim is registered against an estate, the claimant must accept his share of any costs that have to be defrayed.
- 18.8.4 There are three types of claims against an estate:
- (a) "protected creditors", e.g. SARS;
  - (b) "preference claims", e.g. a bank having a secured claim over the assets; and
  - (c) "concurrent claims", which are all claims that do not fall into the categories of (a) and (b).
- 18.8.5 The first two categories of claims are paid out in full before the third category is considered, which places the third category in a weak position if a contractor/service provider is sequestered, liquidated or placed under judicial management.
- 18.8.6 If a firm or person is liquidated /sequestered, it is regarded in laymen's terms to something similar to a breach of contract. The liquidator or administrator is given the choice of carrying out the contract or not. In the majority of cases the liquidator or administrator will elect to cancel the contract and a provisional claim against the estate should be registered with the proviso that a final claim will not be submitted if the Department will have to make a financial contribution. The department may recover any of its property in the liquidated firm's / sequestered person's possession.
- 18.8.7 A procuration could be signed in terms of which the liquidator may act on behalf of the Department. If the liquidator indicates that no dividend will be paid out to concurrent claimants, the Accounting Officer or delegated official may also decide that it would be more economical to write-off the relevant amount in terms of the relevant prescripts.

## **18.9 VARIATION AND WAIVER**

- 18.9.1 Variation is an alteration to the legal consequences of the contract. This may take place only by mutual agreement of the parties and entails not merely changing the effect of a term, but also removing a term from the contract. On the other hand, waiver is a unilateral act meaning that one party to the contract decides on his own to abandon a right or remedy, which it may have without altering the terms of that contract.

- 18.9.2 It is of the utmost importance that such agreement to waive or vary the terms of the contract be in writing, for the sake of certainty and protection of both parties involved.
- 18.9.3 In exceptional cases, the Department may obtain a legal opinion from Legal Services before engaging in the variation or waiver of a contract to determine and investigate the legal implications of such action.

## **18.10 Assignment of Contracts**

Clause 19 of the General Conditions of Contract (GCC) makes provision for assignment of contract. Clause 19 of the GCC provides that "a supplier (or service provider) shall not assign, in whole or in part, its obligations to perform under the contract, except with the purchaser's prior written consent".

## **18.11. CESSION OF CONTRACTS**

The GCC will apply to the Cession of Contract as and when required.

## **18.12 SERVICE LEVEL AGREEMENT (SLA)**

- 18.12.1 The Service Level Agreement will be more frequently used when a service is provided to the Department, as opposed to when a product is supplied to the Department.
- 18.12.2 Even though the agreement may be described as a standard agreement, the Department's rights and obligations in terms of the SLA will be dependent upon the specific service rendered, or product supplied to the Department. The terms and conditions will have to be adjusted to suit the circumstances of each contract.
- 18.12.3 Contents of clauses relating to the Provision of Services, Use of Services, Remuneration and Limitation of Liability will have to be negotiated for each contract.
- 18.12.4 When SLAs are drafted, they should adhere to the SLA template issued and vetted by Legal Services from time to time.

## **18.13 CONTRACT PRICE ADJUSTMENTS: FIRM AND NON-FIRM PRICES**

- 18.13.1 Price adjustments, in any form, are incidental to the conclusion of any contract as a result of the period of the contract and the constant change in economic conditions. There are three (3) main circumstances for price adjustments:
- (a) Price adjustments linked to inflationary and statutory adjustments;
  - (b) price adjustments as a result of rate of exchange variations; and
  - (c) price adjustments not provided for in a bid/contract. (Extra-contractual price adjustments.)
- 18.13.2 Firm prices are those prices subject only to adjustments of customs or excise duty or any other duty, levy, or tax which has a demonstrable effect on the price of the supplies for the duration of the contract. If firm prices are quoted, form WCBD 3.1 must be used.
- 18.13.4 Non-firm prices are those prices that are subject to all other variations, such as exchange rate fluctuations, inflation, price indexes and so on that have a demonstrable effect on the price



of the supplies for the duration of the contract. If firm prices are quoted, form WCBD 3.2 must be used.

- 18.13.5 In the bid invitation, provision must be made for the bidder to indicate if their prices are subject to any escalation. The bidder by means of indices, Consumer Price Index (CPI), Production Price Index (PPI) or fixed period adjustments will indicate such price adjustments. Steel & Engineering Industry Federation of South Africa (SEIFSA), through Statistics South Africa receives the PPI's and CPI's for publication. The WCBD 3.2 pricing schedule must be utilised for all goods/services that would be subject to price escalations.
- 18.13.6 For the sake of efficiency, the Department should acquire a breakdown of the price at the conclusion of the contract. This is more convenient and allows the Department to determine which part of the price would be subject to such increases or adjustments.
- 18.13.7 In order for proper contract management to take place in respect of Contract Price Adjustments (CPA), the following questions need to be asked from the bidder in the bid documents:
- (a) Is the price offered, firm for the duration of the contract?
  - (b) If not firm, indicate details as to non-firm price structures.
  - (c) Are prices linked to proven cost increases or formula-based adjustments? (formula-based price adjustments are Producer Price Index and Consumer Price indices together with the relevant Steel & Engineering Industry Federation of South Africa-SEIFSA).
  - (d) If formula-based, what indices will be utilised to measure such price adjustment claim during the contract period?
- 18.13.8 Should bidders indicate that price adjustment would be subject to the Producer Price Index (PPI), they must clearly and accurately indicate details as to what tables in the PPI will be utilised for such price adjustment.
- 18.13.9 This will form the basis for the entire contract period and if the company later submits a claim, the above will be used as the basis for such claim. It should be indicated to the company that the information is compulsory.
- 18.13.10 Once the contract is up and running, contractors are compensated for actual, proven additional expenses in connection with the aforesaid indices, provided that the relevant tables and base data of the PPI or CPI is used for the calculation of the bid price. PPI or CPI Tables that were indicated at the bid stage will be used to calculate the differences claimed.
- 18.13.11 The importance of requesting the bidder to stipulate whether his price is firm or not is amplified considering that should a bid be accepted, and the bidder did not indicate whether / not his prices are firm, such a bidder may after acceptance increase his price. Apart from the fact that the Department may not be able to afford such an increase, it may also lead to an unfair advantage to the bidder when taking into consideration that his price might now be higher than other bidders who competed against him.
- 18.13.12 It must however be noted that if a bidder gives a firm price, it does not mean that such a price will not be subject to change. A definition of a firm price is as follows:
- “Firm prices means prices which are only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy, or tax which, in terms of a law or regulation is binding upon the contractor and demonstrably have an influence on the prices of any supplies, or the rendering costs of any services, for the execution of the contract.”***
- 18.13.13 Where a bidder does not offer a firm price, such bidder may stipulate the means by which the price will be adjusted. For example: Non-firm prices linked to proven adjustments, prices

linked to fixed period adjustments, prices linked to escalation formula adjustments or prices subject to rate of exchange fluctuations.

- 18.13.14 Bidders may claim price adjustments on different methods and for different reasons. As a bidder's price consists of various factors/variables, they may wish to claim adjustments on a combination of factors and methods. The Department may, in terms of a special condition, spell out the rules on how and on what basis prices will be adjusted. It is true that firm or non-firm prices may be offered, whilst there is provision for price adjustments by means of a formula.
- 18.13.15 Where a formula is allowed in the bid documents, the structure of the formula has to be agreed upon. The bidder's attention must be drawn to the requirement that the values of the variable factors in the formula must be specified in their bids. The relation between these factors must be reasonable.
- 18.13.16 Price adjustments, in accordance with the escalation formulae based on inflation indices, are allowed on no more than 85% of the price, unless good valid reasons to the contrary are provided. The risk attached to price increases in respect of the remaining 15% of the price must be accommodated in the supplier's price.
- 18.13.17 Where price adjustments based on escalation formulae are accepted and irrespective of stipulations to the contrary elsewhere in the bid documents, variations in the actual costs for whatever reason are for the account of the contractor. This implies that proven cost increases and formula-based adjustments cannot both be entertained at the same time.

#### **18.14 EXTENSIONS AND EXPANSIONS AGAINST THE ORIGINAL CONTRACT**

- 18.14.1 An Accounting Officer or delegated official may deem it necessary to expand or vary orders against the original contract. The Accounting Officer may: -
- (a) expand a contract by increasing the scope of work; or
  - (b) vary a contract by changing the scope of work.
- 18.14.2 The PFMA SCM National Treasury Instruction on 03 of 2021/2022 on Enhancing Compliance Transparency and Accountability in SCM dated 31 March 2022 requires that any contract expansion/extension must be in accordance with the thresholds set by the National Treasury which is 20% or R20 million in respect of construction related goods, works and/services and 15% or R15 million in respect of all other goods and services, whichever is the lower amount. All amounts are calculated inclusive of tax.
- 18.14.3 The Department must, in the format determined by the National Treasury, submit a monthly report, including the reasons for all expansions/extensions in excess of these thresholds mentioned in paragraph 18.14.2 to the Provincial Treasury and the Auditor-General. The Accounting Officer must record expansion and variations referred to in paragraph 18.14.2 above in the Annual Report of the Department in the format determined by National Treasury.
- 18.14.4 The Provincial Treasury will scrutinise such reports and only take appropriate action, where deemed necessary.
- 18.14.5 Such reports sent to the Provincial Treasury will be assessed on a case-by-case basis against policy and prescripts. The Provincial Treasury will only provide a written response if any findings of risk, non-compliance, and budgetary threat(s) are noted.

- 18.14.6 All Departments are required to submit cases of contract expansions and extensions to the Provincial Treasury which are required to address the minimum key criteria as reflected in **Addendum 9**.
- 18.14.7 Paragraph 18.14.2 is not applicable to transversal term contracts facilitated by the Provincial Treasury and specific term contracts as in such contracts, orders are placed as and when commodities are required and that at the time of awarding the contract, required quantities are not known.
- 18.14.8 In the case of fixed price contracts, the request for second and subsequent extensions should be permissible only if the request for extension provides for an appropriate adjustment mechanism of the quoted price to reflect changes of inputs for the contract over the period of extension, if necessary.

## **18.15 PLACING ORDERS NEAR THE END OF A CONTRACT**

There should be no over-ordering at the end of an existing contract, due to be followed by a new contract. Orders should instead be placed with the new service provider. Over-ordering unduly benefits the existing service provider and unfairly deprives the future service provider.

## **18.16 PAYMENT**

The department is required to pay creditors promptly. All amounts owing must be paid within 30 days of the receipt of a valid invoice, or date of settlement or court judgment. The period for payment of invoices may be negotiated, adjusted, and agreed in terms of the requirements of the contract. In the case of travel related goods and services, the invoices may only be due and payable upon confirmation of the official(s) having travelled and accommodation cost having been incurred. In this instance, the Department may receive invoices prior to the goods and service having been provided and/or confirmation having been received that the goods and services was rendered satisfactorily.

# CHAPTER 19

## LOGISTICS MANAGEMENT

### 19.1 INTRODUCTION

- 19.1.1 Logistics Management is integral to Supply Chain Management. It involves requisitioning, coding of items, setting inventory levels, placing orders, receiving and distribution, stores/warehouse management, expediting orders and transport management. This process integrates with the financial systems to generate payments to suppliers.
- 19.1.2 An effective logistics management system is one which:
- a) Develops and maintains procedures dedicated to efficient, economical and transparent use of the department's resources;
  - b) Keeps a proper record of all assets and procurement transactions;
  - c) Prevents waste, theft, misuse, and loss;
  - d) Maintains stock levels at the optimum level; and
  - e) Monitors the ability of suppliers to reliably meet agreed delivery periods, and quantity and quality of items.
- 19.1.3 Logistics management is considered separately from inventory management for the purpose of this policy. The abovementioned processes, and this chapter, concern logistics management. Inventory management, which is the process followed after receipt of goods, is considered in the following chapter.

### 19.2 REQUISITIONING

- 19.2.1 When a need arises for products / services / hiring, the applicant must request the goods/services via a requisition, from the SCM Unit in the manner as prescribed through the Procurement System in use. Such requests must undergo the relevant authorization processes. The relevant Responsibility Manager or his/her delegatee (SCM champion) initiating the request must authorize all requisitions originating from his/her program thus confirming the requirement and the availability of funds. The Log 1 Request/Requisitioning form is attached as **Addendum 10**.

### 19.3 ORDERING

- 19.3.1 The purpose of this function is to place orders through the relevant procurement processes and purchasing system, on the prescribed order form, for goods/services required by the Department from suppliers appointed. However, this process may only occur if the order has been approved by the relevant delegated official and is a valid request.
- 19.3.2 The SCM Units are responsible for ordering goods and services based on requisitions received from the different Responsibility Managers (Program Managers). The order should be cross-referenced to the requisition and checked for accuracy and authority. Performance specifications, as determined by the Responsibility Manager (program manager) should be communicated to the suppliers as part of the ordering process.

- 19.3.3 Where a formal written contract exists, orders should be placed in accordance with the written contract. Where there is no formal written contract in place it should be ensured that the necessary procurement procedures were followed before an order is placed.
- 19.3.4 It is the responsibility of the SCM Units to inform the end-user requiring the goods or services of the order and to send a copy of the approved order to the end-user. The end-user must use the copy of the approved order to check against the delivery note and complete the goods received note.
- 19.3.5 As supplier performance is dependent on the accuracy of the requisitioning and ordering process, it is of the utmost importance that when an order is placed with a supplier that the necessary checks and balances are in place to ensure that the order reflects the correct specifications and specified delivery conditions (delivery period, quality and quantity). This is a shared responsibility between the SCM unit and the end-user.
- 19.3.6 A transaction order checklist must be duly completed and signed by the SCM Practitioner responsible for generating orders. The checklist is attached as **Addendum 11**.
- 19.3.7 The Standard Operating Procedure detailing the process for ordering, receiving and payment of goods/services is attached as **Addendum 12**.

## **19.4 RECEIVING**

- 19.4.1 The receiving function is to accept goods from suppliers and to acknowledge receipt thereof. This is the responsibility of the end-user (program manager or the delegated official) requesting the goods/services for directly delivered items.
- 19.4.2 The official who receives the goods should compare the goods delivered to the delivery note and order to ensure only goods for which valid orders have been placed are accepted. Deliveries should be carefully examined before any delivery is accepted. The following should be checked when receiving goods:
- (a) Any evidence of damage or shortage in delivery vis-à-vis the quantities reflected in the order, should be investigated immediately and particulars should be endorsed on the delivery and/ goods received notes;
  - (b) If a complete check is not possible, the goods must at least be counted and a superficial check of the quality of goods performed. It may not always be practical to quality check the contents of boxes, but obvious damages may be easily detected, and goods rejected, e.g. if a box is wet or there is seepage.
  - (c) The Responsibility Manager or the delegated official must acknowledge receipt of the goods actually received through cross-referencing to the purchase order and signing the delivery note or goods received note. The completed goods received note and/or signed delivery note must be sent to the SCM Unit to initiate payment.
- 19.4.3 **Purchasing Receipts**
- (a) No deliveries will be accepted without a delivery note/invoice and a purchase order number reference. Unless, the LOGIS order cannot be generated due to the system downtime as determined by National Treasury.
  - (b) All items received must be confirmed against a valid purchase order and contract deliverables;
  - (c) No packaging or material that displays any visible damage / fault must be received unless approved by the Responsibility Manager. Should there be an emergency

requirement, or the driver cannot remain, the delivery note will be noted "Received pending investigation" and the damage described, or a picture taken of the damages, where possible;

- (d) The receiver must confirm the following information on the purchase order against the actual delivery:
  - (i) Supplier
  - (ii) Order Number
  - (iii) Description of item being delivered; and
  - (iv) Quantity of Items being delivered
- (e) Material that does not conform to the specifications and description issued by the buyer on the purchase order must not be accepted and received, based on the visual inspection;
- (f) The goods received note must be signed by the relevant WCED official receiving the goods as well as the person delivering the goods on behalf of the supplier; and
- (g) The completed goods received note and signed delivery note must be sent to the SCM unit.

#### 19.4.4 Recording of Receipts

Manual or computerised records for ordering (purchasing) and receiving items must include at least the following:

- (i) Order date;
- (ii) Order number;
- (iii) Supplier code and name;
- (iv) Item code (must be unique for "the same" items);
- (v) Item description (will be linked to the item code);
- (vi) Item location (shelf, bin, etc.);
- (vii) Quantity ordered;
- (viii) Authorisation no. and dated signature or electronic authorisation of ordering officer;
- (ix) Delivery date;
- (x) Delivery note number;
- (xi) Quantity delivered;
- (xii) Quantity still to be delivered; and
- (xiii) Any comments regarding the status of the order where necessary.

## 19.5 ISSUING / DISTRIBUTION OF ITEMS

- 19.5.1 The relevant end-user signs a Goods Received Note if he/she is satisfied with the delivered item. The signed Goods Received Note ultimately forms part of the payment package.
- 19.5.2 The Department makes use of consumables or inventory items when carrying out its functions in order to render the services it is mandated to deliver. These include various items, amongst

others copy paper, printer cartridges, writing materials, office stationery, medicines, assets such as equipment and furniture etc.

- 19.5.3 Inventory items are further classified as warehousing inventories or non-warehousing inventories. Warehousing inventories is defined as inventory that is held and managed at the warehouses in the Department. Non-warehousing inventories are defined as inventory that is not held or kept at warehouses but rather procured for immediate issue or transfer to end users (schools). Such inventories must be recognised in the accounting records of the Department.
- 19.5.4 Inventories that qualify for recognition (warehousing inventories and non-warehousing inventories) will be reflected at cost. At year end, the value of such inventories will be calculated by means of the average weighted cost formula as LOGIS provides such values. Only unissued stock in warehouses are to be counted and recognised for reporting purposes while stock in holding areas will be considered issued stock and not disclosed.

## **19.6 EXPENDITURE CONTROL**

### **19.6.1 Invoicing**

All invoices must be certified as follows:

- (i) That the invoice is correct and has not been paid previously by the delegated official or by officials who have actual knowledge of the goods supplied and the services rendered;
- (ii) All copies of invoices are an exact copy of the original invoice;
- (iii) goods and services were rendered satisfactorily; and
- (iv) No information may be changed on invoices due for payment purposes. If information needs to be changed, the supplier must be requested to issue a revised invoice.

### **19.6.2 Credit notes**

- (a) Faxed copies of credit notes on 'Fax Roll Paper' may not be used for payment purposes.
- (b) All copies of credit notes must be certified to be an exact copy of the original credit note.
- (c) No information may be changed on credit notes due for payment purposes. If information needs to be changed the supplier must be requested to issue a revised credit note.
- (d) In instances where no further payments will be made to a specific supplier, credit notes may not be accepted but must be replaced by an Electronic Funds Transfer (EFT) transaction.

### **19.6.3 Payments**

- (a) Invoices received must be verified for correctness against the order where after they should be certified and approved by the Responsibility Manager or the delegated official, then forwarded for pre-authorisation of payment to the SCM Units. Any variations must be investigated and checked for correctness before the pre-authorisation of the payment is effected. A proper audit trail must be kept of all decisions taken. The preauthorised payments will be submitted to the finance section for final payment to be effected.

- (b) Payment must at all times be done according to the order price except in cases where sufficient proof exists for paying the invoice amount.
- (c) All payments must be pre-authorized before sending the payment request through to the relevant office for actual payment.
- (d) Delegated officials must, before authorising payments, assure themselves of the following:
  - (i) That the goods/services have been received/rendered according to requirements; and
  - (ii) That the invoice and/or claim have not been previously paid. (Duplicate payment)
- (e) The transaction payment checklist must be duly completed and signed by the delegated official authorising the payment. The checklist is attached as **Addendum 13**.
- (f) Monthly accounts and statements of outstanding balances from suppliers to the Department must be verified and reconciled with the Department's records. Any discrepancies must immediately be taken up in writing with the supplier concerned.
- (g) Before payment is effected, the official verifying the voucher for payment must ensure that the certificate in support of the voucher is in order. If a certificate is found to be defective, or if there are reasonable grounds for doubting its accuracy, the certificate must be returned to the official who issued it, who must amend the mistake and initial the correction. It remains the duty of officials who examine the certificates to institute the necessary enquiry, if, in their opinion, a certificate is inconsistent with the facts.
- (h) The delegated official verifying the voucher for payment must certify it accordingly and make sure that the following requirements have been complied with before proceeding with the payment:
  - (i) that the claim forms a proper charge against Departmental funds and has not already been paid. The payment is in accordance with a law, regulation, tariff or agreement or that it is fair and reasonable;
  - (ii) covered by competent authority;
  - (iii) correct in respect of the period covered by the claim;
  - (iv) correct with regard to computations;
  - (v) supported, where applicable, by the necessary documents or an explanation of absence; and
  - (vi) is in order.
- (i) A partial payment must not be made unless it is supported by a certificate indicating that the amount of the payment requested is fully covered by or equal to the value of goods or equipment already delivered and/or services already rendered.
- (j) A pre-payment or partial payment in terms of a contract or written agreement must be brought into account against the appropriate vote or service and a voucher for such payment must:
  - (i) show the total amount payable in terms of the written contractual agreement;
  - (ii) show the total amount of all previous payments under the contract or agreement;
  - (iii) show the total payments to date, including the payment being made by the voucher;



- (iv) show the balance due; and
  - (v) be supported by a certificate from a duly authorised official that the supplier is entitled to the payment in terms of the written contractual agreement. The official stamp on the invoice is deemed to be the certificate.
- (k) Payments for supplies or services or for work done under written contractual agreement must be supported by certificates from duly authorised official to the effect that such payments are in accordance with the terms of the written contractual agreement and, where applicable, that work to the value of the amount to be paid has been properly performed.
- (l) Where consultants are contracted to perform work on behalf of the Department, a certificate for a partial payment must first be obtained from duly authorised official before a payment may be effected.
- (m) A final payment, upon completion of a contract, must be supported by a certificate from a duly authorised official in the Department stating that the terms of the contract have been properly complied with in every respect.
- (n) Payments may only be made to contracted party to whom they are due or their duly authorised representatives. The officials responsible for making the actual payment must satisfy themselves that the representatives concerned are duly authorised by means of a power of attorney or other proper authority to receive such payments.
- (o) Where an error or overcharge is made in an invoice or claim, or where such invoice or claim contains an item which is not acceptable as a charge against departmental monies and the payment voucher differs from the account submitted, the Department must request that the supplier issues a revised invoice for payment. Payment must then be made against the revised invoice.
- (p) Exact record must be kept of all negotiations with the supplier/claimant to ensure a proper audit trail to determine the commencement of the thirty (30) day period to pay an invoice.

