

## Chapter 1: (Section 38) Foreword

Section 38 of the Public Finance Management Act, 1/99 confers general responsibilities on the Accounting Officers. It determines in subsection 1 that:

- (1) “ The Accounting Officer for a department, trading entity or constitutional institution –
- (a) must ensure that the department, trading entity or constitutional institution has and maintains an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost effective.

### **POLICY**

- ☐ The Office of the Premier's supply chain management shall be executed in line with this Policy.

Where the National Treasury and the Provincial Supply Chain Management Office issue amendments, those instructions, must also be taken into account in the execution of the supply chain management in addition to this departmental policy document and the document shall be amended at the earliest convenient opportunity.

## Chapter 1: (Section 38) Foreword

### 1. ANNUAL REVIEW

#### POLICY

- ☐ This System Manual shall be reviewed at least annually.

- 1.1 The SCM System Manual must be reviewed at least annually to ensure it is aligned with the legislative environment.
- 1.2 When necessary, recommendations for amendments to this policy that are required must be submitted to the Accounting Officer for consideration on an ad hoc basis.

## Chapter 2: Terminology

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### 1 ABBREVIATIONS

<b>DBAC</b>	Departmental Bid Adjudication Committee
<b>BBBEE</b>	Broad Based Black Economic Empowerment
<b>DBED</b>	Departmental Bid Evaluation Committee
<b>BEE</b>	Black Economic Empowerment
<b>CFO</b>	Chief Financial Officer
<b>GCC</b>	General Conditions of Contract
<b>HDI</b>	Historically Disadvantaged Individual
<b>MTEF</b>	Medium Term Expenditure Framework
<b>NIPP</b>	National Industrial Participation Programme
<b>PFMA</b>	Public Finance Management Act (Act 1 of 1999, as amended)
<b>PPPFA</b>	Preferential Procurement Policy Framework Act (Act 5 of 2000)
<b>QCBS</b>	Quality Cost Based Selection
<b>RDP</b>	Reconstruction and Development Programme
<b>SARS</b>	South African Revenue Services
<b>SBD</b>	Standard Bidding Document
<b>SCM</b>	Supply Chain Management
<b>SCMU</b>	Supply Chain Management Unit
<b>SITA</b>	State Information Technology Agency
<b>SLA</b>	Service Level Agreement
<b>SMME</b>	Small Medium and Micro Enterprise
<b>TCO</b>	Total Cost of Ownership
<b>TOR</b>	Terms of Reference
<b>OTP</b>	Office of the Premier

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### 2 DEFINITIONS

<b>Acquisition management</b>	<p>Acquisition management is the process of procurement of goods or services and includes the:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Compilation of bid documentation, including conditions;</li> <li><input type="checkbox"/> Determination of evaluation criteria;</li> <li><input type="checkbox"/> Evaluation of bids and tabling of recommendations;</li> <li><input type="checkbox"/> Compilation and signing of contract documents;</li> <li><input type="checkbox"/> Contract administration</li> </ul>
<b>Demand management</b>	<p>Demand management is a planning and controlled process to ensure that the resources required to support the strategic objectives are delivered at the correct time, at the right price, location, quantity and quality that will satisfy the needs.</p> <p>Demand management also includes:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Identification of preferential policy objectives;</li> <li><input type="checkbox"/> Determination of market strategy;</li> <li><input type="checkbox"/> Application of depreciation rates;</li> <li><input type="checkbox"/> Application of total cost of ownership principle;</li> </ul>
<b>Department</b>	Office of the Premier
<b>Economic principle</b>	Obtain the highest possible output for the lowest possible use of resources.
<b>Economy of scale</b>	Reductions in the average cost of a product in the long run, resulting from an expanded level of output
<b>Historically disadvantaged individual</b>	<p>Historically Disadvantaged Individual (HDI) means a South African citizen –</p> <p>who had no franchise in national elections prior to the introduction of the Constitution of the Republic of South Africa, 1983 (Act No 10 of 1983) or the Constitution of the Republic of South Africa, 1993 (Act No 200 of 1993) (“the Interim Constitution”); and/or</p> <p>who is a female; and/or</p> <p>who has a disability;</p> <p>Provided that a person who obtained South African citizenship on or after the coming into effect of the Interim Constitution, is deemed not to be an HDI.</p>
<b>PFMA</b>	PFMA means the Public Finance Management Act, 1999 (Act No 1 of 1999) as amended, as well as