## CHAPTER 20

# INVENTORY MANAGEMENT

### 20.1 INTRODUCTION

20.1.1 The goods and services ordered by the department help it to fulfil its service delivery mandate. Sometimes, these items may be ordered as needed and be applied immediately to their purpose. At other times, these items may need to be held for a period of time in a warehouse or storeroom or on the service delivery job site.

20.1.2 The following modified cash standard definitions<sup>1</sup> for "inventory" and "consumables" is strictly applied for accounting and financial reporting purpose:

(a) "Inventories are assets:

- (i) in the form of materials or supplies to be consumed in the production process;
- (ii) in the form of materials or supplies to be consumed or distributed in the rendering of services;
- (iii) held for sale or distribution in the ordinary course of operations; or
- (iv) in the process of production for sale or distribution."

(b) "Consumables are items:

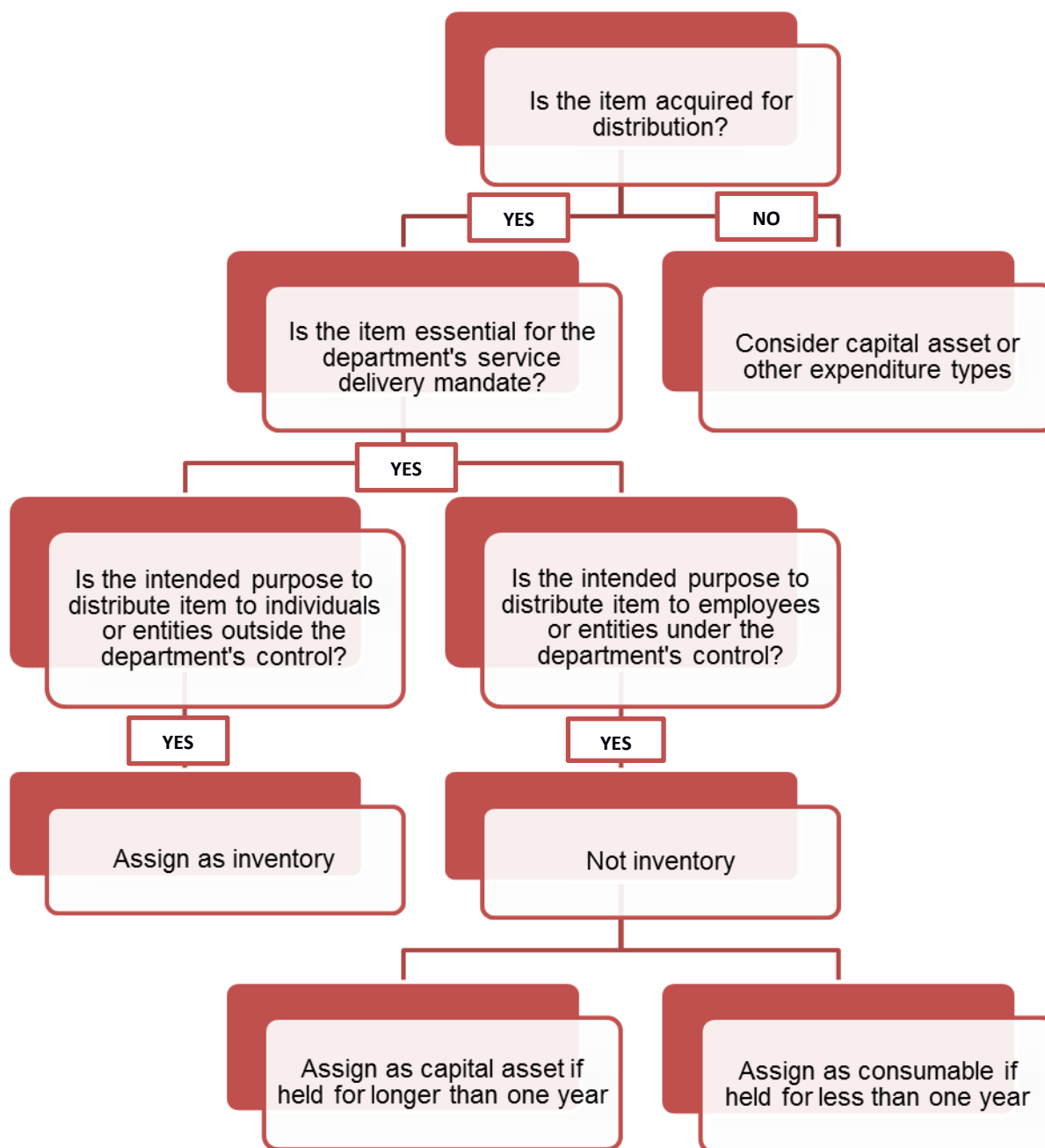
- (i) that are used and replaced on a regular basis;
- (ii) capable of being consumed, destroyed, wasted; discarded or spent;
- (iii) that are in contrast to durable items that can be used repeatedly over a substantial period; and
- (iv) that are not directly linked to the service delivery needs of a department."

20.1.3 In terms of SCOA Version 5, inventory has now been broken down into two main categories namely "inventory" and "consumables". This split in classification will only have an effect on the budgeting and expense side of operations and not on the physical treatment of inventory.

20.1.4 All those goods within a department that do not meet the criteria of inventory or assets will be treated as consumables and accounted for as an expense.

### 20.1.5 Classification of inventory and consumables:

(a) the following decision tree will be used to distinguish between inventory and consumables:



(b) To further assist in this process, a list of assets in terms of the definitions and SCOA classification, which must be treated as consumable items within the department due to the nature, value and risk profile, will be drawn up and submitted for approval on an annual basis to the accounting officer of the department. All other items not listed and / or not meeting the definition of a consumable item will be treated as assets.

(c) The department is required to define in its accounting policy whether it manages inventory and to develop accounting policies for the management of inventories.

20.1.6 Like any asset, inventory needs to be efficiently and effectively managed. Decisions need to be made whether, and how much, inventory should be held. Keeping stock has both advantages and disadvantages. Some of the advantages and disadvantages of keeping inventory are discussed below.

20.1.7 **Advantages and disadvantages of keeping Inventory**

Advantages	Disadvantages
Keeping inventory may lessen risks to service delivery, as it allows operations to meet unexpected surges in demand.	Items can deteriorate while they are being kept. This is significant for items having a limited life. Moreover, any inventory could be accidentally damaged while stored.
When buying in bulk, the department may save costs associated with periodic purchase price increases, as well as receive discounts.	Holding inventory is expensive. It requires warehouses or containers and resources to manage and safeguard inventory.
Keeping inventory of critical items may also mitigate risks of an unexpected interruption in supply from either outside or within the operation.	Inventory can become obsolete while stored.
Inventory allows supply and demand operations to operate independently to suit their own constraints and conveniences while the stock of items absorbs short-term differences between supply and demand.	Inventory needs to be managed by continuous stock-taking.
On-hand allows customers to be served quickly and conveniently (as and when needed).	Stored inventory is vulnerable to theft.

20.1.8 Inventory policies must, in particular, address the disadvantages of keeping stock and provide strategies and techniques to prevent inventory from becoming too high, or dwindling to levels that could put the operations of the department at risk.

20.1.9 National Treasury's Inventory Management Framework directs that:

- (a) Departments should manage inventory with the goal of delivering more services or a higher level of service to the communities they serve. The importance of inventory management in the public sector is therefore based on the need to:
  - (i) demonstrate accountability for public resources;
  - (ii) improve transparency and credibility of information used for making policy choices; and
  - (iii) improve efficiency.
- (b) Improving inventory management can lead to:

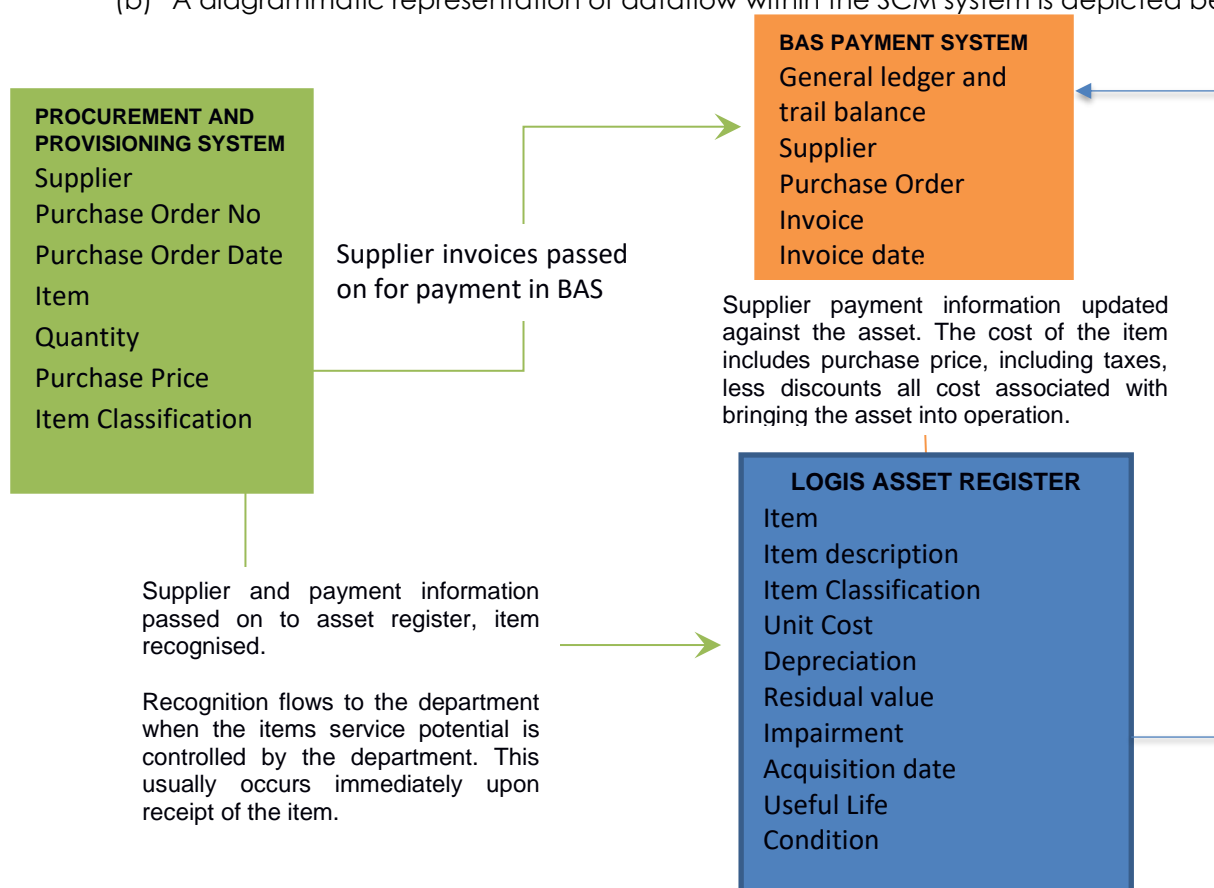
- (i) increases in investment revenue or freeing up of resources to be used elsewhere due to a reduction in stock held in inventory; and
- (ii) a reduction in losses due to theft, wastage, damage, spoilage or misuse.

20.1.10 The department will gain from sound Inventory Management practices. The rate and scale of delivery of basic services may be increased through lower purchasing and inventory holding costs, better quality of products, a reduction in losses, or otherwise freeing up resources to be utilised in other areas.

### 20.1.11 The systems of Inventory Management

(a) An integrated SCM system is at the heart of effective implementation of inventory management. The LOGIS system is currently used as the approved Logistics system by most Departments while the Basic Accounting System (BAS) system is used as the primary system for effecting payments to suppliers. It is however acknowledged that a number of disparate systems exist both within and between departments.

(b) A diagrammatic representation of dataflow within the SCM system is depicted below:



(c) The absence of an integrated financial management system may pose a challenge to efficient warehouse organisation and inventory control as information is contained in various systems.

## 20.2 PLANNING FOR INVENTORY

20.2.1 To ensure proper demand planning for inventory, the department must:

- (a) Prepare a multi-year operational plan (3-year period at a minimum) containing:
  - (i) an inventory demand schedule for goods and services required to fulfil the strategic objectives and service delivery goals of the department; and
  - (ii) a resource plan that breaks down operational requirements by materials and supplies required to deliver the schedule of services detailed in the demand schedule.

#### 20.2.2 The Inventory Demand Schedule

- (a) The inventory demand schedule of goods or services, aligned to the strategic objectives and service delivery goals of the department must indicate:
  - (i) what inventory must be delivered;
  - (ii) where the inventory must be delivered;
  - (iii) when the inventory must be delivered; and
  - (iv) how the inventory will be delivered?
- (b) Warehouse managers must undertake their own evaluation, in accordance with paragraph (a), of items kept in store on an annual basis.

#### 20.2.3 Resource Planning

- (a) To ensure the correct item is procured to support programme delivery, for each item of inventory the:
  - (i) item specifications must be determined and aligned with the requirement; and
  - (ii) potential suppliers must be analysed to ensure that inventory is sourced at the best price and available at the right place and at the right time.
- (b) Programme managers must understand the need for demand planning during strategic planning and medium-term budgeting processes and be aware of resource planning techniques.

#### 20.2.4 Budgeting

- (a) Budgets must be within the framework of the approved strategic plan and annual performance plan of the department.
- (b) Budgets should be prepared in accordance with the following principles:
  - (i) **Realistic and Quantifiable:** Generally, in the public sector, demand is set when the budget is approved to deliver services in line with the strategic plan of the department. The public sector is compelled, however, to ration its resources by setting goals and objectives which are reasonably attainable. Strategic plans must evaluate each activity to determine those that will result in the most appropriate resource allocation.

- (i) **Historical:** The budget reflects a clear understanding of past results and a keen sense of expected future changes. While past results cannot be a perfect predictor, they flag important events and benchmarks.
- (ii) **Period Specific:** The 3-year length of the Medium-Term Expenditure Framework ("MTEF") budget period dictates the time limitations for introducing effective modifications to the budget. Although plans and projects differ in length and scope, establishing the needs and planning for inventory demand is a key activity for budgeting and needs to be considered and aligned with the 5-year strategic plan of the department.
- (iii) **Standardised:** To facilitate the budget process, managers should use standardised forms, formulas, and research techniques. This increases the efficiency and consistency of the input and the quality of the planning.
- (iv) **Inclusive:** Those responsible for the results must take part in the development of their budgets. Programme managers from finance, logistics, and operations should meet to exchange ideas and objectives and to minimise redundancies and counterproductive programs. In this way, those accountable buy into the process, cooperate more, work with better direction, and therefore have more potential for success. During the budget preparation period, programme managers will prepare their operational plans based on the strategic direction of the department and inputs derived from the demand schedule described above.
- (v) **Successfully Reviewed:** Programme managers are responsible for the reviewing of their operational plans and inventory needs in line with the budget cycles.
- (vii) **Service Delivery Oriented:** Budgeting must maximize Constitutional and legislation-mandated service delivery duties to the community and other stakeholders, within the constraint of available resources and with a focus on sustainability.

### 20.3 INVENTORY CLASSIFICATION

- 20.3.1 All items that are procured, donated, or received as a result of transfers from other departments must be evaluated against the Asset Tree described in paragraph 20.1.5 (Classification of inventory and consumables). If the criteria are met, it should be classified as inventory and must be grouped in the appropriate inventory category.

### 20.4 RECORDING AND MEASUREMENT OF INVENTORY

- 20.4.1 All items of inventory that are procured, produced, donated or received must be recognised in the accounting records of the department in accordance with the Modified Cash Standard (2020-21) issued by National Treasury as follows:
- (a) "Inventories shall be recorded if, and only if, it is probable that future economic benefits or service potential associated with the item will flow to the department; and the cost or fair value of the inventories can be measured reliably."
- 20.4.2 The value of the inventory must be measured against the criteria defined by the Modified Cash Standard (2020-21) issued by NT as follows:

- (a) Initial measurement: "Inventories that qualify for recording as an asset shall initially be measured at cost. Where inventories are acquired through a non-exchange transaction, their cost shall be measured at fair value as at the date of acquisition."
- (b) Subsequent measurement: "Inventories shall be measured at the lower of cost and net realisable value, except where the paragraph below applies."

"Inventories shall be measured at the lower of cost and current replacement cost where they are held for: distribution through a non-exchange transaction; or consumption in the production process of goods to be distributed at no charge or for a nominal charge."

- (c) Cost of inventories: "The cost of inventories shall comprise all costs of purchase, costs of conversion and other costs incurred in bringing the inventories to their present location and condition."
- (d) Cost Formulas: "The cost of inventories of items that are not ordinarily interchangeable, and goods or services produced and segregated for specific projects shall be assigned by using specific identification of their individual costs". "The cost of inventories, other than transferred to the department by means of a non-exchange transaction (fair value), shall be assigned by using the weighted average cost formula".
- (e) Disclosure: "A department shall disclose the following in its notes with regards to inventories:
- (i) The accounting policies adapted in measuring inventories, including the cost formula used;
  - (ii) The total carrying number of inventories at the beginning and end of the reporting period in major classifications appropriate to the entity; and
  - (iii) A reconciliation of the movement in total inventory carrying value for the reporting period per major classification."

20.4.3 When an item of inventory has been included in the accounting records, it must be disclosed in the annual financial statements according to the appropriate accounting policies. The department must prepare a financial statement that complies with the guidance provided in both the Modified Cash Standard and the Accounting Manual for Departments.

20.4.4 Any changes to the format for reporting of inventory in the Annual Financial Statement will be indicated in updates to both the Modified Cash Standard and the Accounting Manual for Departments.

20.4.5 Inventory will be disclosed in the relevant annexure as prescribed in the Modified Cash Standard and the Accounting Manual for Departments.

20.4.6 The opening balance for a reporting year must be represented by the closing balance as at 31 March of the previous reporting year.



- 20.4.7 Adjustments to prior year balances: This represents adjustments to prior year inventory which were only corrected in the current year. The following can give rise to adjustments:
- (a) Surpluses and shortages identified during the last stock take for the previous year which had not been corrected on the balances before the end of the previous year. The surpluses and shortages therefore represent the difference between recorded inventory amounts and actual inventory levels;
  - (b) Reclassification of inventory to assets after the previous year end. All assets previously classified as inventory need to be accounted for and transferred from Inventory to either the major or minor assets register; and
  - (c) Reclassification of Assets to Inventory after the previous year end. All inventory that were previously classified as assets need to be accounted for and transferred from the asset register to the inventory register.
- 20.4.8 Only unissued stock in bulk stores is to be counted and recognised, while stock issued to sub-stores e.g. offices, wards in hospitals, etc. must be considered issued stock and not disclosed.
- 20.4.9 Additions or purchases made for cash: All cash additions for the financial year must be reflected. The cash additions, as per the inventory system, should reconcile with the amount reflected and allocated for inventories in goods and services in the financial statements.
- 20.4.10 Additions or purchases that are made non-cash: The fair value or cost price, if supplied, of inventory received in kind or as donations from sources outside of the government, or as transfers without cost from other departments, during the reporting year is disclosed here. Adequate supporting documentation of such receipts should be kept.
- 20.4.11 Disposals: All approved disposals of inventory must be disclosed. This would include obsolete, damaged, or lost inventory that is not available for distribution or production.
- 20.4.12 Issues: All inventory issued to cost centres or external stores for production, distribution, or consumption must be recorded.
- 20.4.13 Adjustments: This represents correction of errors that occurred in the current financial year that relate to inventory. It includes the difference between the initial recognition amount (cost of inventory purchased) and the weighted average.
- 20.4.14 Closing Balance: This will be the value of the inventory as at 31 March of the accounting year after a stocktake has been undertaken, the physical quantities compared to the system quantities, corrections made to the system, and any movements between the counting date and 31 March of the reporting year affected.

## 20.5 INVENTORY MANAGEMENT CATEGORIES

- 20.5.1 Irrespective of whether the department makes use of a computerised or manual modelling system, inventory must, at a minimum, be identified through the following categories of inventory items:
- (a) **Vital:** These are items the department cannot do without, as they are core to the department's mandate. No out-of-stock incidents are allowed and irrespective of the value or rate of consumption these items must be controlled, e.g. medical products in the Department of Health;

- (b) **Essential:** Essential items are frequently used, supporting elements to the department's core mandate, e.g. printing paper. Controlling these items will ensure efficient utilisation of resources and improve efficiency; and
  - (c) **Nonessential:** Stock levels do not need to be managed.
- 20.5.2 Inventory control, whether manual or computerised, must be defined for all items/groups classified as either Vital or Essential.
- 20.5.3 Where inventory coding, including barcoding, is changed, uniform and specified procedures must be instituted to manage these coding changes.
- 20.5.5 Prior to the modification or adjustment of any item code or description, the delegated official must review, agree, and approve the amendments.
- 20.5.6 The inventory management strategy defining the analytical techniques, mathematical models and item policies must be formally approved by the delegated official, before the strategy is communicated and implemented.
- 20.5.7 The item policy variables must be loaded onto the system (whether electronic or manual) for all materials.
- 20.5.8 Uniform and specified procedures must be instituted for managing modifications and adjustments to item policy.
- 20.5.9 Prior to the modification and adjustment of any item policy the delegated employee must agree and sign-off on those changes.
- 20.5.10 Uniform and specified procedures must be instituted for managing Bill of Materials ("BOM") Master data changes when a BOM Master is identified for creation or amendment by a requestor (engineer, planner, logistics manager requesting BOM Master creation or amendment).
- 20.5.11 Items classified by the department must be capable of being traced at all stages of production, processing and distribution. This requires that:
- (a) each batch produced or procured must be part of a single lot; and
  - (b) each product within a batch produced or procured must be marked with a code that indicates which batch it came from.
- 20.5.12 **Calculation of stock levels, safety stock, re-order quantities, and re-order points**
- (a) The use of the **analytical technique** may be regarded as the "foundation" of the logistical system, as it determines what, and how many, stock items should be kept in stock.
  - (b) The analytical technique focuses on the purchasing of stock, where practical and economical, for use and according to need. This includes A-, B- and D-items (see below). As a result, it seeks to prevent the unnecessary storing of items, to limit the risk of losses, to require the minimum amount of storage space, to save manpower on stock management, to promote effective control over the stock, and to allow the available capital for stock purchases to be used more effectively.