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	National Treasury Regulations, including Supply Chain Management Regulations issued in terms thereof.
<b>Practitioner</b>	A person who practises a profession or art.
<b>Procedures</b>	Policies are carried out by means of more detailed guidelines called “standard methods”. A series of actions conducted in a certain order or manner.
<b>Process</b>	A series of actions or steps towards achieving a particular end.
<b>Provider</b>	A provider is the private person or institution that provides supplies, services or works to the Government.
<b>Risk management</b>	Risk management may be defined as the identification, measurement and economic control of risks that threaten the assets and earnings of a business or other enterprise.
<b>Rules</b>	Rules are statements that a specific action must or must not be taken in a given situation.
<b>Small medium and micro enterprise (SMME)</b>	SMME is as defined in the National Small Business Act, 102 of 1996, as amended. Employing a maximum of 100 employees in any sector except manufacturing or construction where the maximum is 200 employees.
<b>Sourcing</b>	Sourcing is the process to be followed in order to identify a suitable provider of goods, services and works.
<b>Strategic goals</b>	Strategic goals are areas of institutional performance that are critical to the achievement of the mission. They are statements that describe the strategic direction of the institution. It is useful to think of strategic goals as outcomes to be achieved by the institution.
<b>Strategic objectives</b>	Strategic objectives are more concrete and specific than strategic goals. They should give a clear indication of what the OTP intends doing or producing in order to achieve the strategic goals it has set for itself. As such strategic objectives would normally describe high-level outputs or “results” of actions that departments intend taking.
<b>Supply Chain Management</b>	Supply chain management (SCM) is an integral part of financial management. This function is the collaborative strategy that integrates the planning, procurement and provisioning processes in order to eliminate non-value adding cost infrastructure, time and activities, seeks to introduce international best practices, whilst at the same time addressing Government’s preferential procurement policy objectives and whilst serving the end users and customers efficiently.

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	<p>Six phases are distinguished in the SCM processes, namely:</p> <ul style="list-style-type: none"><li><input type="checkbox"/> Demand management</li><li><input type="checkbox"/> Acquisition management</li><li><input type="checkbox"/> Logistics management</li><li><input type="checkbox"/> Asset and disposal management</li><li><input type="checkbox"/> Risk Management</li><li><input type="checkbox"/> Performance Measurement</li></ul>
<b>Value for money</b>	<p>In relation to public-private partnership agreements, means that the performance of a private party in terms of the agreement will result in a net benefit to the department in terms of cost, price, quality, quantity, risk transfer or any combination of those factors.</p>

## Chapter 3: Legislative Environment

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### **POLICY**

- ☐ The OTP is committed to adhering to and applying the prescribed legislative environment as it affects SCM.

## **1 THE CONSTITUTION**

- 1.1 The Constitution of the Republic of South Africa, Act No 108 of 1996, as amended, regulates procurement through Section 217 and determines that:

“217 (1) When an Organ of State in the national, provincial or local sphere of Government, or any other institution identified in national legislation, contracts for goods or services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost-effective.

(2) Subsection (1) does not prevent the Organs of State or institutions referred to in that subsection from implementing a procurement policy providing for –

Categories of preference in the allocation of contracts; and

The protection or advancement of persons, or categories of persons, disadvantaged by unfair discrimination.

(3) National legislation must prescribe a framework within which the policy referred to in subsection (2) must be implemented.”