- (c) Within the analytical technique, items are classified as follows:
- (i) **A-Items:** Items that reflect a minimum consumption of six during the last two-to-three consecutive financial years, and in respect of which the average annual consumption value is equal to or greater than the classification sum.
  - (ii) **B-Items:** Items that reflect a minimum consumption of six during the last two-to-three consecutive financial years, and in respect of which the average annual consumption value is less than the classification sum.
  - (iii) **C-Items:** Items that, during any of the last two consecutive financial years, had a consumption of less than six, as well as all new items that are purchased directly for a specific purpose.
  - (iv) **D-Items:** All items that comply with the definition of a C-item, but which are essential, and must be available immediately upon request.
  - (v) **E-Items:** All livestock and service dogs, irrespective of the consumption tendency, are divided under this class. The symbol "E" must be used on the item record.
  - (vi) **F-Items:** All containers, bags, scrap metals, scrap paper and textiles, that have sales value, irrespective of the consumption tendency, is divided into this class. The symbol "F" must be used on the item record.
- (d) Stock levels are only calculated with regard to A- and B-items, which are items that are constantly used (Livestock, revised tertiary products and uniforms are excluded). Proper stock levels ensure effective utilisation of available capital, preventing stock becoming obsolete, best utilisation of storage space, less likelihood of stock exhaustion and that demands can be satisfied immediately at all times. Two stock levels are determined, namely a **minimum** and a **maximum level**. The **minimum level** is the quantity that is required to provide for the demand during the delivery period, either in terms of a contract or from previous experience of items delivered or supplied by supply depots, which is the period between the date of order and the date of delivery. In all cases of A- and B-items, 20% of the minimum stock level on the item record is automatically calculated by the system and added to the minimum stock level. This is then displayed as a safety factor level on the item record in order to make provision for unforeseen factors such as delay per rail, strikes, etc. The **maximum level** is the maximum quantity which is **normally** purchased when the safety factor level on the item record has been reached.
- (e) In respect of A- and perishable B-items, the minimum days and quantity must always be the same as the maximum days and quantity. In respect of other B-items, the maximum days are always 182 (one hundred and eighty-two) and the maximum quantity always equal to 50% of the average annual consumption. Cases of D-items will occur where only a very small quantity (in many cases only one) of an item must be kept in stock and no consumption figure is available, or, if it is available, it cannot be accepted as representative. The minimum level must be stated as "nil" in such cases, and a supplement is only considered when the stock is completely depleted. Then, only the maximum must be ordered. In order to ensure that the maximum remains within limits with regard to D-items, the maximum must be set at six (6).

## **20.6 MANAGEMENT REPORTS FOR INVENTORY**

20.6.1 Management reports may be generated through the logistical system and should be used for management of inventory. The following types of reports must be available for this purpose:

- (a) daily reports that may be generated through report request;
- (b) weekly, monthly, quarterly and annual reports; and
- (c) management reports that are created on the mainframe and which are available for downloading from the National Treasury on a monthly basis. These reports must be used for BAS/LOGIS reconciliations and will also be used for the compilation of the Annual Financial Statement.

## **20.7 INVENTORY MOVEMENTS**

20.7.1 The following general principles apply to all inventory movements:

- (a) the warehouse/stores function includes the physical safeguarding of stock, control over movements, keeping of stock records, stocktaking and storage of stock;
- (b) the receiving function accepts goods from suppliers and acknowledges receipt thereof. This is the responsibility of the budget holder (programme manager) of the program requesting the goods or services for directly delivered items or the warehouse or store manager in the case of stock items. The responsibility in respect of non-store items delivered to transit areas rests with both the warehouse or store manager and the end-user;
- (c) all goods not delivered directly to the end-user must be received at the various transit areas. The transit areas are responsible for accepting goods from suppliers, acknowledging receipt, confirming delivery against purchase order and physical inspection of goods delivered;
- (d) goods received at the stores are stored until requested by an end-user. The relevant unit is responsible for the management of the warehouse/stores function within the department;
- (e) no movement of stock may take place without documentation by an authorised employee. These documents are collectively known as transfer documents and include requisitions, goods received notes, and issue vouchers;
- (f) all transactions, including recording orders, receipts, issues, and returns must be recorded on an established computerised or manual system;
- (g) if a manual system is used, all signatures of authorised employees must be affixed to the source documentation;
- (h) the inventory recording system, whether manual or automated, must be reconciled with the financial records at the end of each month;
- (i) store items required by end-users are to be requested (by requisition) from the relevant store. An issue voucher must be generated for all goods issued from the warehouse or storeroom;

- (j) wherever and whenever there is a movement of stock, both the deliverer and the receiver must sign the transfer document after having checked the description and quantity of the items being transferred against the source documents;
- (k) transfer documents must be pre-numbered and filed numerically;
- (l) documents must be regularly reviewed by an independent authority to ensure that proper authorisation procedures were followed;
- (m) documents must be sequence checked and missing documents investigated;
- (n) inventory items are considered consumed after having been issued to the end-user and the relevant unit does not keep further record [Department to amend as per their bespoke requirements]; and
- (o) all transfer documents must be kept on file in the warehouse or storeroom office in accordance with legislative requirements for the retention of information, including PAIA, PAJA, and POPIA.

#### 20.7.2 Transfers

- (a) Transfers refer to any movement of stock or asset from any store or location in the department to a store or location in another department.
- (b) Transfers between units or programmes/sub-programmes within the department are internal transfers whilst transfers from the department to another or to any department/store outside of the department are external transfers.
- (c) Internal stock transfers will only be completed between like storage facilities within the same operating division.

### 20.8 STOCKTAKING OF INVENTORY

- 20.8.1 Frequent comparison and reconciliation of un-issued stock with stock as per approved records is required to identify discrepancies timeously and initiate investigations, should there be such a discrepancy. Preventative measures should be put in place to reduce the possibility of a re-occurrence of the problem that caused the discrepancy.
- 20.8.2 Stores shall be subjected to a complete stock take **at least once** in every financial year and as near as possible to financial year-end to minimize the amount of reconciliation between the stock counts at stock take and the stock counts at the end of the financial year.
- 20.8.3 The AO is responsible for the administration of the department's annual stock take. Included in the responsibilities is the delegated authority to appoint, in writing, competent employees to take stock and to report their findings. To ensure proper separation of duties, the person appointed should not be directly in charge of the store being counted and the staff performing the task should be persons other than those who usually work in the store.<sup>2</sup>
- 20.8.4 Physical inventory counts must be completed and performed timeously as per the Physical Inventory Count Procedure and Physical Inventory Count Schedule, respectively, by the authorised employee. Reasons must be determined independently for all variances between

the stock register and the stock found. The store system must be updated timeously and accurately on completion of the count.

- 20.8.5 Surpluses and deficits shall, as soon as they have been confirmed, be accounted for in a suspense register. All particulars and supporting documentation should be kept for audit purposes. Once all surpluses and deficits have been accounted for, the Disposal Committee should evaluate each individual case (storeroom) and recommend to the Accounting Officer any further steps to be taken. Steps may include the recovery of stock losses from employees.
- 20.8.6 Members of the department's stock take committee cannot serve on the DC for the disposal of items identified by them.
- 20.8.7 A stock take certificate should be issued for each store, and a copy thereof must be provided to the AG. The following employees must sign the stock take certificate:
- (a) the chairperson of stock take committee;
  - (b) the relevant store manager;
  - (c) the head of the SCM unit; and
  - (d) the AO or their delegate.
- 20.8.8 An overall stock take certificate for the department should be issued once all store stock take certificates have been received, reviewed and settled through the resolution of any discrepancies. The overall stock take certificate should be signed by the AO and contain at least the following information:
- (a) a statement to the effect that all vouchers series are up to date and vouchers have been correctly filed;
  - (b) inventory controllers (store managers) had been appointed in writing;
  - (c) a complete stock take of inventories has been carried out; and
  - (d) the information provided is a true reflection of the state of stores administration within the department.
- 20.8.9 A copy of the final annual stock take report must be submitted to Provincial Treasury for reporting purposes, before the close of the financial year.
- 20.8.10 **Minimum requirements for stock take**
- When conducting stock take, information about the stock take must be recorded either manually or electronically. At least the following must be recorded:
- (i) inventory operation (name of warehouse, stockroom or other);
  - (ii) stock take name (e.g. quarterly count of "A" items for quarter ended June 2013);
  - (iii) date and time of count;
  - (iv) authorisation number and dated signature or electronic authorisation of counter;
  - (v) authorisation number and dated signature or electronic authorisation of supervisor;

- (vi) item code (must be unique for the same category of items);
- (vii) item description (will be linked to the item code);
- (viii) item location (shelf, bin, etc.);
- (ix) quantity on hand as per inventory records (manual or computerised system);
- (x) quantity on hand as per count in good condition;
- (xi) quantity on hand as per count in poor condition (expired, obsolete, unserviceable etc.);
- (xii) variance (adjustment required to manual or computerised records);
- (xiii) second count carried out (indicate yes / no); and
- (xiv) variance reason.

#### 20.8.11 **Planning for stock take**

- (a) All employees concerned with the count should be informed well in advance of the date of the count.
- (b) The employees' responsibility for the work should be clearly defined.
- (c) Explicit instructions in writing should be given to all employees participating in the count and meetings of the appropriate management and employees should be held to answer employees' questions about these instructions.
- (d) The instructions should cover:
  - (i) the overall stocktaking plan;
  - (ii) preparation of stock prior to the count;
  - (iii) method of counting;
  - (iv) method of recording the counts;
  - (v) responsibility for issuing, collecting, and controlling records as well as and the employees' specific task;
  - (vi) procedures for stocktaking to be adopted and each employee's part therein, thus providing a framework for an efficient and accurate stock count;
  - (vii) instructing that stock should be prepared for counting; and
  - (viii) how to take care to identify and separate slow moving, obsolete, and damaged stock.
- (e) Control must be maintained over the means used to record the count to ensure accountability for all stocktaking forms issued. Stock sheets or tags used should be pre-numbered and a record made of those issued. Those at the end of the count should be checked against the pre-count list.

- (f) At financial year-end care should be taken to match goods received into stock with the booking of the relevant invoices, and *vice versa*, and similar matching according to goods invoiced to customers.
- (g) At this point a "cut off" point should be established, i.e. the manager in charge of stocktaking should decide the time up to which goods received are to be included in stock, and issues of those goods treated as a reduction of the stock.
- (h) After such time, goods received and issued are treated as having been received and issued in the following financial year.
- (i) Where the stock count occupies several days during which goods are received and issued, care is required to identify the change in the stock position due to such receipts and issue of goods.
- (j) The adjustments required depend on whether the stock count period ends at the close of the financial year or commences then. If the former, goods issues identified as occurring after the count of the relevant items should be deducted from the count figure while purchases after the count should be added. If the latter, items issued from the close of the financial year to the count should be added to the stock figures, goods received being deducted.
- (k) The above arrangement regarding stock movement from supplier to store applies equally to movement of stock between stores and users.

#### 20.8.12 **Stock count**

The actual counting and recording should be done under proper supervision and the following instructions strictly adhered to:

- (a) provision should be made for the counting, the recording, and the checking to be distinct functions;
- (b) two employees to be associated with each item counted;
- (c) where differences between the stock record and the stock count arise, this should be reported to the supervisor who would then adjust the records, strictly adhering to the procedure laid down;
- (d) all counters, recorders, and checkers are to sign and initial the stock sheets, identifying their functions; and
- (e) the supervisor is to scrutinise the record for such signatures and to add his or her own.

### 20.9 **REQUESTS TO STORES**

20.9.1 All requestors must complete a requisition form to request items from a store. In particular:

- (a) end-user requests must be completed accurately and be authorised;
- (b) no items will be issued to an end-user without an approved request form;



- (c) the request form must contain at least the following information:
  - (i) cost centre code;
  - (ii) cost centre description;
  - (iii) item code;
  - (iv) item description;
  - (v) quantity requested;
  - (vi) date requested; and
- (d) all requestors must sign for material received from the warehouse or storeroom.

## **20.10 ISSUING AND DISPATCH OF STORES**

- 20.10.1 Only authorised employees may complete the issuing or dispatch function.
- 20.10.2 The system must be updated immediately upon the physical issue of inventory from the warehouse or storeroom and the relevant expense must be posted (where applicable).
- 20.10.3 All relevant issuing documentation must be generated and completed as required.
- 20.10.4 All requestors must sign for material received from the warehouse or storeroom.

## **20.11 RECORDING OF STORES ISSUING**

- 20.11.1 Manual or computerised records for issues from store must include at least the following:
  - (a) issue date;
  - (b) issue number;
  - (c) name of warehouse, storeroom, stockroom or another place of holding;
  - (d) item code (must be unique for each category of item);
  - (e) item description (will be linked to the item code);
  - (f) item location (shelf, bin, etc.);
  - (g) quantity issued;
  - (h) 'issued to' code (organisation, project, or job code); and
  - (i) note any comments regarding the issuing of the item, where required.

**20.12 RETURNS TO STORE**

- 20.12.1 All material returned to store must be correctly prepared and packaged by the end-user who received the material but yet chose to return it to the store.
- 20.12.2 A goods return transaction must be completed on the system within the allowable goods receipt processing time of 48 hours or immediately upon return from inspection.
- 20.12.3 All material returned to stock must be returned against the cost centre to which it was issued.

**20.13 RECORDING OF RETURNS TO STORE**

- 20.13.1 Manual or computerised records for returns to store must include at least the following:
- (a) return date;
  - (b) return number;
  - (c) name of warehouse, storeroom, stockroom or other;
  - (d) item code (must be unique for each category of item);
  - (e) item description (will be linked to the item code);
  - (f) item location (shelf, bin, etc.);
  - (g) quantity returned;
  - (h) 'returned from' code (cost centre, project, or job code);
  - (i) note any comments regarding the return;
  - (j) authorisation number and dated signature or electronic authorisation of receiving officer; and
  - (k) authorisation number and dated signature or electronic authorisation of issuing officer.

**20.14 STORES TO SUPPLIER**

- 20.14.1 Materials destined to be returned to a supplier must be assessed and decided upon speedily.
- 20.14.2 Materials to be returned to a supplier will be coordinated and managed by the end user.
- 20.14.3 The end-user will be responsible for following-up with the supplier.
- 20.14.4 Returns generated as the result of some fault on the supplier's part, will be processed with associated fees assumed for the cost of the supplier.
- 20.14.5 The supplier will be responsible for uplifting the materials from the warehouse or storeroom.
- 20.14.6 The SCM Unit must compile a valid removal permit.
- 20.14.7 The removal permit will, at a minimum, contain the following information:<sup>3</sup>

- (a) description of item being removed;
- (b) quantity of item being removed;
- (c) copy of the returned delivery note;
- (d) supplier name;
- (e) signature of the authorised, delegated warehouse or storeroom employee; and
- (f) date of removal.

20.14.8 No materials will be physically issued out of the warehouse or storeroom without all required documentation and systems transactions being completed and authorised.

## **20.15 STORES REGISTER**

20.15.1 Manual or computerised records for each item must include at least:

- (a) name of warehouse/storeroom/store;
- (b) item code, unique for each category of item;
- (c) item description linked to the item code;
- (d) inventory control classification;
- (e) item location (bin or shelf);
- (f) authorised person responsible for the item;
- (g) purchasing unit of measure;
- (h) unit of issue;
- (i) alternative units of measure;
- (j) consumption history for each financial year, both quantity and value;
- (k) supplier, both one-time vendors as well as contracted suppliers;
- (l) lead time in days between order and delivery;
- (m) safe stock level;
- (n) minimum stock level;
- (o) maximum stock level;
- (p) re-order level;
- (q) economic re-order quantity;
- (r) quantity on hand;

- (s) unit price of quantity on hand;
- (t) quantity on order (purchased but not yet received);
- (u) quantity reserved (ordered by user but not issued);
- (v) status (item on hold, damaged, etc.); and
- (w) shelf-life and expiry indicator.

## 20.16 PERFORMANCE MEASUREMENT

- 20.16.1 Inventory Key Performance Indicators ("KPI") must be identified and agreed upon by the relevant stakeholders.
- 20.16.2 These KPIs must be monitored periodically and compared to an agreed benchmark.
- 20.16.3 If any variations occur, a root cause analysis must be done, and action be implemented and followed up to prevent further variations.
- 20.16.4 KPIs must be aligned to the department's objectives. The following KPIs must be monitored:
- (a) **Monthly inventory value:** The value of inventory at the end of the month is a strong indicator of the department's ability to match its inventory levels to its operational needs. The department must adhere to strict limits on the value of inventory within a given month. This must be extended to analysing the inventory value over a quarter. This requires setting limits on inventory value relative to the fluctuating demands.
  - (b) **Incidence of out of stock:** The incidence of "out-of-stock" is also a KPI. However, in this case, it is the measurement of the lack of finished product inventory needed for operations. This KPI is determined by measuring the length of time of the stock-out and its impact on costs and service delivery.
  - (c) **The value of obsolete and damaged inventory:** This KPI measures the costs of keeping obsolete and damaged inventory. The department must ensure proper item specification and demand planning is defined to prevent obsolescence. The department must set goals for controlling the number of damaged inventory items caused by poor handling. Reducing the impact of obsolete and damaged inventory will allow the department to reduce inventory costs. In most cases, obsolete and damaged inventory can only be sold as scrap.
  - (d) **Incidence of product returns:** This KPI measures the incidence of products returned to suppliers and the impact on costs and service delivery. These include:
    - i. the original cost to purchase parts and materials;
    - ii. the cost to return these products; and
    - iii. impact on service delivery (usually through delays).
  - (e) **Early receipts to Material Requirements Planning ("MRP") date (required date):** Early receipts to MRP date is a measure of planning efficiencies. Some planners or warehouse personnel may request that the material be brought in long before the end-users need

the parts. The reasons for doing so may include quality control, lead time variance, buffer stock etc. Early receipts to MRP produce higher levels of inventory that are not yet required. MRP is the opposite to the Just in Time ("JIT") planning model. Measure: MRP due date versus Receive to Dock (stores) date.

- (f) **Early purchase order receipts leading up to purchase order due date:** "Early receipts to purchase order date" measures a supplier's diligence at supplying as demanded on the contract date. Early receipts to purchase order result in unexpected deliveries turning up. This causes congestion in the stock receiving areas and higher-than-projected inventory levels. Measure: Purchase order due date vs Receive to Dock (stores) date.
- (g) **Inventory lead time:** Lead time is the length of time it takes to obtain inventory from suppliers.
- (h) **Average age of inventory:** This is simply the average age of each product in stock. Age is measured internal to the store. The average age estimates the average time from date of delivery of to the stock, to issue goods out to an end-user.
- (i) **Generally preferred inventory valuation method:** This method assumes inventory to be sold in the order that it is stocked, with the oldest goods sold first and the newest goods sold last. It uses the unit cost per batch of acquired/produced goods and counts the inventory backwards from the newest batch. Lead time is the length of time it takes to obtain inventory from suppliers.

- (j) **Inventory carrying cost:** This is measured by Inventory Carrying Rate X Average Inventory Value

Inventory Carrying Rate can be explained by the example below.

1. Add up the annual Inventory Costs. Example:

R8000 = Storage  
 R4000 = Handling  
 R6000 = Obsolescence  
 R8000 = Damage  
 R6000 = Administrative  
 R2000 = Loss (pilferage, etc.)  
 R34000 = Total

2. Divide the Inventory Costs by the Average Inventory Value (assuming R34 000.00). Example:

$R34000 / R34000 = 10\%$

3. Add up other costs. Example:

9% = Opportunity Cost of Capital (the return you could reasonably expect if you used the money elsewhere)  
 4% = Insurance  
 6% = Taxes  
 19% = Total

4. Add up percentages:

$10\% + 9\% = 19\%$  which is your Inventory Carrying Rate

5. Inventory Carrying Cost = Inventory Carrying Rate X Average Inventory Value

$19\% \times R34000 = R6460$

- (k) **Stock cover:** Stock cover is the length of time that inventory will last if current usage continues.

# CHAPTER 21

## CHARACTERISTICS OF ASSETS

### 21.1 DEFINITION OF ASSETS

- 21.1.1 An asset is a resource, as defined by the National Treasury, which is controlled by the Department and from which future economic benefit or service potential is expected to be derived.
- 21.1.2 The following recognition criteria must be met in order for an item to be regarded as an asset:
- (a) The asset has service potential or future economic benefit for the Department;
  - (b) The Department has the capacity to control the service potential or future economic benefit of the assets; and
  - (c) The service potential or future economic benefit of the asset arose from past events as defined by the National Treasury, meaning it was either bought, received as a gift, transferred to the department or officially procured in any other way that would be reflected in the department's records; and
  - (d) The cost or fair value of the item can be measured reliably.

### 21.2 FUTURE ECONOMIC BENEFIT OR SERVICE POTENTIAL

- 21.2.1 Service potential is the capacity of an asset, singly or in conjunction with other assets, to contribute to the department achieving its strategic objectives.
- 21.2.2 In applying the definition of asset, the focus will largely be on service potential, rather than future economic benefit as the department's primary concern is service delivery for a variety of social and economic purposes.
- 21.2.3 Assets that are used to deliver goods and services in accordance with the strategic objectives of the department but do not directly generate net cash inflows are often described as embodying "service potential".

### 21.3 CONTROL OVER ASSETS

- 21.3.1 Control over an asset is less about the "physical control" of the asset, and more about control of the economic benefit or service potential of the asset. The department controls an asset if it is able to benefit from the asset when pursuing its objectives, if it is able to control the access of others to that benefit, and if use of the asset allows the department to secure service potential or future economic benefit. Legal title and physical possession are good indicators of control, but not essential.

### 21.4 PAST TRANSACTIONS OR EVENTS

- 21.4.1 Transactions or events expected to occur in the future do not give rise to assets. Assets are recognised from the point where control over the asset is transferred to the department. This is normally represented by the action of making payment or taking of possession.

- 21.4.2 There is a close association between incurring expenditure and generating assets, but the two do not necessarily go hand in hand.<sup>4</sup> The incurring of expenditure may provide evidence that future economic benefit or service potential were sought but is not conclusive proof that an item satisfies the definition that an asset was obtained. Similarly, the absence of expenditure does not necessarily mean that no assets were obtained. Items that have been donated to the department may qualify as assets.

## 21.5 CLASSIFICATION OF ASSETS

- 21.5.1 Assets vary considerably in their size and nature and it is useful to classify them into groupings for management control and financial treatment. Management control refers to categorising assets as land and buildings, office furniture and equipment, computer equipment, etc. Financial treatment on the other hand, refers to classifying assets as either current or capital. Assets for the purpose of this framework and policy will be divided into the following classes:

### 21.5.2 Current and Non-Current Assets

- (a) Current assets have a short life expectancy (normally less than twelve (12) months) due, either to an inherent feature, or because they will be converted into cash or another asset or consumed within the Department within a short time frame (raw materials and inventory (e.g. printers or cartridges) are examples of this). These assets are generally referred to as 'current' in accounting terms, as they may be consumed or converted into cash within the next twelve (12) months of the reporting date.
- (b) In contrast, non-current assets have an extended useful life (longer than twelve (12) months) and it is usually expected that these assets would be used over more than one reporting period. This may reflect their physical life (e.g. motor vehicle) in the case of tangible assets or their legal life (e.g. patent) in the case of intangible assets.

### 21.5.3 Tangible assets

- (a) Tangible assets are physical in nature. These are assets that one can touch and feel and can either be current or non-current. All tangible assets are either moveable or immovable.

### 21.5.4 Intangible assets

- (a) Intangible assets do not have a physical form. Examples of intangible assets are:
- (i) Trademarks;
  - (ii) Licences;
  - (iii) The legally enforceable rights associated with copyright and patents;
  - (iv) Mineral exploration rights;
  - (v) Computer software;
  - (vi) Entertainment, literary or artistic originals; and



- (vii) Other assets (e.g. new information, specialised knowledge) that have not been classified elsewhere, whose use in production is restricted to the units that have established ownership rights over them or to other units licensed by the latter.

#### 21.5.5 **Minor assets**

- (a) Various types of assets exist but due to their value, they cannot be classified as major assets. An example is chairs. There is however a need to control these types of assets. Minor assets are assets with an acquisition value of less than R5 000.00 per item. There is a need to control various assets that cannot be classified as major assets. This is due to their value as they clearly have lifespans in excess of one (1) year. Items that may be included in such a list are endless and will continuously change.
- (b) To provide sufficient guidance to regulate the classification of assets with a monetary value of less than R5000.00, without unnecessarily forcing the Department into controlling items that are worth less than the effort needed to control them, the following broad guidelines are proposed:
  - (i) To be categorised as minor assets, the goods must have the characteristics of capital assets with the exception that they have a value of less than R5 000.00.
  - (ii) Items must have a normal lifespan of more than one (1) year.
  - (iii) It must be possible to physically mark the item without damaging it.
  - (iv) Items must be categorised as one of the broad categories prescribed.
  - (v) All computer software with a monetary value of less than R5 000 will be regarded as an E-class consumable.
  - (vi) All expenditure on minor assets will be classified as current expenditure.

#### 21.5.6 **Major assets**

- (a) All assets of a value exceeding R5 000.00 are classified as major assets. All expenditure on major assets will be classified as capital expenditure.

### 21.6 **CATEGORIES OF ASSETS**

21.6.1 For the purposes of financial reporting, assets within the Department will be classified according to the following categories:

- (a) Machinery and equipment;
- (b) Furniture and office equipment;
- (c) Computer equipment;
- (d) Transport assets;
- (e) Heritage assets;
- (f) Intangible assets; and
- (g) Biological or cultivated assets.

### 21.7 **EXCLUSION LIST OF ASSETS**

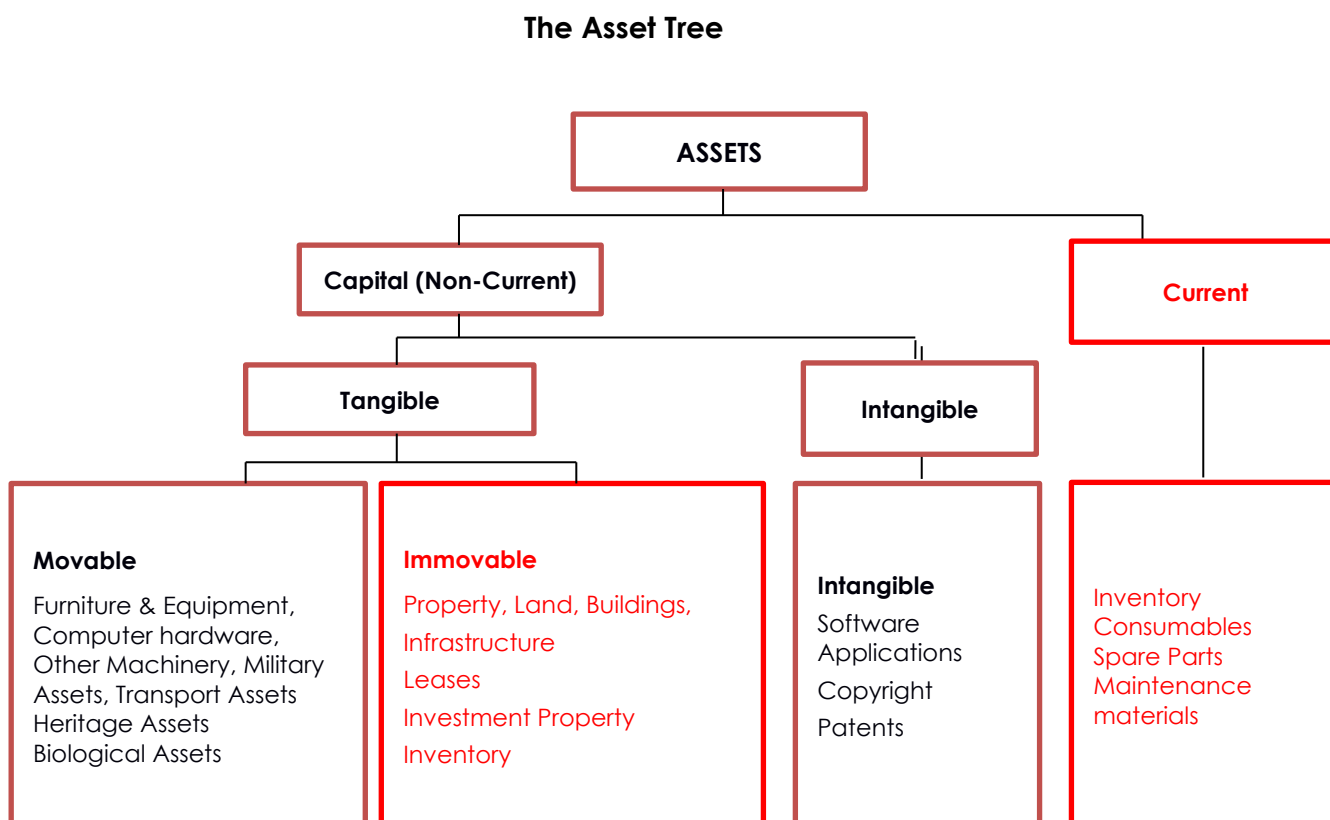
21.7.1 The asset accounting policy guide, issued under Treasury Circular no 27/2016 dated 5 July 2016 provides for an exclusion list to enable the department to focus on strategic assets for reporting purposes in the annual financial statements (AFS) and to exclude non-strategic

assets from disclosure in the AFS. However, the assets excluded from reporting in the AFS will still require safeguarding and control on the electronic system.

- 21.7.2 Should the department consider implementation of an asset exclusion list the requirements of paragraph 4.4 of Treasury Circular no 27 of 2016 should strictly be adhered to.

## 21.8 HIERARCHY OF ASSET CLASSIFICATION

- 21.8.1 The figure below describes the asset tree which is a useful tool to explain the hierarchy of asset classification:



## CHAPTER 22

### ASSET MANAGEMENT PLAN

#### 22.1 INTRODUCTION

22.1.1 Public Finance Management Act, Act 1 of 1999:

(a) Section 38 of the PFMA confers general responsibilities on the Accounting Officer. It determines at Section 38 (1) (d) that the Accounting Officer of a Department:

*"..is responsible for the management, including the safe-guarding and the maintenance of the assets, and for the management of the liabilities, of the Institution, trading entity or constitutional institution; "*

(b) Section 38 of the PFMA confers general responsibilities on the AO. The AO is responsible for the management, including the safe-guarding and maintenance of the assets, and for the management of the liabilities, of the department

22.1.2 The policies outlined in Chapter 22 will have relevance for all departments, irrespective of the size of their asset base. For the majority of departments, however, their asset base will consist primarily of computing hardware and software and furniture and fittings, which facilitate their programme delivery responsibilities. The majority of departments will have asset portfolios which are relatively small in comparison to their operating budget. The policies below have been developed to provide for a level of generality that ensures that specific institutional needs can be accommodated on top of the general principles.

22.1.3 The asset base of the Department primarily consists of computer hardware and software and office furniture and equipment. These assets facilitate the program delivery responsibilities. As such, the Department has an asset portfolio which is relatively small in comparison to its operating budget.

#### 22.2 ASSET STRATEGIC PLAN

22.2.1 In attaining service delivery objectives, resources (assets) are required. Government has a structured way of obtaining and utilising resources in line with applicable legislation. The legislation requires an Asset Management Strategy that will be implemented to attain service delivery objectives. The plan must provide for a five (5) year period for planning and costing asset needs as opposed to the three (3) years of the MTEF.

22.2.2 The following should be noted when aligning the asset strategic plan with other planning periods:

(a) Strategic plans are revised annually to adjust to budget estimates and, therefore, should provide input to the budgeting process and the annual performance plans.

(b) Strategic plans identify strategically important, outcome-orientated goals against which the department's medium-term results can be measured. Although the department's strategic plan must indicate policies and plans to be achieved over a minimum 5-year planning period, some plans, particularly those relating to infrastructure projects, may have a timing horizon that spans more than 5 years.

- (c) When preparing the funding plan, estimates are developed based on the assumption of a constant chain of replacement, calculated using the useful life of individual assets. The funding plan also considers all alternatives to asset ownership based on the cost of owning and controlling the asset over its expected useful life. Irrespective of whether the useful life of an asset is shorter than or extends beyond the 5-year planning period, the cost of owning the asset for its entire useful life must be determined.
- (d) Asset management decisions must be based on the evaluation of alternatives that take into account the full life cycle of costs, benefits, and risks of assets.

22.2.3 The Department's Asset Management Strategy will incorporate the following (and which will be reviewed annually):

- (a) Linking the requirement to service delivery. This is to determine which assets are required in terms of the three (3) year Procurement Plan e.g. appointment of new staff, procurement of new equipment, etc.
- (b) Funding and Acquisition Plan;
- (c) Operational Plan;
- (d) Disposal Plan; and
- (e) Risk Management Plan.

22.2.3 Departments must evaluate their moveable asset base and identify the categories of assets for which the asset strategic plan will be developed. The asset categories must be reviewed on an annual basis.

### **22.3 LINKING THE REQUIREMENT TO SERVICE DELIVERY**

Requests for new assets must be justified by a thorough evaluation of all service delivery options by Responsibility Managers. Asset needs must be directly linked to the services to be delivered. Before embarking on a procurement process, it must be established which assets are available, and, if necessary, what refurbishment might be required in order to bring them up to the required standard.

### **22.4 ASSET FUNDING AND ACQUISITION PLAN**

22.4.1 An Asset Funding and Acquisition Plan (**Addendum 14**) is compiled for the Department on an annual basis during the planning phase and addresses the following:

- (a) the programme delivery requirements inclusive of the service strategies and standards; and
- (b) the rationale behind acquiring assets and how the assets will serve and fit into the strategic objectives and service delivery goals of the Department.
- (c) the proposed method of acquisition; and
- (d) financing for the acquisition.

22.4.2 The funding and acquisition plan is derived from the department's procurement plan that stretches over the three (3) year planning period. The procurement plan speaks to the assets to be purchased by the various responsibility managers in order to ensure that the set strategic objective and goals are met. The acquisition of the department's assets is funded through the utilisation of the allocated budgets of the various cost centre managers/responsibility managers.

22.4.3 To ensure that programmes follow a budgeting norm of acquiring needs in terms of the budget allocated, and not budgeting according to the needs, only the following will be addressed in the acquisition and funding plan of the department:

- (a) capital asset needs;
- (b) non-asset solutions considered, inclusive of the utilisation of existing assets;
- (c) a complete analysis of the alternative methods of acquisition;
- (d) personnel involved in the acquisition process and their roles and responsibilities; and
- (e) the timeframe and budget for the acquisition process.

## 22.5 OPERATIONAL PLAN

22.5.1 An Operational plan must be drawn up, adjusted and reviewed on an annual basis to ensure that it serves its intended purpose and that it stays current in terms of the various programme needs and the strategic objectives of the department.

22.5.2 The operational part of the plan should cover the level of use, conditions of use, and performance of assets. This part of the plan is to ensure that assets are being used effectively and efficiently. Under- and over-utilisation of assets may have a negative impact on service delivery and programme needs. The following aspects must be addressed in the plan of the department:

- (i) responsibility for the asset;
- (ii) arrangements for monitoring asset performance;
- (iii) operational training; and
- (iv) estimated operating costs.

22.5.3 Assets within a programme are one of the key inputs utilised to enable programme outputs. The starting point is to establish a link between programme delivery and assets and as such asset management is most effective when it is aligned to the delivery of the Department's outcomes and programs.

22.5.4. Provincial Treasury Instruction Chapter 16A, paragraph Part 9.1.3 requires the accounting officer or accounting authority to ensure that the following principles are captured into the moveable asset management system of the institution:

- i. *“Moveable asset management activities must be undertaken within the institution's strategic objectives that is driven by programme and service delivery needs; and*
- ii. *Moveable asset management planning and decisions must be integrated into the strategic and procurement planning processes ...;”*

22.5.5. The ultimate aim is to develop an Asset Management Strategy that takes into account:

- a) existing assets that are required and are presently capable of servicing programme delivery needs;
- b) existing assets that are required but are below the necessary standard and need refurbishment or replacement to meet programme delivery needs;
- c) assets which are surplus to programme delivery needs and can be disposed of; and

d) assets which must be acquired to meet programme delivery needs.

22.5.6 Moveable asset Strategic Plans will provide for the integration between these key organisational planning activities and asset management, allowing strategic goals to be integrated with the asset portfolio in order to meet the Department's program delivery requirements and achieve the desired outputs and ultimately outcomes (outcomes orientated planning).

22.5.7 Provincial Treasury Instruction Chapter 16A at Part 9.2.3 further provides details on the structure and content of asset management plans, more specifically:

(a) *an operational plan which defines the use of existing moveable assets and which should include matters such as access, security, accountability, the monitoring of performance, training of staff in the use of moveable assets and estimates of operating costs*

22.5.8 Data Sources

(a) The following systems represent the approved SCM systems that will be used to source data/information required to support demand management activities within the Department:

System Name	Description	Data sources
LOGIS	The Treasury approved national ordering system.	Purchase Order information
Basic Accounting System (BAS)	The Treasury approved national payment system.	Invoice and Payment related data.

22.5.9 The majority of the department's asset base consists primarily of computing hardware and software and office furniture and equipment, which facilitate program delivery responsibilities but are not central to the mandate of the Department. Desktop computers, office furniture and equipment are used by most staff members but are an essential component of the Department's asset base, and a component whose contribution to the Department's program delivery must be recognised. By their nature, however, they are typically low-maintenance items, with computer equipment becoming obsolete within a few years. Consequently, it may suffice to visually monitor their condition and upgrade or replace them as required. This activity is performed during the annual stock take when all assets are physically verified, inspected and the operational capability determined. It is during this activity that the level and standard of performance of each asset is determined. Due to the nature of the bulk of the department's assets, they are seldom, if ever over utilised, while some assets, e.g. boardroom tables and chairs, visitor's chairs etc. might be considered under-utilised for certain periods (when not used during meetings, etc.). A Standard Operating Procedure for the stocktaking process is attached as **Addendum 23**

#### 22.5.10 Asset Condition Assessment

- (a) A structured condition assessment process must be part of the annual stock-take process; and
- (b) A condition assessment for each asset must comply with the condition scale defined in the table below:

**Table: Scale of Asset Condition and Definitions**

Rating	Status	Definition
C5	Excellent	Asset has no defects; condition and appearance are as new.
C4	Good	Asset exhibits superficial wear and tear, minor defects, minor signs of deterioration to surface finishes; but does not require major maintenance; no major defects exist.
C3	Fair	Asset is in average condition; deteriorated surfaces require attention; services are functional, but require attention; deferred maintenance work exists.
C2	Poor	Asset has deteriorated badly; general appearance is poor with eroded protective coatings; elements are defective, services are frequently failing; significant number of major defects exist.
C1	Very Poor	Asset has failed; is no longer operational and unfit for normal use.

### 22.5.11 Physical Control and Safeguarding of Assets

22.5.11.1 The Public Finance Management Act (PFMA) provides a disciplined and consistent framework for recording and reporting the information needed for asset management. The department controls assets of various classes and has a duty of stewardship over assets under its control, irrespective of how such assets may be reported in the financial statements. This necessitates the development of a culture of care and attaching responsibility towards the users of assets. This section provides mechanisms by which financial and performance accountability may be established

22.5.11.2 It is imperative that the physical control measures ensuring that departmental assets are safeguarded against theft and improper operational and maintenance practices are in place and that the physical existence and location of all assets are accurately reflected in the asset register.

22.5.11.3 Physical Control and Safeguarding of Assets include the following sub processes:

- (i) Receiving and Inspection
- (ii) Applying standardized naming methodology
- (iii) Asset Tagging and Allocation
- (iv) Safeguarding against theft and losses
- (v) Movement Control
- (vi) Physical Verification
- (vii) Updating the asset register

22.5.11.4 National Treasury Regulation 10.1.1 requires the Accounting Officer of an institution to take full responsibility and ensure that proper control systems exist for assets and that preventative mechanisms are in place to eliminate theft, losses, wastage and misuse. The Accounting Officer shall ensure that the following preventative controls are in place to safeguard assets against theft and damages:

- (i) Physical safeguarding of assets through controlling movements and safeguarding in daily operational activities or when the asset is stored;

- (ii) Safeguarding against operational misuse;
- (iii) Control of and accountability for assets will be vested in the responsibility manager/cost centre manager/chief user as the case may be. The purpose of the afore-mentioned decision is to ensure that proper control mechanisms are put in place to adequately maintain and protect assets and maximise their output or service potential;
- (iv) The responsibility manager/cost centre manager/chief user, as the case may be, shall ensure that:
  - (a) Financial responsibility for assets is established through the budget process;
  - (b) The assets are properly used and remain in a good condition;
  - (c) The performance of the asset conforms to standard; and
  - (d) The assets are properly accounted for.
  - (e) To detect if any theft and damages occurred the following measures shall be followed:
    - (i) Periodic asset verification through physical counts at least once per annum; and
    - (ii) Conditional Assessment of assets to ensure that they still meet the requirements for service delivery.

#### 22.5.11.5 **Safeguarding of Assets**

The following general principles apply to all asset movements:

- (i) The responsibility manager/cost centre manager/chief user is responsible for ensuring the physical safeguarding of assets and control over movements;
- (ii) Wherever there is a movement of assets, the deliverer and the receiver must sign the movement of asset form; and
- (iii) The original asset movement form must be sent to the sub-directorate Asset Management and a copy must be kept on file in the office of the responsibility manager/cost centre manager/chief user for the retention of information.

#### 22.5.11.6 **Receiving and Inspection - Purchasing receipts**

- (i) No asset will be accepted without a delivery note/invoice and a purchase order number reference;
- (ii) All assets received must be confirmed against a valid purchase order;
- (iii) The receiver must confirm the following information on the purchase order against the actual delivery:
  - (a) Supplier;
  - (b) Description of item being delivered;
  - (c) Quantity of Items being delivered;
  - (d) Make and Model; and
  - (e) Size and Dimension.



- (iv) Assets that do not conform to the specifications and description issued by the buyer on the purchase order must not be accepted and received based on the visual inspection.
- (v) The completed goods received note and signed delivery note must be sent to the SCM unit to initiate payment;

#### 22.5.11.7 **Specific Controls for safeguarding:**

- (i) All assets leaving the premises of the Department must be assigned to a specific person, who would take responsibility for the asset. Assets leaving the premises must be accompanied by a duly completed and signed removal form (SRM001) for handing in at security. A copy thereof is attached as **Addendum 28**;
- (ii) It is the responsibility of such a person to ensure the asset is safeguarded and specific controls are implemented;
- (iii) End users must ensure care and safety measures are taken with assets in his/her possession and used directly by the end-user. These include laptops, cell-phones, cameras, data projectors and office furniture used on a daily basis;
- (iv) Laptops/cameras/video cameras/data projectors:
  - (a) When these assets are not in use they must be locked in a secure cupboard/safe/strong room and the key held by the responsible person/asset controller;
  - (b) An inventory list of these assets, under control of the responsible person /asset controller, should be kept.

#### 22.5.11.8 **Safeguard against operational misuse**

- i) All assets must only be used for the intention they are procured.