## **2 THE PUBLIC FINANCE MANAGEMENT ACT (PFMA)**

- 2.1 The PFMA, Act No 1 of 1999, as amended by Act 29 of 1999, gives effect to and reiterates the Constitutional requirements of Section 217 quoted above and is primary in the regulation of Financial Management. It sets out broadly the requirements for the procurement and provisioning system to be in place and allocates responsibilities attached thereto.
- 2.2 The Act stipulates that in contracting for goods and services, and the disposal and letting of state assets, including the disposal of goods no longer required, the Accounting Officer will develop and implement a system, which is fair, equitable, transparent, competitive and cost-effective.
- 2.3 Section 76(4)(c) of the PFMA determines inter alia that:
- 2.3.1 The National Treasury may make regulations or issue instructions applicable to all institutions to which the PFMA applies concerning the determination of a framework for an appropriate procurement and provisioning system.

## **3 TREASURY REGULATIONS ISSUED IN TERMS OF THE PFMA**

- 3.1 The OTP shall apply the Treasury Regulations (Chapter 16 A) issued in terms of the PFMA as it pertains to supply chain management. It serves as a formal requirement for OTP, to ensure the establishment and implementation of an

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effective and efficient SCM system.

### 3.2 Public Private Partnerships

- 3.2.1 The Accounting Officer must ensure that Treasury Regulation 16 is complied with when goods or services are procured through public private partnerships or as part of a public private partnership.

### 3.3 Supply Chain Management

- 3.4 The Accounting Officer must ensure that Treasury Regulation 16A is complied with when dealing with Supply Chain Management to ensure the establishment and implementation of an effective and efficient Supply Chain Management Unit within the office of the CFO, as an integral part of their financial system.

- 3.5 The SCM system to be implemented must be fair, equitable, transparent, competitive and cost effective; be consistent with the PPPFA and BBBEE Act and must provide at least for the following:

#### 3.5.1 Demand management.

#### 3.5.2 Acquisition management.

#### 3.5.3 Logistics management.

#### ~~3.5.4 Asset & disposal management.~~

#### ~~3.5.5.4~~ Risk management.

#### ~~3.5.6~~3.5.5 Regular assessment of supply chain performance.

## 4 POLICY TO GUIDE UNIFORMITY IN PROCUREMENT REFORM PROCESSES IN GOVERNMENT

- 4.1 The Policy to Guide Uniformity in Procurement Reform Processes in Government was approved by Cabinet 10 September 2003 and promulgated on 05 December 2003.

- 4.2 The policy strategy has as a goal the uniform implementation of Government's procurement reform initiatives and compliance with minimum norms and standards in such a manner that the principles of cooperative governance are observed.

- 4.3 In terms of this policy strategy, Accounting Officers are required to establish and implement a Supply Chain Management function that promotes sound financial management and uniformity in all spheres of Government.

- 4.4 Regarding insurance, organs of State should either insure for procurement related physical risks, establish risk management programmes or make advance provision for losses associated with such risks, within the scope of the provisions of the Treasury Regulations. Suitable arrangements should also be made to ensure that insurance related excesses do not cause the failure of SMME's.



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### 5 NATIONAL TREASURY PRACTICE NOTES

- 5.1 All documents relevant to SCM are available electronically on National Treasury's web page [http://www.treasury.gov.za/organisation/specialist functions/ supply chain management: norms and standards](http://www.treasury.gov.za/organisation/specialist_functions/supply_chain_management/norms_and_standards).
- 5.2 The SCM regulations in terms of the PFMA empower National Treasury to issue practice notes to ensure minimum norms and standards within Government.

### 6 THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT

- 6.1 The Preferential Procurement Policy Framework Act (PPPFA), Act No 5 of 2000, was promulgated to give effect to Section 217(3) of the Constitution by providing a framework for the implementation of the procurement policy contemplated in Section 217(2) of the Constitution. [The revised Preferential Procurement Regulations were promulgated by the Minister of Finance on 06 June 2011 to come into effect on 07 December 2011.](#)
- 6.2 The Act provides for the implementation of a preference system in the allocation of contracts for categories of service providers and the promotion of goals, including socio-economic goals, to advance the interest of persons disadvantaged by unfair discrimination on the basis of race, gender or disability and implementing the programmes of the Reconstruction and Development Programme (RDP).
- 6.3 The Act also regulates that the evaluation processes are conducted in a fair, justifiable and transparent manner.
- 6.4 There is currently a process underway to ensure that the PPPFA and the BBBEE Act is aligned.