#### 22.5.11.9 Asset Verification

- i) Periodic Verification Process (Quantity verification)
- ii) All moveable assets shall be actively controlled, through the implementation of a movement policy including an annual asset count. The annual asset count is discussed in detail in **Addendum 23**, SOP for Stocktake Procedures.

#### 22.5.11.10 Asset Identification and Control

- i) The department must ensure that all moveable assets are identifiable, allocated to a duly authorised responsibility manager/cost centre manager/chief user and physical location for control purposes.

#### 22.5.11.11 Asset Tagging

- i) To ensure all assets are identifiable and to facilitate effective management and control of assets, the procedures set out in **Addendum 27**, SOP Barcoding of WCED assets must be followed.

#### 22.5.11.12 Recording of assets in the asset register

- (i) All moveable items that were procured, received as donations or received via transfers from other departments or institutions and comply with the definition of an asset must be recognised in the moveable asset register;

- (ii) The asset register shall be maintained in the format determined by the National Treasury. The format complies with the requirements of Generally Recognised Accounting Practice (GRAP) and any other applicable governing prescripts;
- (iii) Both minor and capital assets must be reflected in the departmental asset register;
- (iv) Only duly authorised officials may access the asset register; and
- (v) The maintenance of the asset register is dealt with in **Addendum 26**, SOP Database maintenance.

## 22.6 MAINTENANCE PLAN

22.6.1 The majority of the department's assets are computer hardware, computer software, office furniture and equipment. By nature, these assets are low-maintenance items and will therefore require little or no planned maintenance. Only unplanned maintenance will therefore be undertaken by the department. Two categories of unplanned maintenance, which are applicable, are indicated in the table below:

<b>Unplanned Maintenance</b>	<b>Routine Breakdown Maintenance</b> &	Unplanned and reactive maintenance actions performed to restore an asset to operational condition, as a result of an unforeseen failure.
	<b>Incident Maintenance</b>	Unplanned maintenance actions to restore an asset to an operational or safe condition as a result of property damage resulting from storms, fire, forced entry and vandalism.

## 22.7 DISPOSAL PLAN

22.7.1 Asset disposal is the final stage in the asset life cycle. Proper planning and management of asset disposal is therefore an integral part of the strategic process.

### 22.7.2 Disposal Planning Process

- (a) The planning of asset disposal will be done on a quarterly basis or as the need arises. Any assets that are not suitable or necessarily fulfilling the mandate of the Department, such as damaged, redundant/surplus, obsolete, irreparable, unserviceable assets, will be disposed of.
- (b) The disposal plan that results from the asset disposal process is part of the Asset Management Framework and is aligned with the acquisition and operational planning process. This indicates that disposal and acquisition planning need to be very closely aligned. This integration is undertaken as part of the overall Asset Management Strategy.

## 22.8 RISK MANAGEMENT PLAN

22.8.1 The asset risk management plan form part of the directorate's risk management plan and is attached as **Addendum 22**.

## CHAPTER 23

### ASSET REGISTER

#### 23.1 ASSET REGISTER

The Department's asset register will comprise:

- (a) a register of all moveable assets;
- (b) a register of all library material; and
- (c) a register of all mobile units, (classrooms, kitchens or containers).

23.1.1 These registers will provide the detail to the figures disclosed in the annual financial statements. The asset register contains information on each asset that includes, as a minimum, the cost price, date acquired, location and condition.

23.1.2 The asset register for moveable assets will be maintained by the Supply Chain.

23.1.3 The asset register for the library materials will be maintained by the Directorate: Cape Teaching and Leadership Institute (CTLI).

23.1.4 The asset register for mobile units will be maintained by the Chief Directorate: Infrastructure.

#### 23.2 FEATURES OF AN ASSET REGISTER

The minimum fields required for an asset register are the following:

(a) **Asset Data:**

- (i) Description of the asset;
- (ii) Asset classification;
- (iii) Date purchased/received;
- (iv) Cost price/valuation amount;
- (v) Condition;
- (vi) Depreciation rate/useful life;
- (vii) Accumulated depreciation; and
- (viii) Individual identification number (barcode/ serial or unique asset number).
- (ix) be integrated with purchasing and payment systems and the general ledger;
- (x) detail financial data on assets maintained down to a level that is important to decision-makers; and
- (xi) give a clear indication of the individual unit responsible for the asset

(b) **Asset Record:**

- (i) Cost centre;
- (ii) Location;

- (iii) Responsible person;
- (iv) Description;
- (v) Date received;
- (vi) Cost price/valuation amount;
- (vii) Quantity; and
- (viii) Individual identification number (barcode/serial or unique asset number).
- (ix) updated as transactions occur;
- (x) regularly reconciled with acquisition, disposal and transfer data, as well as the general ledger; and
- (xi) readily available to asset managers, preferably online

### **23.3 REQUIREMENTS FOR ASSET REGISTER**

23.3.1 The minimum fields required for the asset register is set out in paragraph 4.6 of the Asset Accounting Policy Guide issued under Treasury Circular 27 of 2016.

### **23.4 CONTINUOUS MAINTENANCE OF ASSET REGISTER**

23.4.1 The Department must conduct an annual stock take of all assets verifying the physical existence of assets. The asset register must be updated accordingly. The variances in relation to shortages of items not found during the annual stocktake will be formally address with the Responsibility Manager to investigate and report back on the status of the assets assigned to their area of responsibility.

#### **23.4.2 Basic controls over assets**

- (a) In terms of the PFMA, all officials have a responsibility to safeguard the assets of the Department in their area of responsibility.
- (b) Recording and safe keeping of documentation relating to acquisition and additions of assets; barcoding of assets; disposal of assets; transfers and performance of monthly reconciliations are important in keeping the asset register up to date and ensuring control over assets.
- (c) Issuing officials with inventory lists for all assets under their control is a control measure emphasising the importance of Section 45(e) of the PFMA, which places the responsibility on officials for the management of the assets, including safeguarding and maintenance of all assets within an official's area of responsibility.
- (d) Physical access to assets must be limited to only those persons that need access to the assets to perform their normal duties. Authorisation must be provided for the use of assets outside the normal working environment.
- (e) The relevant official must ensure that the removal of assets is recorded, and the condition thereof checked when returned.
- (f) All assets in the Department must be counted and verified annually. This must be done in accordance with a stock-take program.

## **23.5 REPORTING ON ASSETS**

- (a) At the end of each financial year or as soon as possible thereafter, the Department must report to the Provincial Treasury that a complete count of all its assets has been completed.

## **23.6 PFMA REQUIREMENTS**

- (a) The PFMA provides a disciplined and consistent framework for recording and reporting the information needed for asset management. Asset management has been implemented to satisfy the need for decision-making information and to alleviate the lack of available information.

## **23.7 POLICIES ADOPTED**

### **23.7.1 Asset Thresholds**

As indicated in Chapter 22, assets are divided into minor and major assets depending on their values.

### **23.7.2 Depreciation Method**

The straight-line method of depreciation is the method selected and approved for use in all Provincial Departments. This method is advantageous because of its simplicity to calculate and, it is the most commonly used. Although LOGIS has been enabled to apply this method, the WCG does not currently depreciate its assets but carries them on the asset registers at either the cost price, where available, or fair value as determined when the asset was added to the asset register.

### **23.7.3 Accounting and Recognition of Assets in Financial Statements**

- (a) The department has a duty of stewardship over assets under its control, irrespective of how such assets may be reported in its financial statements. The AO must ensure that the financial treatment and disclosure of assets is done in accordance with the requirements set out in Part 14 of the PTI 2019
- (b) The value of the Department's assets must be disclosed in the financial statements if they meet the:
  - (i) probability criteria (it is probable that any future economic benefits or service potential associated with the asset will flow to the entity); and
  - (ii) measurement criteria (the asset has a cost or value that can be measured with reliability).
- (c) In assessing whether an asset meets these criteria and therefore qualifies for disclosure in the financial statements, consideration must also be given to the materiality considerations. In assessing whether an item meets the definition of an asset, attention needs to be given to its underlying substance and economic reality and not merely its legal form. For example, a laptop bag may be acquired at a high expense, but it is prone to wear and tear and is therefore regarded as a consumable item. The mere fact that it exists does not mean that it must be disclosed in the financial statements but rather how the item is treated in terms of its asset classification.

## 23.8 LEASING OF ASSETS (CLASSIFICATION OF LEASES)

- 23.8.1 A lease is classified as a **finance lease if it transfers** substantially all the risks and rewards incidental to ownership.
- 23.8.2 A lease is classified as an **operating lease if it does not transfer** substantially all the risks and rewards incidental to ownership.
- 23.8.3 Risks include the possibilities of losses from lack of use, technological obsolescence or changes in value due to changing economic conditions. Rewards may be represented by the expectation of service potential or profitable operation over the asset's economic life and gain from appreciation in value or realisation of a residual value.
- 23.8.4 Whether a lease is a finance lease, or an operating lease depends on the substance of the transaction rather than the form of the contract. Although the following are examples of situations which would normally lead to a lease being classified as a finance lease, a lease does not need to meet all these criteria in order to be classified as a finance lease:
- (a) the lease transfers ownership of the asset to the lessee by the end of the lease term;
  - (b) the lessee has the option to purchase the asset at a price which is expected to be sufficiently lower than the fair value at the date the option becomes exercisable for it to be reasonably certain, at the inception of the lease, that the option will be exercised;
  - (c) the lease term is for the major part of the economic life of the asset even if the title is not transferred;
  - (d) at the inception of the lease the present value of the minimum lease payments amounts to at least substantially all of the fair value of the leased asset;
  - (e) at the beginning of the lease the present value of the minimum lease payments amounts to at least substantially all of the fair value of the leased asset
  - (f) the leased assets are of such a specialised nature that only the lessee can use them without major modifications; and
  - (g) the leased assets cannot easily be replaced by another asset.
- 23.8.5 Other indicators of situations that individually or in combination could also lead to a lease being classified as a finance lease are:
- (a) if the lessee can cancel the lease, the lessor's losses associated with the cancellation are borne by the lessee;
  - (b) gains or losses from the fluctuation in the fair value of the residual value accrue to the lessee (for example, in the form of a rent rebate equalling most of the sales proceeds at the end of the lease); and
  - (c) the lessee has the ability to continue the lease for a secondary period at a rent that is substantially lower than market rent.
- 23.8.6 The AO or the delegated official may enter into finance leases without the prior approval of Provincial Treasury, provided that:
- (a) the finance lease is more cost effective than an outright purchase;
  - (b) the finance lease is more economical than an operating lease;
  - (c) the period of the finance lease does not exceed 36 months or in the case of motor vehicles does not exceed 60 months; and

- (d) the finance lease is for the acquisition of goods required for day-to-day departmental operational requirements for which funds have been provided from the approved budget of the department.

23.8.7 Prior approval of Provincial Treasury is required for leases that do not meet these requirements.

23.8.8 Where land or buildings are sought under a finance lease, the department requires prior written approval by Provincial Treasury and must have budgeted for the lease in its approved budget. The department may permit the Department of Transport and Public Works to enter the finance lease on its behalf.

### 23.8.9 **Operating lease**

Where an asset is leased under an operating lease, it is necessary to record the details in an operating lease register. These details should include:

- (a) lease start and completion dates;
- (b) first instalment date;
- (c) asset fair value;
- (d) implicit interest rate; and
- (e) lease payments

23.8.10 Operating leases have a built-in interest cost which should be considered when evaluating whether to lease or purchase an asset. Leases should be reviewed annually to confirm that the form of lease is still the most economical and beneficial option for the department.

## 23.9 **ACCOUNTING STANDARDS**

23.9.1 The Office of the Accountant-General, vested in the National Treasury has developed and issued the Modified Cash Standard (MCS) which stipulates the principles for the recognition, recording, measurement and disclosure of information required in terms of the prescribed formats.

23.9.2 The MCS states that a department shall disclose for each class of asset (tangible and intangible), movable (major and minor) and immovable, the number and value of assets under investigation at year end. Assets under investigation are those that are recorded in the asset register but could not be physically verified during the annual stock take. After completion of the annual stock take, items not found during the annual stocktake will be formally addressed with the Responsibility Manager to investigate and report back on the status of the assets assigned to their area of responsibility.

## CHAPTER 24

### DISPOSAL MANAGEMENT

#### 24.1 INTRODUCTION

- 24.1.1 Asset disposal is the final stage in the asset life cycle. Disposal is the process when the Department needs to relinquish unserviceable, redundant or obsolete moveable assets. The responsibility manager/cost centre manager/asset controller is responsible for the identification of unserviceable, redundant or obsolete assets within their programs. Once the unserviceable, redundant or obsolete moveable assets have been identified, the relevant responsibility manager / cost centre manager / asset controller must notify, in writing, the Asset Management component.
- 24.1.2 The Accounting Officer must appoint a disposal committee that deals with disposals and makes recommendations to the delegated official with regard to the disposal of any asset.
- 24.1.3 The Standard Operating Procedure (**Addendum 15**) for the disposal of assets must be applied when assets are disposed of, as it gives guidance on the procedure to be followed.

#### 24.2 DISPOSAL OPTIONS

If the disposal of any asset is approved, one of the following disposal options must be followed:

(a) **Transfer to another institution**

This method entails transferring the moveable asset to another state institution at market related value. Market related value is the Rand value to be received from a third party in the open market.

(b) **Transfer to another government institution free of charge**

This method entails transferring the moveable assets to another government institution free of charge. Should this method be chosen, the reasons for disposing of the asset free of charge must be recorded and motivated by the Disposal Committee and specifically approved by the Accounting Officer or delegated official. The best interests of the State should be the deciding factor in all such cases.

(c) **Selling per price quotation / competitive bid**

- (i) Advertisements are placed on the ePS where the competitive bidding process is followed. The advertisement must provide for sufficient detail to elicit meaningful response from prospective bidders. The assets must be available for inspection.
- (ii) Factors to be considered when deciding whether to offer the goods for quotations or competitive bids include:
- (aa) The value of the asset to be disposed of;
  - (bb) The age of the asset;
  - (cc) The general attractiveness to the wider group of buyers; and
  - (dd) The prospect of increasing the net sale value compared to an alternate method of sale.



**(d) Selling per auction**

- (i) Factors to be considered when deciding whether to offer the goods for auction include:
  - (aa) The assets are valued at less than the cost of disposing of the goods through bids;
  - (bb) Unsuccessful attempts at selling these items through price quotations/bids;
  - (cc) It is reasonable to believe the assets will not attract bids;
  - (dd) The auction must be advertised in two local newspapers;
  - (ee) Security on communication on disposal in the Department; and
  - (ff) Security at the auction venues

**(e) Selling as scrap**

- (i) In cases where assets have no use or sale value in its original form but the material it is made of is of value e.g. wood, metal, etc. such material should be offered for sale in accordance with the delegations depending on the expected revenue to be made from the material. The sale of scrap must always be cost effective.

**(f) Destruction**

- (i) Destruction of assets is undertaken when it is considered uneconomical to proceed with disposal by any other means. Destruction may be appropriate for assets, which no longer have a sale value. Factors to be considered when deciding whether to offer the assets for destruction include:
  - (aa) the assets are not fit to be used anymore e.g. it is a health risk;
  - (bb) the assets are valued at less than the cost of disposing through bids, price quotations or auctioning;
  - (cc) neither the Department nor any other department can use the asset in its current form;
  - (dd) the Department was unsuccessful in selling the assets via price quotation / competitive bidding/ auctioning; and
  - (ee) it is reasonable to believe the assets will not attract offers.
- (ii) The Asset Management component is responsible for the **destroying** of scrapped moveable assets. Destroying can either be done by incineration, burying, dumping at an allocated dumpsite or any other means that have been proven to not adversely affect the environment and is not contrary to any law, by-law or regulation.

**(g) Trade-In**

- (i) If appropriate, assets may be traded in on purchase of new assets. In such cases, the highest possible trade-in price is to be negotiated with the highest point scorer by the SCM Unit. The order placed should be for the net amount, as charged against the vote. The actual value of the new asset should, however, be reflected on the relevant register.

(h) **Salvage**

- (i) Some moveable assets identified for disposal may have reusable components and the Department may arrange for removal of these components prior to the application of another method of disposal.

### **24.3 DISPOSAL PROCESS**

The Standard Operating Procedure for the Disposal of Assets is attached as **Addendum 15**.

### **24.4 REVENUE FROM DISPOSAL OF STATE ASSETS**

All monies received from the sale of moveable assets must be paid into the Provincial Revenue Fund in terms of Section 22 (1) of the PFMA. When assets are sold as scrap the correct Standard Chart of Accounts (SCOA) codes need to be applied to ensure that the value of assets disposed of as scrap can be accurately accounted for in the Annual Financial Statement (AFS).

## CHAPTER 25

### APPLICATION BY OTHER SCM UNITS IN THE DEPARTMENT

#### 25.1 SCOPE AND APPLICATION

This Accounting Officer's System inclusive of the addendums will ***mutatis mutandis*** apply to all SCM units in the department. Currently, the Education District Offices and LTSM sub-directorate have the delegated authority to procure goods and services within their particular mandates and delegations. These SCM units are thus bound to adhere to all relevant prescripts which include the National and Provincial Treasury Practice and Instruction Notes. These SCM units can thus only conduct business with entities actively registered on the CSD and where required the WCSEB.

#### 25.2 ENABLING CONDITIONS AT THE OTHER SCM UNITS

25.2.1 The other SCM units have been delegated authority and functions to procure goods and services in terms of the AOS and Delegations.

25.2.2 The following must be in place for the delegated functions at the other SCM units:

- (a) A duly appointed Quotation Committee by the CFO:
- (i) The Quotation Committee must be chaired by an official with the rank of Deputy Director. At the Education District Offices it will be the Deputy-Director: Corporate Services and whereas at the LTSM sub-directorate, it will be the Deputy-Director: LTSM.
  - (ii) The Committee shall have at least three (3) additional members, which shall include a financial administration expert and two other members from the Corporate Services Branch.
  - (iii) The EDO and LTSM Quotation Committee shall perform the applicable functions as indicated in paragraph 2.5 in respect of the Quotation Committee.
  - (iv) Minutes of the EDO Quotation Committee must be submitted to the relevant District Director and in the case of the LTSM Quotation Committee to the Director: Institutional Resource Support.
- (b) System and resource requirements
- (i) The computer equipment must be able to access the internet so that the ePS can be accessed.
  - (ii) An ePS Administrator must be identified to upload, download and schedule the offers received.

#### 25.3 DELEGATIONS

25.3.1 The EDO and LTSM SCM units may procure goods and services as documented in this AOS and allowed through the approved SCM Delegation documented in Addendum 1.

25.3.2 Should the RFQs at time of closure exceed the delegated threshold of the EDO and LTSM SCM unit, such request must be forwarded to the Head Office SCM to conclude in terms of the applicable delegations. Should the RFQ's be above the National Treasury threshold of R1 million, the RFQs must be cancelled and a formal request for the competitive bidding process must be submitted to SCM Head Office.

- 25.3.3 The Chairperson of the EDO Quotation Committee may approve offers up to R300 000 including VAT. The Director: EDO may approve offers up to R500 000 subject to prior recommendation by the relevant EDO-QC. Offers that exceed the R500 000 threshold value must be submitted to the Quotation Committee at Head Office for consideration through a motivated request. The Accounting Officer or delegated official may as and when required increase the delegated threshold of the Education District Offices to procure goods and services which are required to give effect to the service delivery mandate and requirements of the Department.
- 25.3.4 The LTSM Quotation Committee may accept the offer that meets the advertised specifications and in so doing scores the highest total preference points, to a maximum threshold value of R1 million including VAT. Offers that exceed the R1 million delegated threshold must be cancelled and a formal request for the competitive bidding process must be submitted to SCM Head Office.
- 25.3.5 The functions of the EDO and LTSM Quotation Committees shall apply *mutatis mutandis*, as outlined in paragraph 2.5.

## **25.4 AREAS OF PROCUREMENT THAT EDO AND LTSM SCM UNITS MAY EXECUTE**

- 25.4.1 Procure goods and services, including the provision of consumables.
- 25.4.2 Place orders with the Government Printing Works (GPW) for the supply of stationery that the GPW has on its standard catalogue for the State.
- 25.4.3 Place orders on departmental contracts and/or transversal contract in place for goods and services, and any other procurement of goods and services as approved by the Accounting Officer or delegated official.

## **25.5 EXCLUSIONS**

- 25.5.1 The EDO SCM units may not purchase any assets (furniture and other equipment).
- 25.5.2 The EDO SCM units will not have authority to purchase school furniture. This is a function assigned to the Directorate Institutional Resource Support, unless otherwise approved by the Accounting Officer or delegated official.

## **25.6 REPORTING**

- 25.6.1 The EDO and LTSM SCM units must ensure that all quotations accepted are adjudicated online (ePS). Reports are provided by the Provincial Treasury, whereby the sub-directorate: SCM Planning, Policy and Performance Management will monitor compliance. The EDO and LTSM SCM units must keep on record and report all limited bidding and all deviations from normal bidding processes, including the expansions, extension and variations, to SCM Head Office as part of the monthly reporting.
- 25.6.3 All expansions, extensions and variations exceeding the 15% threshold or R15 million for goods and services and 20% or R20 million for construction procurement must be reported monthly to the Auditor-General's office and Provincial Treasury. It is however preferred that the matters be reported at the conclusion of each such case. The EDO and LTSM SCM units must ensure that the SCM Head Office is copied to all such communication. The EDO and LTSM SCM units must also report on awards made above R100 000 to the SCM Head Office.
- 25.6.3 All procurement reports must be submitted to SCM Head Office by the **2nd day of each month**.

# CHAPTER 26

## COMPLIANCE MONITORING

### 26.1 INTRODUCTION

- 26.1.1 All actions described in the AOS must be carried out in accordance with the rules. Compliance monitoring is a fundamental part of SCM, as it helps ensure adherence to regulatory requirements and the attainment of good corporate governance.
- 26.1.2 It is the duty of the AO or the delegated official to see to it that internal procedures and internal control measures are in place to ensure compliance with financial and supply chain management prescripts
- 26.1.3 Compliance monitoring is a fundamental part of SCM and is one of the main ways to ensure adherence to regulatory requirements. It can involve a range of inspection and reporting activities carried out to determine compliance with regulatory requirements with the specific drive towards attaining good corporate governance.
- 26.1.4 In terms of Chapter 16A6.1.2 of the Provincial Treasury Instructions, the AO for a Department must ensure that procedures and control measures are in place to ensure compliance with financial and supply chain management prescripts.