### 7 THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT REGULATIONS

- 7.1 This is the enabling mechanism of the PPPFA mentioned above. It sets out the formulas for the points system and stipulates the rules and procedures governing the preferences that might be claimed in terms of this Act.

### 8 BROAD BASED BLACK ECONOMIC EMPOWERMENT ACT

- 8.1 The Broad Based Black Economic Empowerment Act (BBBEE Act), Act No 53 of 2003, provides the framework for the promotion of black economic empowerment, the establishment of a balanced scorecard and the publication of transformation charters. A supporting strategy has also been published. Draft codes of good practice have also been issued for comment. These codes could include qualification criteria for preferential procurement and other economic activities.
- 8.2 The OTP will adhere to the directives contained in the Broad Based Black Economic Empowerment Act as it affects the procurement process.

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8.3 Economic transformation will be promoted through preferential procurement in order to promote meaningful participation of black people including women, workers, youth and people with disabilities and people living in rural areas, in the economy.

8.4 Transformation will achieve a change in the racial composition of ownership and management structures of existing and new enterprises.

### **9 THE PREVENTION AND COMBATING OF CORRUPT ACTIVITIES ACT**

9.1 The OTP will adhere to the directives contained in the Prevention and Combating of Corrupt Activities Act, Act 12 of 2004 as it affects the supply chain process.

9.2 The Act regulates offences in respect of corrupt activities relating to contracts, activities pertaining to acceptance or offering of any gratification and the improper influence of another person as well as offences in respect of corrupt activities relating to procuring and withdrawal of bids and auctions.

9.3 The Act provides for miscellaneous offences relating to possible conflict of interest and other unacceptable conduct such as acquisition of private interest in contract, agreement or investment of a public body.

9.4 National Treasury must establish a register for bid defaulters.

### **10 STATE INFORMATION TECHNOLOGY AGENCY ACT**

10.1 The State Information Technology Agency (SITA) Act, Act No 88 of 1998, as amended by Act 38 of 2002, requires that SITA must act as the procurement agency for the ECPT information technology requirements.

### **11 THE NATIONAL SMALL BUSINESS ACT**

11.1 The National Small Business Act, Act No 102 of 1996, as amended, establishes the National Small Business Council (NSBC) and also the Ntsika Enterprise Promotion Agency (Ntsika).

11.2 The main functions of Ntsika are inter alia: to consult with any organ of government, the NSBC or a service provider in order to inter alia:

11.2.1 Facilitate national market access for products and services of small business.

11.2.2 Generally strengthen the capacity of service providers to support small business and small business to compete successfully in the economy.

11.3 To enable small businesses to compete successfully in the economy, the procurement policies and practices influence the economic behaviour of small businesses, and therefore during the procurement process, it is important to implement guidelines to promote small businesses.

### **12 OTHER RELEVANT ACTS**

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- 12.1 Cognisance must be taken of the following legislation that will impact on the supply chain environment:
  - 12.1.1 Public Service Act, Act No 23 of 1994.
  - 12.1.2 Promotion of Administrative Justice Act, Act No 3 of 2000.
  - 12.1.3 Promotion of Access to Information Act, Act No 2 of 2000.
  - 12.1.4 Protected Disclosure Act, Act No 26 of 2000.
  - 12.1.5 The Competition Act, Act No 89 of 1998.
  - 12.1.6 Northern Cape Provincial Supply Chain Management Policy & practice notes

# Chapter 4: The SCM System: Overview and Procurement Principles

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## 1 OVERVIEW OF THE SCM SYSTEM

- 1.1 The Public Finance Management Act requires that the Supply Chain Management framework be fair, equitable, transparent, competitive and cost effective.

### 1.2 ELEMENTS OF SUPPLY CHAIN MANAGEMENT

- 1.2.1 The Treasury Regulations, Section 16A, requires that a Supply Chain Management system contains the following six elements:

1.2.1.1 Demand management.

1.2.1.2 Acquisition management.

1.2.1.3 Logistics management.

~~1.2.1.4 Asset & disposal management.~~

~~1.2.1.5~~ 1.2.1.4 Risk management.

~~1.2.1.6~~ 1.2.1.5 Regular assessment of supply chain performance.

#### 1.2.2 Demand management

- 1.2.2.1 The objective of demand management in the context of the OTP is to ensure that the resources required to support the strategic objectives, as described in the Provincial Growth and Development Plan (PGDP), are delivered at the correct time, at the right price and at the right location, and that the quantity and quality will satisfy needs. In infrastructure projects, demand management will ensure that projects that support the Provincial Growth and Development Plan (PGDP) are identified, prioritised and budgeted for in a systematic manner.

#### 1.2.3 Acquisition management

- 1.2.3.1 Acquisition management within the SCM System deals with the decisions that have to be made in order to manage the acquisition of the required supplies, services, engineering, construction works and rights from within the institution, or through procurement thereof from the open market.

#### 1.2.4 Logistics management

- 1.2.4.1 The logistics management process deals with the coding of items, setting of inventory levels, placing of orders, receiving and distribution, stores/warehouse management, expediting orders, transport management and supplier performance. This process integrates with the financial system to generate payments to suppliers.

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### 1.2.5 Asset & disposal management

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1.2.5.1 Asset management is the process of guiding the acquisition, use, safeguarding and disposal of assets to make the most of their service delivery potential and manage the related risks and costs over their entire useful life. (A separate asset management policy will be compiled)

1.2.5.2 Disposal management focuses on obsolescence planning, identifying where all redundant material is kept or located and the identification of appropriate strategies relating to the manner in which items are to be disposed of. Disposal and letting of provincial assets is the final process when an institution needs to do away with unserviceable, redundant or obsolete assets.

### 1.2.6 Risk management

1.2.6.1 Risk management is the culture, processes and structures that are directed towards the effective management of potential opportunities and adverse effects. Risk management forms and integral part of the supply chain management system.

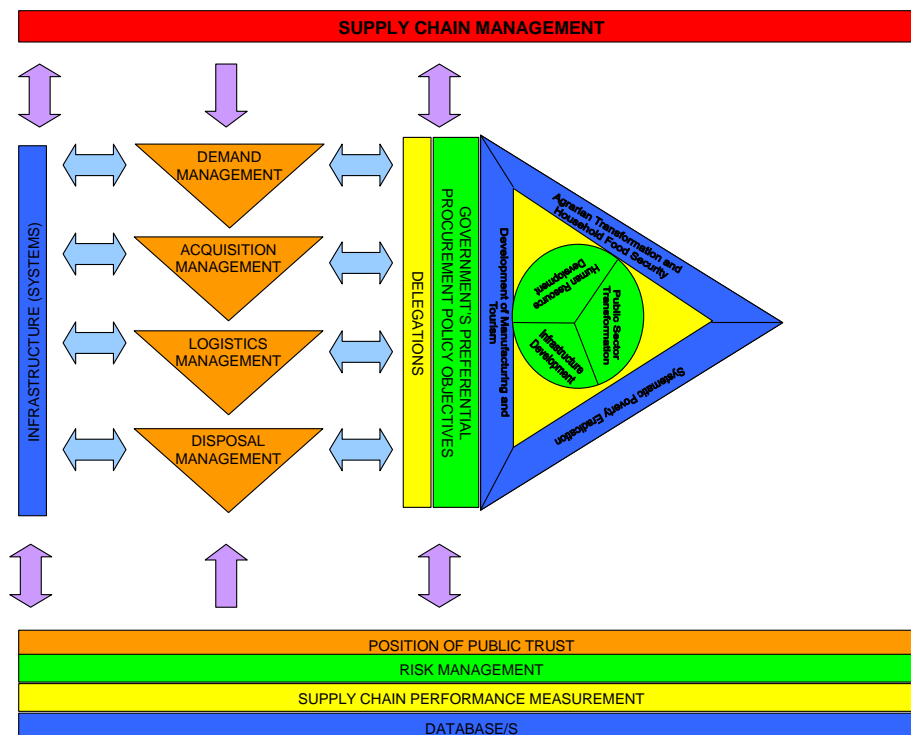
### 1.2.7 Assessment of supply chain performance