### 26.2 INSTITUTIONAL ARRANGEMENTS OR REQUIREMENTS

The internal compliance monitoring for the Head Office SCM unit as well as other units within the WCED where procurement takes place (e.g. EDO's LTSM, Furniture & Equipment) will be undertaken by the Sub-Directorate: SCM Policy and Planning, Performance Management. The Internal Performance Monitoring and Evaluation System will be utilised to monitor and evaluate the SCM unit and is attached as **Addendum 16**.

### 26.3 COMPLIANCE MANAGEMENT

Compliance monitoring is a combination of processes and monitoring tools implemented by management to inform, direct, manage and monitor SCM activities. This is to ensure non-compliance to laws and regulations are detected and corrective action implemented and includes the following:

- (a) Adherence to the Accounting Officer's System (AOS) for SCM.
- (b) Introduction of checklists: (from requisitioning to payment authorisation) to ensure that the required controls, checks and balances are in place and monitored before the Department commits itself to the issuing of orders and payment of invoices.
- (c) Introduction of procurement templates: to ensure that the minimum procurement requirements required by legislation and the National or Provincial Treasury for the various procurement methods are met. These include the following:
  - (i) Petty Cash not exceeding R2 000;

- (ii) Procurement between R0 – R300 000 for general goods and services and R500 000 for Curriculum Intervention Learner Transport and Security Services Contracts at EDO's;
  - (iii) Procurement between R2001 – R1 Million;
  - (iv) Emergency Procurement;
  - (v) Limited Bidding; and
  - (vi) Unsolicited Bids.
- (d) Frameworks, templates or checklists that assist in the identification, actions to be taken and reporting requirements for:
- (i) Fruitless and Wasteful Expenditure;
  - (ii) Unauthorised Expenditure; and
  - (iii) Irregular Expenditure.

## **CHAPTER 27**

### **MONITORING SCM ABUSE**

#### **27.1 INTRODUCTION**

The abuse of the SCM system represents a significant potential risk to the Department's assets, service delivery efficiency and reputation. The Department will not tolerate any abuse that may result in irregular expenditure or corrupt or fraudulent activities, whether internal or external. Instances of fraud or corruption will be reported to the Accounting Officer and CFO for investigation and possible sanctions.

#### **27.2 INTERNAL AND EXTERNAL ABUSE OF SCM SYSTEM**

27.2.1 Although the Provincial Treasury is the custodian of SCM policy and prescripts, it is the Department's responsibility to ensure that the SCM system is not abused by departmental officials or contractors / service providers. Any abuse can be to the financial detriment of the Department, harmful to its reputation and impact on service delivery. Any allegation against any party of improper conduct or failure to comply with the SCM system will be investigated.

27.2.2 In the event that the preferential procurement point system is abused, the Department will follow the remedies available in terms of the PPPFA and also the South African Law of Contract (i.e. common law). The provisions of such contraventions/breach of non-compliance to legislation, policy and prescripts must be clearly stated in the bid documents and subsequently in the contract or service level agreement as required.

#### **27.3 MONITORING OF ABUSE OF THE SCM SYSTEM**

Monitoring of abuse in the SCM system includes the following –

- (a) Complaints management (from internal and external stakeholders);
- (b) Management of information on the business interests of employees and all recourse taken against non-compliance in respect of SCM;
- (c) assess the suppliers CSD profile to verify its listing on the List of Restricted Suppliers and the Register for Tender Defaulters or verify the List of Restricted Suppliers and the Register for Tender Defaulters, as maintained on National Treasury's website.
- (d) confirm the tax-compliant status of bidders.
- (e) assess the suppliers CSD profile to verify that none of the directors, owners, members or partners are employed by an organ of state unless the employee is a director (in an official capacity) of a company listed in schedules 2 and 3 of the Public Finance Management Act.
- (f) share information of non-compliance in respect of SCM with both internal and external role-players;
- (c) Prevention and detection of fraud and corruption; and
- (d) Detection of possible fronting and abuse of PPR 2022 and B-BBEE requirements.

## 27.4 COMPLAINTS MANAGEMENT

- 27.4.1 The supply chain management system of the Department must allow persons aggrieved by decisions or actions taken by the Department, to lodge within fourteen (14) days of the decision or action a written objection or complaint to the Department against such decision or action.
- 27.4.2 **Any dispute, grievance or complaint will be dealt with in terms of the dispute mechanisms** provided for in the General Conditions of Contract and where applicable, the Service Level Agreement. Any objections or complaints should be handled in a fair, equitable and non-discriminatory manner that is well understood by all affected parties.
- 27.4.3 The supply chain management system of a Department may provide for the appointment by the Accounting Officer of an independent and impartial person not directly involved in the supply chain management processes of the Department to deal with the objection or complaint received.
- 27.4.4 An objection or complaint may be referred to the Provincial Treasury if:
- (a) the objection or complaint is not resolved within sixty (60) days of receipt of such objection or complaint; or
  - (b) no response is received from the Department within sixty (60) days of receipt of such objection or complaint.
  - (c) The AO or delegated official may appoint an independent and impartial person to deal with the objection or complaint received, as discussed in paragraph 28.11 below.

## 27.5 COMPLAINTS PREVENTION

- 27.5.1 Well-planned and well-conducted procurement is less likely to attract complaints. Thus, departmental actions in undertaking procurement processes must be in terms of the requirements of Section 217 of the Constitution and the 5 pillars of procurement.
- 27.5.2 Strategies to minimise complaints can assist the Department to avoid unnecessary conflict and can save the Department and bidders' valuable time and resources. The following strategies may assist to minimise or avoid supplier complaints:
- (a) planning the procurement process;
  - (b) treating bidders ethically and impartially and encouraging competition;
  - (c) effective communication with bidders; and
  - (d) providing feedback to bidders.
- 27.5.3 **Planning the Procurement Process**
- (a) Careful planning, well developed specifications and bid documentation can mitigate complaints. The Department can benefit by undertaking market research and using this knowledge to compile appropriate specifications. This includes understanding the market's capabilities in terms of the technical specifications of the procurement and the effort that will be required to prepare a submission.



- (b) Bid documentation must describe to the market what the Department needs, as well as the procurement process that will be followed. Thus, the Department should take time to ensure that the bid document is sufficiently comprehensive, clear and concise, unambiguous and containing terminology that is easy to understand. Any minimum content and format requirements, conditions for participation, specifications and evaluation criteria need to be carefully developed to avoid arbitrary discrimination against any bidder and should be clearly identified and justifiable.
- (c) The Department is bound by the process that is outlined within the bid documentation and deviation from this may give rise to complaints. It is important that the processes outlined are consistent with the bid documentation and that they are followed.
- (d) The Department should also plan the procurement process to provide sufficient time for bidders to prepare and lodge a response. This can assist in reducing complaints concerning insufficient time to adequately respond.

#### 27.5.4 **Treat Bidders Ethically, Impartially and Encourage Competition**

- (a) Conflict of interest issues can be a basis for complaints by bidders. The Department should ensure that conflict of interest issues are managed and not allow officials with conflicts of interest to be involved in a procurement process. The Department should ensure that a declaration of interest form is completed where required.
- (b) Clearly articulated procedures to receive and open all submissions which guarantee fairness, impartiality and confidentiality can assist in reducing complaints. The maintenance of high ethical standards will give bidders confidence in the procurement process including confidence in the complaints handling method. The Department must take care to avoid practices that are discriminatory, and which may lead to a bidder gaining an unfair advantage over other bidders.
- (c) The Department should treat all bidders fairly, equitably, reasonably and consistently throughout the process. Thus, all bidders should have the same opportunity to compete for government business.
- (d) An employee shall not conduct business with any organ of state or be a director of a public or private company conducting business with an organ of state, unless such employee is in an official capacity a director of a company listed in schedule 2 and 3 of the Public Finance Management Act.

#### 27.5.5 **Encouraging competition**

- (a) All bidders should have the same opportunity to compete for government business. As with the other requirements, this demands that the department treat all bidders fairly, equitably, reasonably, and consistently throughout the process.

#### 27.5.6 **Communicate Effectively with Bidders**

- (a) Complaints may arise due to poor communication. Good communication helps to ensure that problems do not arise.
- (b) The Department must ensure that it responds promptly to reasonable requests from bidders to provide information which enables them to prepare responsive submissions. However, it is important that the Department does not supply information that is

confidential, sensitive to essential security or may impede competition amongst the bidders.

- (c) In providing access to information during the submission period it is important to ensure that no supplier receives an unfair advantage. Where bidders ask for clarification of issues relating to the evaluation criteria, specifications or other elements of the bid documentation, the Department should, unless there are exceptional circumstances, make all responses available to all bidders at the same time and in the same form.
- (d) Close attention to managing communication with bidders during the procurement process and any negotiations may assist in avoiding rumours about a bidding process.
- (e) It is good practice for the Department to examine its procedures and systems at the end of each procurement process to ensure it was fair and equitable to all bidders and to see whether any part of the processes can be improved.
- (f) Finally, effective contract management and regular performance feedback to suppliers will help build and maintain good working relationships with suppliers.

### 27.5.7 Providing Feedback to Bidders

- (a) The Department can build good working relationships with both successful and unsuccessful bidders through feedback and debriefings. Debriefing contributes to transparency and confidence in the fairness of the procurement process and will often alleviate bidders' concerns that may otherwise have been raised as a complaint. The form of the feedback is nearly as important as the content: prompt, courteous and efficient feedback creates the right conditions for co-operation.
- (b) Feedback can facilitate better performance on future occasions by unsuccessful bidders, to the advantage of both the department and the bidders. Bidders can benefit from receiving feedback by having the opportunity to:
  - ✓ understand how and why decisions were made in relation to their submission;
  - ✓ understand what they did well and what was lacking, as well as any areas of their submission that did not comply with the approach to the market;
  - ✓ understand better the department's expectations, thereby assisting them to prepare and submit a higher standard of bid in future procurement processes; and
  - ✓ establish or consolidate a fair, open and ethical relationship with the department in order to gain confidence in the procurement process.
- (c) Similarly, the department may benefit from providing feedback to bidders by having the opportunity to:
  - i. be accountable and transparent in showing that their procurement process is robust and defensible;
  - ii. establish or consolidate a fair, open and ethical relationship with bidders;
  - iii. receive valuable information from bidders regarding the structure and content of the bid documentation, so that future bids may be better organised;
  - iv. encourage confidence in the procurement process, thereby keeping bidders in competition and improving value for money prospects;
  - v. educate bidders as to their expectations, thereby encouraging improved bid submissions for future procurement processes; and
  - vi. clear up any misconceptions and resolve any possible disputes with bidders, thereby minimising any possible complaints.

**(d) Why Provide Feedback to Bidders?**

- (i) It is good practice for the Department to provide feedback to bidders in order to give effect to Section 217 of the Constitution. This will ensure that feedback can be built into the Department's procurement procedures in order to:
  - (aa) Preserve the highest standards of honesty, integrity, impartiality and objectivity;
  - (bb) Be fair, efficient and courteous;
  - (cc) Manage the bidding process so that genuine competition is preserved, and discrimination is avoided;
  - (dd) Debrief both successful and unsuccessful bidders of the outcome of the bidding process, within the bounds of commercial confidentiality, so as to facilitate better performance on future occasions; and
  - (ee) Respond promptly, courteously and efficiently to suggestions, enquiries and complaints.
- (e) By providing constructive feedback, the Department will educate bidders by giving information about the procurement process and their expectations and this, in turn, may assist to improve the standard of future bid submissions.
  - (i) Bidders can benefit from receiving feedback by getting the opportunity to:
    - (aa) obtain information and to help them understand how and why decisions were made in relation to their submission: what they did well and what was lacking as well as any areas of their submission that did not comply with the approach to the market;
    - (bb) obtain a better understanding of the Department's expectations, thereby assisting them to prepare and submit a higher standard of bid submissions in future procurement processes;
    - (cc) establish or consolidate a fair, open and ethical relationship with the Department in order to gain confidence in the procurement process; and
    - (dd) accept an offer of help and guidance to increase bidder's future chances of contracting with the WCG.
  - (ii) Conversely, the Department can benefit from providing feedback to bidders by getting the opportunity to:
    - (aa) be accountable and transparent in showing that their procurement process is robust and defensible;
    - (bb) establish or consolidate a fair, open and ethical relationship with bidders;
    - (cc) receive valuable information from bidders regarding the structure and content of the bid documentation;
    - (dd) encourage confidence in the procurement process, thereby keeping bidders in competition and improving value for money prospects;
    - (ee) educate bidders as to their expectations, thereby encouraging improved bid submissions for future procurement processes; and

- (ff) clear up any misconceptions and resolve any possible disputes with bidders, thereby minimising any possible complaints.

#### 27.5.8 **When may the Department provide feedback?**

- (a) The department may provide feedback to bidders and as when required, subject to the legislative requirements. In any event, a bidder may request reasons for a decision in terms of PAJA, and access to records in terms of PAIA.
- (b) National Treasury's procurement policy framework requires all government departments to promptly advise bidders of a decision relating to:
  - (i) the acceptance of a bid, where successful bidders should be notified by registered or certified mail of the acceptance of their bids;
  - (ii) the successful bid must be advertised in the Government Tender Bulletin, the National Treasury e-Tender Publication Portal and the original media in which the invitation to bid has been advertised;
  - (iii) when any bidder requests in writing to be provided with reasons why his/her own bid was unsuccessful; and
  - (iv) an unsuccessful bid where a letter should be sent informing the bidder that his/her bid was unsuccessful.
- (c) It is generally more effective for suppliers to receive feedback soon after the award has been made, and also easier for the Department to recall a bidder's submission and to discuss its strengths, weaknesses and why it was unsuccessful.
- (d) Where feasible, the Department may decide to offer to provide feedback to unsuccessful bidders when their submission is disqualified from a procurement process prior to the award. This could be particularly useful where all submissions received are of a low standard. Feedback could assist bidders for future work and allow the Department to understand the reasons for the poor response.

#### 27.5.9 **Preparing a Feedback Session (a Debriefing)**

- (a) Where the Department has arranged to meet with the unsuccessful bidder to conduct a debriefing session, it is good practice for the session to be planned and for departmental officials (at least two officials being present) to take formal minutes of what is discussed in the meeting.
- (b) Debriefings can be tailored according to the nature, size and complexity of the procurement and feedback necessary.
- (c) Debriefing sessions with the unsuccessful services providers are not compulsory, but may be arranged by mutual agreement between the parties.

### 27.6 **COMPLAINTS HANDLING PROCEDURES**

27.6.1 In the event that a complaint is received, the Department should aim to manage this process internally, where possible through communication and conciliation with the complainant. The Department needs to have fair, equitable and non-discriminatory complaint handling procedures that take account of the following:

- (a) the process needs to be systematic and well understood by the parties involved;

- (b) senior management and officials independent of the process should be involved;
- (c) complaints should be dealt with in writing;
- (d) each party must have sufficient time to appropriately respond to developments;
- (e) if a matter has been referred to an independent and impartial person for review, the Department may be required to provide all relevant documents to that person; and
- (f) It is important for the Department to ensure that the initiation of a complaint process does not prejudice a bidder's participation in future procurement processes.

27.6.2 Complaints can be a way of assessing and improving performance. At the conclusion of a complaint process, it is good practice for the Department to investigate the circumstances that led to the complaint and take steps to ensure that similar problems do not re-occur.

27.6.3 The Accounting Officer must ensure that the Department has a communication strategy that effectively communicates the Department's complaints handling procedures to all bidders.

27.6.4 Departmental procurement officials should receive appropriate training to ensure they understand and comply with complaint handling procedures which may also be made available to all officials within the SCM unit.

#### 27.6.5 **Accessibility**

- (a) The Department's complaints handling process should be documented, accessible and communicated to bidders and throughout the organisation; it should be clear to bidders and officials how to lodge a complaint.
- (b) Complaints processes should be user-friendly, making it easy for bidders to make a verbal or written complaint.
- (c) Accessibility of a complaints handling process involves practical considerations.
- (d) The Department must ensure that bidders have adequate avenues available to lodge a complaint with the Department and that such avenues are effectively communicated to bidders before, during and after the procurement process.

#### 27.6.6 **Management of Information**

##### (a) **Complaints Register**

- (i) The supply chain management unit of the Department must establish and maintain a complaint register that effectively captures all information and evidence regarding complaints lodged and resolved by the Department.
- (ii) The complaints register must include, but not be limited to the following information:
  - (aa) reference number;
  - (bb) date received;
  - (cc) name of aggrieved party;
  - (dd) description of complaint;
  - (ee) type of complaint (formal or informal);
  - (ff) responsible official;
  - (gg) due date;

- (hh) outcome of the complaint; and
- (ii) date of response

#### 27.6.7 Recording of complaints

- (a) The complaint and action taken should be recorded in the complaints register; and
- (b) The Department must decide how much data it wants captured in the complaints register and how it will be recorded.

### 27.7 RESPONDING TO COMPLAINTS

27.7.1 The Department has a constitutional obligation to deal with complaints in a lawful, reasonable and procedurally fair manner as contemplated in Section 33 of the Constitution, which reads as follows:

- (a) Everyone has the right to administrative action that is lawful, reasonable and procedurally fair.
- (b) Everyone whose rights have been adversely affected by administrative action has the right to be given written reasons.

27.7.2 The department has a legal obligation to deal with every complaint in a lawful, reasonable, and procedurally fair manner. The complaint must be resolved within 60 days and the decision communicated to the aggrieved party in writing. If there is no resolution to the complaint, or no reply to the complaint, within 60 days it may be further referred to the Provincial Treasury. If there is no resolution or reply after referral to the Provincial Treasury, judicial review in court may follow

27.7.3 The PAJA was enacted to ensure compliance to government's duty to fulfil their constitutional mandate in terms of Section 33 of the Constitution.

27.7.4 PAJA, being a law of general application, is applicable to all legislation and legal prescripts in South Africa, including that relating to public procurement and supply chain management. Any policy or prescript relating to SCM complaints or grievances must be dealt with in terms of PAJA.

27.7.5 The PAIA is also applicable when complaints and grievances relating to procurement are lodged with the Department. Section 32 of the Constitution states that:

- “(1) everyone has the right of access to-*
- (a) any information held by the state.”*

27.7.6 The above mentioned legislation allows sufficient avenues and grounds which members of the public/bidders may pursue in order to lodge a complaint, grievance, request for information or even allege that their rights have been adversely affected because of unfair or irregular SCM processes followed by the Department.

### 27.8 THE PRINCIPLE OF *FUNCTUS OFFICIO*

27.8.1 More often than not, complaints are raised after a decision relating to SCM (i.e. an award etc.) has been taken by the Accounting Officer or delegated official. At the time when the

decision is taken by the required authority and communicated to the public, the decision is said to be *functus officio* (i.e. the decision taken cannot be revoked, only in certain exceptions).

- 27.8.2 The doctrine of *functus officio* applies only to a final decision. For a decision to qualify as final, it must have been published in the public domain.
- 27.8.3 Therefore, the final decision of an AO or their delegate will stand, unless revoked by a court. Complaints against final awards do not permit the AO or their delegate to issue a new award.
- 27.8.4 *Functus officio*, "having performed his office," is a legal term used to describe a public official, court, governing body, statute, or other legal instrument that retains no legal authority because his or its duties and functions have been completed.
- 27.8.5 *Functus officio* only applies to final decisions taken so a decision may be revoked before it is made final. Hence finality is arrived at when the decision is published, announced or otherwise conveyed to those affected by it. This would similarly be the case when a decision is taken to award a bid to a supplier/service provider/contractor.
- 27.8.6 Based on the fact that the decision is *functus*, members of the public (i.e. suppliers, competitors, etc.) could raise complaints, grievances or serious allegations relating to the SCM system which requires that the decision be revisited. Hence the requirements articulated above in respect of complaints handling aims to ensure that the decision of the Accounting Officer or delegated official stands, unless revoked by a competent court of law and that the complaint, grievance or allegation be dealt with in the same manner by the Department. It also ensures that up until award, a complaint may be dealt with before a decision is made and becomes *functus*.
- 27.8.7 The above requirements have been developed to build a complaints handling mechanism on how to deal with members of the public when complaints arise before it becomes litigious.
- 27.8.8 PTI 16A3.9.1 requires that the SCM system must allow aggrieved persons to lodge within fourteen (14) days a written objection or complaint against a decision or action taken by the Department.

## **27.9 THE APPLICATION OF THE PROMOTION OF ADMINISTRATIVE JUSTICE ACT, 2000 TO THE SUPPLY CHAIN MANAGEMENT SYSTEM**

***(Note: This section relating to PAJA only indicates instances when bidders request information from departments.)***

- 27.9.1 Throughout this AOS, reference has been made to the impact of PAJA on SCM. This section will draw together all parts of PAJA and will, therefore, repeat some of the text that has gone before.
- 27.9.2 When complainants seek relief in terms of PAJA, such complainant should ensure that the alleged action taken is *prima facie* administrative action. The converse would be true for the Department. Thus, the Department must be in a position to identify whether the alleged complaint is *prima facie* administrative action or not. In order to establish whether such action is deemed to be administrative action, all of the following requirements must be satisfied by the complainant/applicant in order to corroborate his/her allegations:

- (a) The decision taken must be of an administrative nature;

- (b) Such decision must have been taken by an administrator (department); and
- (c) The decision must have been taken in terms of an empowering provision (i.e. legislation, regulation or legal prescript governing SCM).
  - (d) have an effect on the rights of any person; and
  - (e) have a direct, external legal effect (meaning that it is final).