1.2.7.1 Supply chain performance is characterised by a monitoring process and a retrospective analysis to determine whether or not the proper process was followed and the desired objectives achieved, i.e. has value for money been attained, has the proper process been achieved, and is there room for improving the process, what is the assessment of supplies, and what are the reasons for deviating from procedures?

## Chapter 4: The SCM System: Overview and Procurement Principles

### 1.3 THE SCM SYSTEM DIAGRAM

1.3.1 The SCM System is illustrated in the following diagram:



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### 2 PROCUREMENT PRINCIPLES

#### POLICY

- ☐ The OTP shall adhere to the procurement principles as noted hereunder.

<b>Transparency</b>	The procurement process shall be open and predictable and shall afford each prospective bidder timely access to the same and accurate information
<b>Equal treatment</b>	All bidders and providers shall be treated equally throughout the whole supply chain process and shall be given access to the same information.
<b>Effectiveness</b>	The OTP shall strive for SCM system effectiveness and shall carry out its procurement processes as cost-effectively as possible while meeting the commercial, regulatory and socio-economic goals of government in a balanced manner appropriate to the procurement requirement.
<b>Efficiency</b>	The OTP shall strive to standardise and simplify procedures where appropriate to enhance SCM system effectiveness and shall carry out its SCM processes as cost-effectively and efficiently as possible. The OTP shall strive to build relationships with providers, shall ensure good working practices and shall encourage innovative solutions for providers
<b>Competitiveness</b>	The OTP shall satisfy its requirements through competition unless there are justifiable reasons to the contrary.
<b>Fairness</b>	All bidders and contractors shall be dealt with, fairly and without unfair discrimination. Unnecessary constraints shall not be imposed on bidders/contractors and commercial confidentiality shall be protected.
<b>Ethics</b>	All suppliers shall be treated equally whilst promoting certain empowerment objectives, all stakeholders shall conduct business and themselves professionally, fairly, reasonably and with integrity, all interests shall be disclosed and all breach shall be reported.
<b>Proportionality</b>	The product/service requirements stipulated in the specification/terms of reference and the qualification requirements attached thereto must be appropriate, necessary and in reasonable proportion to the product/service being procured.

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<b>Uniform application</b>	The OTP shall ensure the application of a SCM policy and a streamlined SCM process and documentation that is uniformly applied by the OTP, all things being equal. The supply chain process shall be simple and adaptable to advances in modern technology to ensure efficiency and effectiveness.
<b>Accountability</b>	Each practitioner shall be accountable for their decisions and actions relative to their SCM responsibilities, the SCM process as well as in the implementation of concluded contracts. The OTP shall have a system, when warranted by circumstances, to investigate and hold liable both employees and relevant private parties dealing with the OTP, for their decisions and actions relative to their procurement responsibilities, the procurement process as well as in the implementation of concluded contracts.
<b>Openness</b>	The OTP shall ensure a procurement process and a subsequent contract award and implementation according to the predetermined specification in line with the best practice procurement principles.
<b>Value for money</b>	The OTP shall achieve value for money through the optimum combination of whole life cycle cost and quality (or fitness for purpose) to meet the customer's requirements while maximising efficiency, effectiveness and flexibility.