27.9.3 If the decision made by the Department satisfies the above-mentioned requirements in paragraph 28.9.1, the alleged *prima facie* administrative action is procedurally fair and the allegation of unfair administrative action by the complainant cannot be upheld. All matters involving the allegation of unfair administrative action should be referred to Legal Services in the Department of the Premier to advise the Department on the process followed and to ensure the decision of the Department is legally sound.

27.9.4 **After an administrative decision has been taken:**

Adequate notice must be given by the Department to the aggrieved party/complainant of their right to request reasons for the administrative action (as defined in terms of Section 5 of PAJA).

27.9.5 **When the Department informs such complainant(s) of their right to request reasons, the Department must indicate to such complainant(s) the following:**

- (a) Where the request can be made;
- (b) To whom it must be made;
- (c) When it must be made; and
- (d) The applicable fee to be paid within 90 days.

27.9.6 **What is regarded as adequate reasons?**

27.9.6.1 There is no universal parameter to the exact reasons to be given. The Department must simply provide a satisfactory explanation of the reasons for a specific decision taken. The reasons need not convince the complainant that the decision was correct but be logical and procedurally correct. The reasons must have enough detail to explain why the decision (administrative action) was taken. This would then include that due process had been followed in accordance with all policies and prescripts governing the SCM system and public procurement.

27.9.6.2 If a department is required to give reasons to aggrieved bidders the following applies:

- (a) There are no standardized reasons to be provided hence a template would not be efficient;
- (b) the department must provide a satisfactory explanation of the reasons substantiating the taking of a specific decision;
- (c) the reasons need not convince the complainant that the decision was correct, instead, the reasons must have enough detail to explain why the decision (administrative action) was taken; and



- (d) the reasons should include reference to the SCM process that had been followed in accordance with rules governing the SCM system and public procurement.

#### **27.9.6.3 Failure of the Department to submit any reasons to the aggrieved party/complainant**

- (a) Should the department fail to submit adequate reasons for an administrative action, it must, subject to section (4) of PAJA and in the absence of contrary proof, be presumed that the administrative action was taken without good reason.

### **27.10 COMPLAINTS REFERRED TO EXTERNAL STAKEHOLDERS (PROVINCIAL TREASURY)**

27.10.1 A dispute, objection, complaint, grievance or query may be referred to the Provincial Treasury if the dispute, objection, complaint, grievance or query is not resolved within sixty (60) days of receipt thereof.

27.10.2 However, sometimes a complaint will be lodged directly with the Provincial Treasury without first having been referred to the relevant department. In this case, the Provincial Treasury will send a copy of the complaint to the Department and request the Department's written response.

27.10.3 Other external bodies who may be involved in a complaint:

- (a) National Treasury (via Provincial Treasury);
- (b) Legal Services;
- (c) South Africa Revenue Services; and
- (d) Any other organs of state.

### **27.11 APPOINTMENT OF AN INDEPENDENT AND IMPARTIAL PERSON**

27.11.1 If the complaint is not resolved to the aggrieved party's satisfaction, the aggrieved party may subsequently lodge a request for further investigation of the matter by an independent and impartial person.

27.11.2 An "independent and impartial person" means "a person":

- (a) Not influenced or controlled by others in matters of opinion or conduct by acting for him/herself;
- (b) Not influenced by the thought or action of others;
- (c) Not relying on another or others for aid or support.

27.11.3 To ensure that an aggrieved party has confidence in the integrity of the complaint handling process, the investigator appointed by the Accounting Officer should:

- (a) not have been involved with the bid evaluation or the contract award and administration of the relevant contract;
- (b) be independent of direction from anyone who was involved in the process; and
- (c) possess supply chain management experience and common sense, at an organisational level, where they can communicate credibly and frankly to those stakeholders and affected parties within the process.

27.11.4 In order for the process to remain transparent and for the bidder to have confidence that their complaint is being handled effectively, it is good practice for the investigator to

promptly contact the aggrieved party, in writing, once they have been appointed. This also provides the opportunity for the investigator to ask the bidder to provide further information regarding their complaint and to pose any questions the investigator may have.

- 27.11.5 To ensure that the review is conducted fairly and comprehensively, the investigator should have access to all files and records relating to the bidding process and to any reports or communications by officials involved in the process, including written records of all communication related to the complaint.
- 27.11.6 If the investigator is not satisfied with the existing written records relating to the tender process in question, they may wish to interview those involved in the tender process to obtain the information they require.
- 27.11.7 The nominated investigator should sign a declaration of interest, impartiality and confidentiality.
- 27.11.8 The Accounting Officer will approve the appointment of an independent and impartial person.

## **27.12 APPLICATION OF PAIA TO SCM**

- 27.12.1 Transparent governance is more likely to gain the confidence of its citizens. Transparency requires a considerable amount of information sharing. This is the work of PAIA. PAIA allows a requester (who may be an individual or an organisation) access to information held by the state, provided that the requester both complies with all the procedural requirements for accessing the information, and that access is not refused in terms of a valid ground for refusal.
- 27.12.2 PAIA allows the public access to information held by the state and to information held by another member of the public if that information is needed to protect one's rights.
- 27.12.3 The PAIA details the structure of the Department, the nature of the records held by the Department and how to apply to gain access to those records held by the Department.
- 27.12.4 When a request for information is made, the Department must comply with the procedural requirements in terms of its Manual as prescribed by Section 14 of PAIA. For ease of reference, all provincial departmental Section 14 Manuals may be found at **(<http://www.westerncape.gov.za/eng/pubs/guides/>)**
- 27.12.5 **The Importance of Record Keeping**
- (a) Proper record keeping ensures that all reasons pertaining to the supply chain management or procurement process are available when a bidder/aggrieved party requests it.
  - (b) Thus, proper record keeping must be kept of all important meetings (i.e. bid specification, bid evaluation and departmental bid committee meetings - clearly documenting all decisions taken and reasons therefor).
  - (c) All records handed in during meetings as well as any consultations must be kept on file by the Department and this will be the required evidence to be presented by the Department when complaints or allegations of abuse in SCM are raised.
  - (d) No record under control of the department may be transferred to a library or archive, destroyed, erased, or otherwise disposed of without the written authorisation of the Head of the Provincial Archives and Records Service of the Western Cape.

(e) In order to complement the record keeping process, it is important to note the judgment set out in the Supreme Court of Appeal case - **Minister of Environmental Affairs v Phambili Fisheries/Bato Star 2003 (6) SA 428 (SCA)**. It stated that: **“Even if someone does not like the decision, he/she must be satisfied with the process followed and that all arguments for and against the decision, were considered and that the decision was a logical conclusion of all arguments”**.

### 27.13 BUSINESS INTEREST OF EMPLOYEES

27.13.1 Public service employees may undertake Remunerative Work Outside of the employee's employment (referred to as RWOEE) provided that such forms are duly completed and approved by the delegated official.

27.13.2 In terms of paragraph 13 (c) of the Public Service Regulations, an employee shall not conduct business with any organ of state or be a director of a public or private company conducting business with an organ of state, unless such employee is in an official capacity a director of a company listed in schedule 2 and 3 of the Public Finance Management Act.

27.13.3 In terms of Chapter 16A3.8.2 of the PTIs, the supply chain management system of the Department must, irrespective of the procurement process followed, prohibit any award to a person:

- (a) who is in the service of the Provincial Government Western Cape; or
- (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 Provincial Government Western Cape;
- (c) unless that official has appropriate authority to undertake remunerative work outside his or her employment with the Department (RWOPS).

27.13.4 An employee is regarded as 'conducting business with an organ of state' when an employee or an employee acting as a director of a private or public company- 558 & 559

- a) Concludes, or intends to conclude, a written or oral agreement, irrespective of the process followed with an organ of state;
- b) Such agreement is not associated with that employee's employment with his or her department; and
- c) Through such agreement provides goods and services to any organ of state for any benefit, financial or otherwise.

27.13.5 Before the Accounting Officer enters into any contract with an entity for the sale, lease, supply or purchase of goods or services, the entity must, in the prescribed manner, disclose any business interest that an employee or a family member of an employee who is in the service of the WCG has in that entity.

27.13.6 Details of persons (i.e. family members, partners or associates) connected to or employees of an organ of state should –

- a) be disclosed in Table B of the Western Cape Bidding Document (WCBD) 4;
- b) the department to conduct a due diligence process to assess whether a conflict of interest may exist;

- c) implement an outcome that is compliant to the Public Service Regulations, 2016 and
- d) document the outcome of the assessment.

27.13.7 Information on the business interest of any employees who are in the service of the state in suppliers doing business with the Western Cape Government will be housed on the e-procurement solution. It remains the responsibility of institutions to check for such information before the conclusion of any procurement process

27.13.8 An employee of the Department must disclose in the prescribed manner to the Accounting Officer any business interest that the employee or any family member of the employee has in an entity conducting business with the WCG.

27.13.9 The WCBD 4 bidding document makes provision for the above-mentioned declarations, which must be completed by suppliers upon registration on the Western Cape Supplier Evidence Bank. The WCBD 4 is a mandatory registration requirement.

27.13.10 The WCBD 4 bidding document is valid for one (1) year and the onus is on suppliers to update their profile on the supplier database should any information on the bid document change within the one (1) year validity period.

27.13.11 For the purpose of checking the business interest of employees in suppliers doing business with the WCG, the supplier information housed on the database will on a monthly basis be verified against a data dump from the employee information system (PERSAL) by the Provincial Treasury. The Provincial Treasury will notify Departments upon detection of any possible business conflict of interest. (Document has been provided). The CSD also has several interfaces and linkages with various government departments and agencies which serve as a source of information i.e. government employee (potential conflict of interest).

27.13.12 This data dump does not include municipal employee information as this information is not available to the Provincial Treasury mainly due to the various and non-integrated systems utilised by municipalities.

27.13.13 Before an award is made the Department must establish:

- (a) Whether or not the bidder is employed within its own staff establishment and whether or not the bidder is on the list provided by the Provincial Treasury that was matched against the public service PERSAL information; and
- (b) Where a conflict is detected whether or not that official has appropriate authority to undertake remunerative work outside his or her employment in the Department (RWOPS).

27.13.14 The document for Investigating and Reporting Business Conflict of Interests is attached as **Addendum 18**.

27.13.15 In instances where the employee information was not available or was not checked at the time of the award, the Department must verify on a monthly basis against information provided by the Provincial Treasury whether any payments were made to persons on the list of employees provided. In these instances the procedure for the disclosure of irregular expenditure must be complied with.

## 27.14 PREVENTION OF FRAUD AND CORRUPTION

27.14.1 Government has indicated that SCM is a high-risk area having the potential for fraudulent and corrupt activities. Hence the WCG has focused on putting in the desired internal controls within its departments to ensure that it eliminates the potential for such activities. The Department has a Fraud Prevention Plan in place.

27.14.2 "**Fraud**" is intentional deception made for personal gain or to damage another individual or may be described as the unlawful and intentional making of a misrepresentation which causes actual prejudice or which is potentially prejudicial to another.

27.14.3 The legal definition of fraud is that it is the:

- (a) unlawful;
- (b) intentional;
- (c) misrepresentation of facts (distortion of the truth);
- (d) calculated to prejudice another.

27.14.4 The Department must prove all four of these elements of the legal definition:

- (a) **Unlawfulness:** Any distortion of the truth is unlawful. So, if the Department can prove a misrepresentation of facts, the Department automatically proves the unlawfulness.
- (b) **Intention:** The Department has to prove two things, namely that the perpetrator:
  - (i) knew that the information was false; and
  - (ii) realised that someone, not necessarily the victim, could suffer prejudice because of it.
- (c) **Misrepresentation:** the Department must prove that the perpetrator lied or deceived someone, by either stating something or by failing to reveal essential information.
- (d) **Calculated to prejudice:** the Department has to prove actual prejudice or potential prejudice. It is not important that the complainant must have suffered prejudice or potential prejudice. The prejudice may refer to anyone.

27.14.5 To produce a working definition of corruption requires acknowledgement that general definitions of corruption are difficult to produce, and necessitates that reference be made to the act of corruption as legally defined in relevant statutes. It is also important to note that producing one legally acceptable definition for corruption has posed problems. There has been no consensus on what the universally acceptable definition of corruption would be, as well as the types of conduct which would constitute corruption.

27.14.6 Corruption occurs when anybody -

- a) Accepts any gratification (which could consist of money, a loan or other benefit) from another, or
- b) gives any gratification to another, in order to influence the receiver thereof to conduct himself/ herself in a way which amounts to the unlawful exercises of any duties.

27.14.7 One of the main steps that the Prevention and Combating of Corrupt Activities Act takes is to make certain actions, crimes (some of which might not have been regarded as crime in the past). To do this, it has to "define" or explain what the crime of corruption is.

27.14.8 To this end, the Act defines corruption legally which may be summarised as follows:

“**Corruption** is where a person (A) gives (or offers to give) someone in a position of power (B) something (called ‘gratification’ in the Act) to use that power, illegally and unfairly, to the advantage of A (or a third person). B will also be guilty of the same crime if he/she accepts (or offers to accept) the gratification to wrongly use his position.” (*Prevention & Combating of Corrupt Activities Act, 2004 (Act No.12 of 2004)*)

27.14.9 The table below (Table 13) includes the provisions in the PFMA, Treasury Regulations and Provincial Treasury Instructions related to fraud, theft, corruption and irregular expenditure:

**Table 13**

PRESCRIPT	PROVISION
PFMA S38 (1)(c)(ii)	The Accounting Officer must take effective and appropriate steps to prevent irregular expenditure and losses resulting from criminal conduct.
PFMA S38 (1)(g)	On discovery of any irregular expenditure, the Accounting Officer must immediately report to the Provincial Treasury and the tender board. In circumstances where a tender board is not functional, such reports must be submitted to the department's central SCM unit.
PFMA S38 (1)(h)	The Accounting Officer must take effective and appropriate disciplinary steps against any official who contravenes or fails to comply with this Act (PFMA, NTRs, PTIs), or commits an act which undermines financial management or departmental internal control systems or makes or permits irregular expenditure.
PFMA S40(3)(b)	The annual report and annual financial statements must include particulars of material losses through criminal conduct and irregular expenditure and also which criminal/disciplinary actions were taken as well as any material losses recovered or written off.
PFMA S45(c)	Each official must take effective and appropriate steps to prevent irregular and under collection of revenue within their area of responsibility.
Treasury Regulation 9.1.2	When an official of an institution discovers unauthorised, irregular or fruitless and wasteful expenditure, that official must immediately report such expenditure to the Accounting Officer and the Provincial Treasury. When an irregular expenditure involves procurement also to the procurement authority or tender board. In circumstances where a tender board is not functional, such reports must be submitted to the department's central SCM unit.
Treasury Regulation 9.1.4	The Accounting Officer must determine the appropriateness of disciplinary steps taking into account: <ul style="list-style-type: none"> <li>(a) Circumstances of transgression; and</li> <li>(b) Extent of expenditure involved; and</li> <li>(c) Nature and seriousness of transgression</li> </ul>
Treasury Regulation 9.1.4	Recovery is done in terms of National Treasury Regulation 12 - Note: a legal culpability test must be conducted via the Office of the State Attorney.
Treasury Regulation 9.1.5	The amount of the irregular expenditure determined by the appropriate authority must be disclosed as a note to the annual financial statements.
PTI 11.1.2(b)	Requires compliance with National Treasury guidelines for the preparation of annual reports for national and provincial departments, issued annually.

## 27.14.10 The Accounting Officer must:

- (a) take all reasonable steps to prevent abuse of the SCM system;
- (b) investigate any allegations against an official or other role-player of corruption, improper conduct or failure to comply with the SCM system, and when justified:
  - (i) take steps against such official or other role-player and inform Provincial Treasury of such steps; and
  - (ii) report any conduct that may constitute an offence to the South African Police Service.
- (c) check the National Treasury's database prior to awarding any contract to ensure that no recommended bidder, nor any directors are listed as companies or persons prohibited from doing business with the public sector;
- (d) reject any bid from a supplier who fails to provide written proof from the South African Revenue Service that the supplier either has no outstanding tax obligations or has made arrangements to meet outstanding tax obligations;
- (e) reject a proposal for the award of a contract if the recommended bidder has committed a corrupt or fraudulent act in competing for the particular contract, or
- (f) cancel a contract awarded to a supplier:
  - (i) if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract; or
  - (ii) if any official or other role-player committed any corrupt or fraudulent act during the bidding process, that benefited that supplier.

## 27.14.11 The Accounting Officer:

- (a) may disregard the bid of any bidder if that bidder, or any of its directors have:
  - (i) abused the Department's SCM system;
  - (ii) committed fraud or any other improper conduct in relation to the SCM system; and
  - (iii) failed to perform on any previous contract.
- (b) Must inform the Provincial Treasury of any action taken in terms of paragraph 27.14.11(a).

## 27.14.12 The Department will pursue the remedies available in terms of the contractual agreement and the South African Law (i.e. Common law) when a contractor or service provider:

- (a) is suspected to have claimed/ obtained its B-BBEE status level of contribution on a fraudulent basis; or
- (b) has promised, offered or given a bribe during the bidding process and/or after conclusion of contract; or
- (c) has acted in a fraudulent manner or in bad faith or in any other improper manner during the bidding process or after conclusion of the contract; or

- (d) an agreement was entered into with the contractor on the strength of information furnished by him, and it became apparent after conclusion of such agreement that the information provided was incorrect; or
- (e) did not fulfil any of the conditions of the contract.

27.14.13 To protect both parties in the agreement (bidder/ contractor/ service provider and the Department) provision must be made in the bid documents informing bidders of the implications of these contraventions and the approach thereto.

## 27.15 **FINANCIAL MISCONDUCT**

27.15.1 The PFMA does not explicitly define financial misconduct. Section 81 (2) of the PFMA is an implied provision defining the characteristics of financial misconduct for an official, namely that:

- (a) A power or duty must have been assigned in respect of Section 44 of the PFMA to an official; and
- (b) The official wilfully and negligently failed to exercise such assigned power or perform such duty.

### 27.15.2 The role of the AO

- (a) The AO must take all reasonable steps to prevent abuse of the SCM system.
- (b) This includes investigating allegations against an employee of corruption, improper conduct or failure to comply with the SCM system.
  - (i) a charge of financial misconduct must be investigated within 30 days of the date of discovery of the alleged misconduct, heard, and decided. Provincial Treasury must be informed of such steps. On completion of the proceedings, the AO must report the outcome to the Department of Public Service and Administration and the Public Service Commission.
  - (ii) any misconduct thought to constitute a criminal offence must be reported to the South African Police Service. If so, the AO must inform both Provincial Treasury and the AG of the report. On completion of the proceedings, the AO must report the outcome to Provincial Treasury, the Department of Public Service and Administration and the Public Service Commission.
  - (iii) on an annual basis, the AO must report the outcome of all disciplinary proceedings or criminal charges to Provincial Treasury, National Treasury, and the AG. These reports must include the name and rank of employees involved, the charges against them, the outcome of proceedings, and the actions taken.
- (c) Moreover, the AO must reject the award of a contract if the recommended bidder has previously not performed on a contract for the department, and thereafter inform Provincial Treasury.
- (d) The AO must also reject the award of the contract if the recommended bidder committed a corrupt or fraudulent act, or abused the SCM system, in competing for the particular contract:
  - (i) if the service provider committed any corrupt or fraudulent act, or abused the SCM system during the bidding process or the execution of that contract; or
  - (ii) if any employee committed any corrupt or fraudulent act, or abused the SCM system during the bidding process or during the execution of that contract, that benefited that service provider; and



- (iii) Provincial Treasury must be informed of any such action.
- (e) The AO will commit an act of financial misconduct if they intentionally or negligently fail in their assigned responsibilities or permit unauthorised, irregular, or fruitless and wasteful expenditure.
- (f) Any person to whom the AO has assigned, and delegated powers will commit an act of financial misconduct if they intentionally or negligently fail to exercise that power. However, the assignment and delegation does not divest the AO of responsibility for the exercise of that power. Therefore, the monitoring of compliance is crucial to maintaining good corporate governance.

27.15.3 The PFMA provides for the following actions (Table 14) to be taken by the Accounting Officer or the delegated official against an official related to financial misconduct:

**Table 14**

<b>PRESCRIPT</b>	<b>PROVISION</b>
<b>PFMA S84</b>	Any disciplinary and criminal charges for financial misconduct against the official must be investigated, heard and disposed of in respect of statutory requirements or conditions of employment and regulations in respect of Section 85 (when issued).
<b>Treasury Regulation 4.1</b>	The Accounting Officer must ensure disciplinary proceedings are carried out.
<b>Treasury Regulation 4.2</b>	The Accounting Officer must ensure action within thirty (30) days.
<b>Treasury Regulation 4.3</b>	The Accounting Officer must report as soon as the disciplinary process is completed to the Executive Authority; Department of Public Service and Administration and the Public Service Commission on the outcome.
<b>Treasury Regulation 4.4</b>	The Accounting Officer must report to the Provincial Treasury and Auditor- General by means of a schedule detailing the outcome, names, sanctions or further actions and changes to financial and risk management systems.
<b>PFMA S38 (1)(c)(ii)</b>	The AO must take effective and appropriate steps to prevent unauthorised, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct.
<b>PFMA S38 (1)(g)</b>	On discovery of any unauthorised, irregular, or fruitless and wasteful expenditure, the AO must immediately report, in writing, particulars of the expenditure to the Provincial Treasury and in the case of irregular expenditure also to the tender board. In circumstances where a tender board is no longer functional, such reports must be submitted to the department's SCM Unit.
<b>PFMA S38 (1)(h)</b>	The AO must take effective and appropriate disciplinary steps against any employee who contravenes or fails to comply with this Act or commits an act which undermines financial management or departmental internal control system or makes or permits unauthorised, irregular, or fruitless and wasteful expenditure.
<b>PFMA S40(3)(b)</b>	The annual report and audited financial statements must include particulars of material losses through criminal conduct and any unauthorised, irregular and fruitless and wasteful expenditure that occurred during the financial year and also which criminal/ disciplinary actions were taken as well as any material losses recovered or written off together with any other prescribed matters

<b>PFMA S45(c)</b>	Each employee must take effective and appropriate steps to prevent any unauthorised, irregular, and fruitless and wasteful expenditure and any under collection of revenue due within their area of responsibility.
<b>NTR 9.1.2</b>	The delegated authority must, on discovery, immediately report the unauthorised, irregular or fruitless and wasteful expenditure to the AO and in the monthly report. When an irregular expenditure involves procurement, it must also be brought to the notice of the tender board. In circumstances where a tender board is not functional, such reports must be submitted to the department's SCM Unit.
<b>NTR 9.1.3</b>	The AO must determine the appropriateness of disciplinary steps, taking into account the: <ul style="list-style-type: none"> <li>(a) circumstances of transgression;</li> <li>(b) extent of expenditure involved; and</li> </ul> nature and seriousness of transgression.
<b>NTR 9.1.4</b>	Recovery of losses or damages is done in terms of NTR 12.
<b>NTR 9.1.5</b>	The amount of the unauthorised, irregular, or fruitless and wasteful expenditure determined must be disclosed as a note in the annual financial statements.
<b>WC PTI 2009, Chapter 9</b>	Requires compliance with NT guidelines for the preparation of annual reports for national and provincial departments, issued annually.

27.15.4 It must also be noted that, in terms of Section 44(2) (d) of the PFMA, any delegation or instruction in terms of Section 44(1) to an official does not divest the Accounting Officer of the responsibility concerning the exercise of the delegated power or the performance of the assigned duty. Therefore, the implementation of the required control measures and the monitoring of compliance to the requirements for SCM and this Accounting Officer's System are crucial in maintaining good corporate governance.

## **27.16 FRONTING OR ABUSE OF THE PPR AND B-BBEE REQUIREMENTS**

27.16.1 A "front" is defined as an "outward appearance" or "a person, etc. serving to cover subversive or illegal activities".

27.16.2 In the context of procurement it could be stated simply as a person or entity that makes a representation of fact or circumstances which is technically incorrect, in order to obtain a benefit to which it knowingly is not entitled.

27.16.3 Fronting implies:

- (a) An element of misrepresentation;
- (b) Fraudulent intent; and
- (c) Wrongfulness.

27.16.4 It would therefore constitute fronting if a person/ entity claimed a B-BBEE status level of contribution to which they are not entitled, thereby knowingly misleading the Department.

27.16.5 **The process in dealing with fronting:**

- (a) The process in dealing with fronting must be in accordance with the rules of Administrative Law, specifically PAJA, B-BBEE, PPR 2022 as well as the Constitution of the Republic of South Africa.
- (b) The Department will inform the bidder of the alleged or suspected offence and request the bidder to make representation within the 14 days, i.e. that he/she is suspected of:

- (i) Claiming or obtaining a B-BBEE status level of contribution on a fraudulent basis; or
  - (ii) promising, offering or giving a bribe during the bidding process and/or after conclusion of contract; or
  - (iii) acting in a fraudulent manner or in bad faith or in any other improper manner during the bidding process or after conclusion of contract; or
  - (iv) concluding an agreement with the Department on the strength of information furnished by it, after which it became apparent that the information provided was incorrect.
- (c) The bidder/contractor must be informed of the recourse or appropriate remedy sought.
- (d) The Department must also be given the opportunity to state its case. This is the application of the principles of natural justice, with particular reference to the *audi alteram partem* rule.
- (e) The Department must follow the requirements for procedural fairness as outlined in Section 3 of the PAJA which in summary is, as follows:
- (i) an administrator must give a person adequate notice of the nature and purpose of the proposed administrative action;
  - (ii) a reasonable opportunity to make representations;
  - (iii) a clear statement of the administrative action;
  - (iv) adequate notice of any right of review or internal appeal, where applicable and
  - (v) adequate notice of the right to request reasons in terms of Section 5 of the PAJA.

#### 27.16.6 Remedies for Fronting

- (a) The Accounting Officer must act against the bidder or person awarded the contract upon detecting that the B-BBEE status level of contribution has been claimed or obtained on a fraudulent basis or any of the contract conditions have not been fulfilled.
- (b) The Department may, in addition to any other remedy that it may have against the bidder or person:
- (i) Disqualify the bidder or person from the bidding process;
  - (ii) Recover all costs, losses or damages it has incurred or suffered as a result of that person's conduct;
  - (iii) Cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
  - (iv) Restrict the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, from obtaining business from any organ of state for a period not exceeding ten (10) years, after applying the *audi alteram partem* (hear the other side) rule; and
  - (v) Forward the matter for criminal prosecution.
- (c) Departments may consult with their Legal Services when it intends applying any of the afore-mentioned remedies.
- (d) The details and written submission of any restrictions imposed on bidders, persons or contractors must be forwarded to the National Treasury (NT) in terms of PFMA SCM Instruction 3 of 2021/2022.

## CHAPTER 28

# RISK MANAGEMENT AND INTERNAL CONTROL

### 28.1 INTRODUCTION

28.1.1 Supply chain management (SCM) is a systematic process that ensures that goods and services are delivered to the right place, in the right quantity, with the right quality, at the right cost and at the right time. It is part of a broader function of managing expenditure on and payments for the goods and services that are involved in delivering services required by the Department.

28.1.2 In order to achieve service delivery goals effectively, efficiently and economically, managers must ensure that proper controls exist over the entire business process, from planning (determining the demand for goods and services), procuring (through a fair, equitable, transparent, competitive and cost-effective system), managing logistics and disposing of goods no longer required. It is imperative that risks associated with these processes are managed at all stages in the cycle.

### 28.2 INTERNAL CONTROL

28.2.1 As required by Chapter 16A13.2.2 of the PTI's, the internal control framework provides for:

- (a) the entire virtuous cycle of supply chain management;
- (b) identified risks;
- (c) control activities;
- (d) type of control activity (management, administrative and accounting);
- (e) preventative, detective and corrective control activities;
- (f) responsible employee; and
- (g) management assessment.

28.2.2 The Department's Internal Control Framework for Supply Chain Management and Moveable Asset Management is attached as **Addendum 19**.

28.2.3 The appendices to the framework address the transaction life cycles of the following areas:

- i) Moveable asset management; and
- ii) Supply chain management (goods & services).

### 28.3 RISK MANAGEMENT

28.3.1 Risk management is a process used for identifying, assessing, and prioritising risks of different kinds within the supply chain and asset management domain. Once the risks are identified, the risk manager will be required to develop a plan to minimise or eliminate the impact of events or circumstances which may place the SCM processes at risk.

28.3.2 Risk management in the supply chain management context ensures that the Department identifies and understands the risks to which it is exposed. Risk management also guarantees

that the Department creates and implements an effective plan to prevent losses or reduce the impact if a loss occurs.

28.3.3 A risk management plan includes strategies and techniques for recognising and confronting these threats. Good risk management does not have to be expensive or time consuming; it may be as uncomplicated as answering these three questions:

- (a) What can go wrong?
- (b) What will we do, both to prevent the harm from occurring and in response to the harm or loss?
- (c) If the loss occurs, how will we pay for it?

#### 28.3.4 **Operational Risks Impacting on Supply Chain Management**

Operational risk is the exposure of an organisation to losses resulting from internal failures or shortcomings of people, processes and systems. Supply Chain Management is also reliant on people, processes and systems to function effectively.

##### (a) **People**

- (i) There is always a human factor to consider in any supply chain activity. The knowledge, experience, capability and reliability of the purchasing and supply personnel in supply chain processes are critical risk factors.

##### (b) **Processes**

- (i) Process risk is the risk of the supply chain processes being insufficient and causing inefficiency and unexpected losses. This includes execution errors due to flaws in the processes, for example the miscommunication of a need between a user and purchasing and supply.
- (ii) Processes form part of the operations environment and therefore have a strong interactive relationship with people and systems. Any changes in processes affect people and systems; for example changes in the supply chain processes may alter the way in which people perform their different activities and may also require the adaptation of the system that is used in these processes.
- (iii) People and systems, on the other hand, can also affect processes; for example the introduction of e-procurement and e-commerce in an institution may require that supply chain processes be changed to facilitate efficient operational performance.

##### (c) **Systems**

- (i) Systems risks are those resulting from systems failures and are therefore primarily based upon the dependency of supply chain and technology. Supplier records are mostly kept in digital format on computer systems, accounting and reporting are done via electronic systems, and the bulk of orders and payments may take place electronically.
- (ii) This makes supply chain management vulnerable to any disruption in the efficient functioning of systems, and also to system obsolescence. New technologies often have implications of complexity and uncertainty. The newer the technology, the greater the risk that it may not perform as expected. New systems often require

modifications in order for them to function smoothly. Although forming part of people risks, new skills are needed for the use of new technologies, which require the running of effective training programmes.

- (iii) The following are examples of systems risks:
  - (aa) Systems failure;
  - (bb) Security breach;
  - (cc) Implementation failure;
  - (dd) Insufficient systems capacity; and
  - (ee) Poor data integrity
- (iv) Technological controls are required throughout the Department to ensure that technology is protected against human error, data theft, equipment failure, fire, heat, water, smoke, corrosive fumes, etc.

### 28.3.5 External Risk

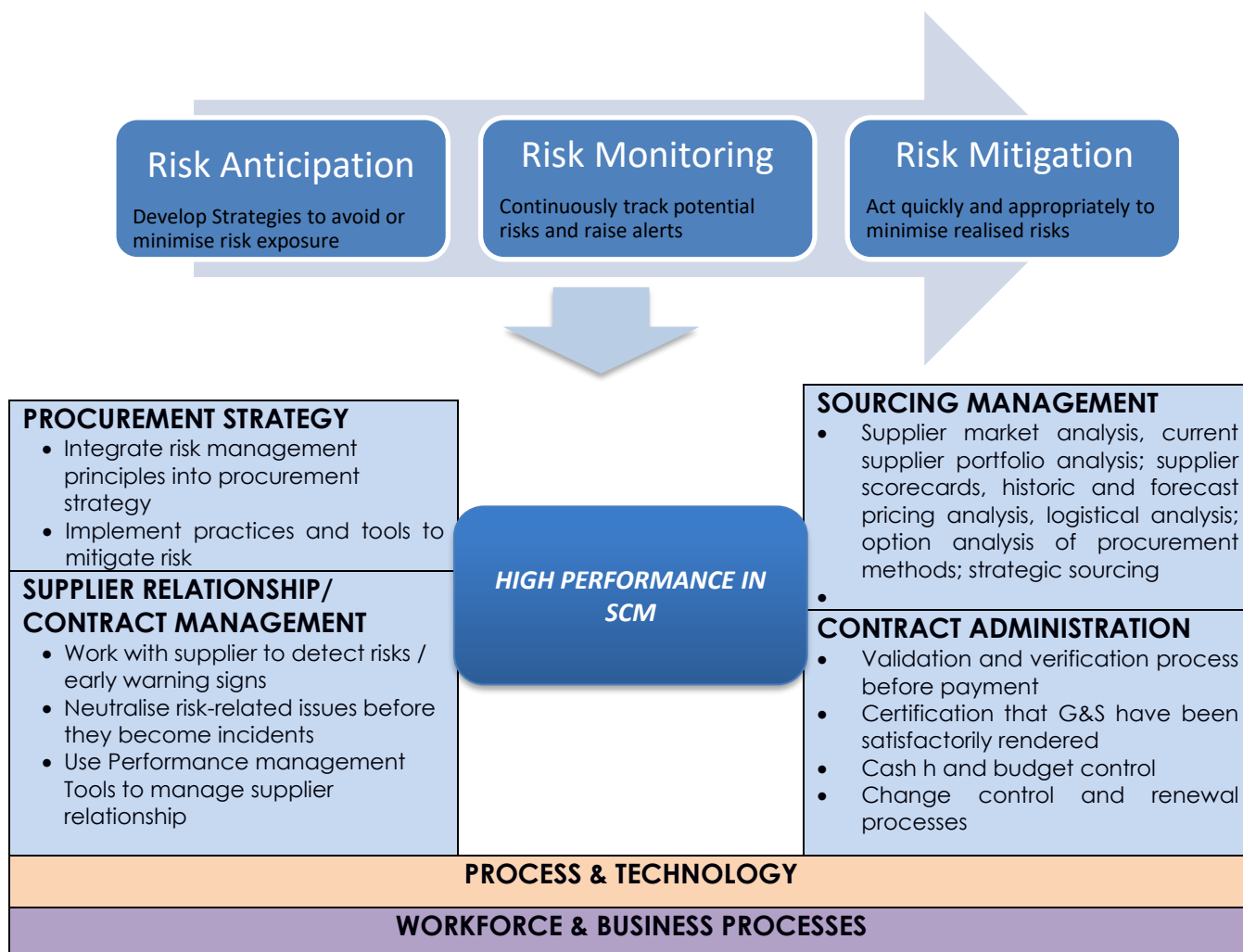
- (a) External events risks refer to those external factors that could affect the Department negatively such as natural disasters, and particular supply and supplier risk, of which the following are examples:
  - (i) External supplier that does not adhere to agreed delivery dates;
  - (ii) Physical security risk at warehouses where supplies are stored;
  - (iii) The litigation risks pertaining to purchasing and supply contracts;
  - (iv) Natural disaster risks delaying the delivery of purchased materials;
  - (v) Labour actions risks leading to non-compliance; and
  - (vi) Government regulations pertaining to purchasing materials.
- (b) As the Department's purchasing and supply management has no direct control over external factors, it is often difficult to manage risk proactively. Although it is difficult to quantify these factors, it is important for purchasing and supply management to try to anticipate these risks in order to reduce the factors' adverse effects.

### 28.3.6 The Risk Management Process

- (i) All departments seek optimal trade-offs between the perceived risks and the potential returns they are facing. Therefore, the first step of risk management is to identify the risks.
- (ii) The second step is to assess the impact of the risks on the Department and the third consists of determining a strategy to deal with or eliminate the risks. The strategy is then implemented, monitored and evaluated.
- (iii) The third step consists of determining a strategy to respond to or eliminate the risks. This strategy is then implemented, monitored and evaluated.
- (iv) This process is referred to as the risk management model. Although the risk management process may differ or vary for different types of risk, certain steps are fundamental to this process and should therefore always be present in one form or another.

### 28.3.7 Figure 5: SCM Risk Management Model

The following risk management model for SCM should be followed:



- (a) The risk management process shall be applied to all stages of supply chain management, be it the Demand phase (conceptual stage, project definition, etc.), Acquisition Phase (specification preparation, acquisition approval or implementation to completion) or any of the other management phases.
- (b) Risk management is an integral part of the good management of supply chain management activities and cannot be effectively performed in isolation from other aspects of supply chain management. Appropriate risk management conditions should therefore be incorporated in contracts.
- (d) Where risks are perceived or anticipated, the Department should retain the responsibility for the risk, how it can be minimised and how it will be managed. The Department will aim at business continuity in all possible circumstances, although it is unlikely to be cost-effective to plan for every possibility, and a certain level of risk will have to be accepted.
- (e) On-going, but at the very least annual, assessments are required to understand the changing nature and size of risks and any further management required as a result of the changes.

## CHAPTER 29

### SCM REPORTING

#### 29.1 INTRODUCTION

29.1.1 The reporting of SCM information assists in ensuring that individuals and organisations are answerable for their plans, actions and outcomes. Openness and transparency in administration, by external scrutiny through public reporting, is an essential element of accountability. Within the supply chain management framework:

- (a) heads of departments are accountable to their MECs for the overall management of supply chain management activities;
- (b) the CFO and SCM Manager are accountable to heads of departments for various high-level management and co-ordination activities;
- (c) individual supply chain management practitioners are accountable to supply chain managers and to their clients, for the services they provide; and
- (d) any person exercising supply chain management functions must have regard to departmental requirements in this Accounting Officer's System and are accountable to management.

#### 29.2 REPORTING FORMATS

29.2.1 The head of the supply chain management unit of an institution must within 15 working days after the end of each month submit a report via, the CFO, to the Accounting Officer containing information on procurement transactions during that month. A copy of this report must also be forwarded to the Provincial Treasury when submitted to the accounting officer.

29.2.2 The report referred to must contain at least the following;

- (a) required information on procurement transactions for each form of procurement as specified in paragraph 16A5.2 of the PTIs;
- (b) compliance to norms and standards prescribed for the various forms of procurement;
- (c) information in respect of the procurement via the ePS, where applicable.
- (d) any problems experienced with the invitation of price quotations through the e-PS;
- (e) information on payments outstanding after the prescribed thirty (30) day period;
- (f) any problems experienced with the implementation of the Accounting Officer's System; and
- (g) any other information as prescribed by the Provincial Treasury.

29.2.3 The Provincial Treasury has issued a reporting format for monthly and quarterly reporting with the specified minimum requirements for the Province.

29.2.4 The Department has adapted the reporting format to its own business processes and needs identified as Reporting on Supply Chain Management (Annexure D). The reporting includes



all deviations from normal bidding process, expansions, extensions and variations. The template is attached as **Addendum 20**.

### **29.3 PUBLIC DISCLOSURE REPORTING**

- 29.3.1 All procurement transactions related to the goods, works and services that were procured and where required, to prevent an escalation of the national state of disaster or to alleviate, contain or minimise the any risk must be reported to the Provincial Treasury as required by the National Treasury. This includes, inter alia, expenditure for quarantine and isolation services, humanitarian relief, amongst others.
- 29.3.2 The following key steps of the process must be highlighted (to note that this is only applicable to departments):
- (a) The PT will distribute a BAS report and a LOGIS RR102 report to departments on a weekly basis to analyse whether the correct SCOA allocations are reflected. As stipulated in paragraph 4 of National Treasury Classification Circular No. 30 issued on 07 May 2020, departments are requested to use the correct fund and project segment codes created centrally by the SCOA Technical Committee when incurring COVID-19 expenditure. Where such allocations are incorrect, departments are required to correct the allocations on LOGIS and provide weekly feedback to the PT;
  - (b) PT will validate accuracy and completeness of the information and engage with departments on any discrepancies to be corrected/ amended before submitting to the NT. The same data set will be used to populate the PDR.

## **CHAPTER 30**

### **SCM PERFORMANCE MONITORING**

#### **30.1 INTRODUCTION**

- 30.1.1 In accordance with PTI 16A12.1, the Accounting Officer must ensure that the supply chain management system provides for an effective internal monitoring system in order to determine, on the basis of a retrospective analysis, whether the authorised processes are being followed and whether the desired objectives are being achieved.
- 30.1.2 The performance monitoring and evaluation system referred to above must, amongst others, provide for a scorecard mechanism which describes the key strategic and operational performance targets to be met in relation to the strategic and operational planning processes referred to in Part 4 of the PTIs.
- 30.1.3 The scorecard used for SCM is:
- (a) a measurement-based performance monitoring framework that displays organisational measures graphically and groups it into categories, as a dashboard;
  - (b) a strategic performance monitoring and evaluation system for the organisation;
  - (c) a communications tool to make strategy clear to all SCM Practitioners;
  - (d) a way to balance financial and non-financial views of the organisation's performance;
  - (e) a system for increasing accountability;
  - (f) a commitment to change; and
  - (g) a way of aligning the organisation's vision with human and capital resources, and with day-to-day operations.

#### **30.2 SCM SCORECARD**

The SCM scorecard will be utilised for the function of monitoring the supply chain unit.

**LIST OF ADDENDUMS**

<b>NAME OF DOCUMENT</b>	<b>REFERENCE</b>
Supply Chain Management Delegations	<b>Addendum 1</b>
Supply Chain Management Strategy	<b>Addendum 2</b>
Procurement Plan template	<b>Addendum 3</b>
Petty Cash Standard Operating Procedure	<b>Addendum 4</b>
Quotations (Procurement Template: R0 - R1 Million)	<b>Addendum 5</b>
Quotations (Procurement Template: R0 – R100 000)	<b>Addendum 5(2)</b>
Quotations (Procurement Template: R0 - R500 000)	<b>Addendum 6</b>
Limited Bidding Process	<b>Addendum 7</b>
SCM Emergency Procurement Policy	<b>Addendum 8</b>
Contract Expansions and Extensions template	<b>Addendum 9</b>
LOG 1 (requisition) form	<b>Addendum 10</b>
Transaction Checklist for Orders	<b>Addendum 11</b>
Standard Operating Procedure for Ordering, Receiving and Payment of goods/services	<b>Addendum 12</b>
Transaction Checklist for Payments	<b>Addendum 13</b>
Asset Acquisition Plan	<b>Addendum 14</b>
Disposal of Moveable Assets	<b>Addendum 15</b>
Internal Performance Monitoring and Evaluation System	<b>Addendum 16</b>
Business Plan template for items on the approved Procurement Plan	<b>Addendum 17</b>
Investigating and reporting business conflict of interest template	<b>Addendum 18</b>
Internal Control Framework for Supply Chain Management (goods/services and moveable asset management)	<b>Addendum 19</b>
Monthly and Quarterly reporting on Supply Chain Management (Annexure D) template	<b>Addendum 20</b>
Fraud Prevention Plan	<b>Addendum 21</b>
Risk Management Plan	<b>Addendum 22</b>
Standard Operating Procedure for Stocktaking	<b>Addendum 23</b>
Administering of Donations and other assets excluding cash donations	<b>Addendum 24</b>
Administering of losses	<b>Addendum 25</b>
Database maintenance	<b>Addendum 26</b>
Barcoding of assets	<b>Addendum 27</b>
SRM001 Goods removal form	<b>Addendum 28</b>
LOGIS user manual policy	<b>Addendum 29</b>
Inventory Management Policy	<b>Addendum 30</b>
Standard Operating Procedure for Inventory stock count, verification and reconciliation	<b>Addendum 31</b>
Code of Ethics for Supply Chain Practitioners	<b>Addendum 32</b>
Standard Operating Procedure for Business conflict of interest	<b>Addendum 33</b>
Application form for the Appointment of Consultants	<b>Addendum 34</b>
Reporting requirements	<b>Addendum 35</b>
Change Request form	<b>Addendum 36</b>
Annexure B - ePS Business Processes	<b>Addendum 37</b>
Annexure C - Cancellation Approval Process on the ePS	<b>Addendum 38</b>
Departmental Travel Policy	<b>Addendum 39</b>