## Chapter 5: Institutionalisation

### 1 THE SCM SYSTEM

#### POLICY

- ☐ The Accounting Officer shall develop and implement an effective and efficient supply chain management system for:
  - The acquisition of goods and services.
  - The disposal and letting of state assets and goods no longer required.
- ☐ The system shall be fair, equitable, transparent, competitive and cost-effective.
- ☐ The system shall be consistent with the PPPFA and the BBBEE Act.
- ☐ The system shall provide for at least the following:
  - Demand management.
  - Acquisition management.
  - Logistics management.
  - ~~Asset & disposal management.~~
  - Risk management.
  - Regular assessment of supply chain performance.
- ☐ The SCM system must, in the case of procurement through a bidding process, provide for:
  - Bidding procedures
  - The establishment, composition and functioning of specification, evaluation and adjudication committees.
  - Selection of bid committee members
  - Adjudication of bids through a bid adjudication committee.
  - Approval of bid evaluation and/or adjudication committee recommendations through award structures.
- ☐ The SCM system shall provide for at least the following SCM structures:
  - SCM Unit.
  - Departmental Bid Specification Committee.
  - Departmental Bid Evaluation Committee.
  - Departmental Bid Adjudication Committee.
  - ~~Disposal Committee.~~

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### 2 THE SCM UNIT

#### 2.1 ESTABLISHMENT OF THE SCM UNIT

#### POLICY

- ☐ The Accounting Officer shall establish a SCM Unit within the office of the CFO, to implement the SCM system.

## Chapter 5: Institutionalisation

### 2.2 FUNCTIONS OF THE SCM UNIT

#### POLICY

- ☐ The SCM Unit shall perform the following functions:
  - Demand management.
  - Acquisition management
  - Logistics management.
  - ~~Asset & disposal management.~~
  - Risk management (This function is currently performed within the Office of the CFO in terms of facilitating it but SCM unit will be responsible to manage its unique risks).
  - Assessment of SCM Performance.
- ☐ The SCM Unit shall provide administrative support services to the Departmental Bid Specification; Evaluation and Adjudication Committees.
- ☐ The SCM Unit is to execute any other functions as prescribed by the OTP from time to time within the SCM context.

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## 3 DEPARTMENTAL BID SPECIFICATION COMMITTEES

### 3.1 FUNCTIONS OF DEPARTMENTAL BID SPECIFICATION COMMITTEE

#### POLICY

- ☐ Advise on compilation of quotations/bid specifications in an unbiased manner to allow all potential bidders to offer their goods, services and works.
- ☐ To identify and include the relevant evaluation criteria in the specification.
- ☐ Forward the recommendation to the Accounting Officer or delegate for approval of the specification.
- ☐ The quorum will be 50% plus 1 of appointed members.

### 3.2 ESTABLISHMENT OF BID SPECIFICATION COMMITTEES

#### POLICY

- ☐ The Accounting Officer or delegate shall establish a Departmental Bid Specification Committee.
- ☐ The Accounting Officer may utilise the services of any other institution's Committee if and when required.
- ☐ The term of office of Committee members is two (2) years, effective from the date of appointment by the Accounting Officer.

3.2.1 The Accounting Officer or delegate shall be responsible to establish the Bid Specification Committee.

3.2.2 The member(s) of the Committee must be informed in writing of their appointment to the Committee and accept appointment in writing.

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### 3.3 COMPOSITION OF BID SPECIFICATION COMMITTEE

#### POLICY

- ☐ The Bid Specification Committee shall be composed of at least four OTP officials.
- ☐ The Committee shall have its Chairperson to lead the proceedings and Vice-Chair-person to lead the proceedings during Chairperson's absence.
- ☐ The Bid Evaluation Committee should be cross-functional and should comprise of supply chain practitioners and officials from the user department requiring the goods /services.
- ☐ Should a member declare a conflict of interest at any stage, the member may not be part of the Bid Evaluation Committee and must be replaced by a member of suitable expertise.
- ☐ An external consultant services may be acquired on an adhoc basis to provide specialist/technical advice only, if deemed necessary, provided that the task is executed under the direction of the appointed Committee members. In such an event external specialist advisors' and their companies shall be prohibited from bidding.
- ☐ The Committee may co-opt relevant officials for a certain specification e.g. end-users.
- ☐ A Representative from the Provincial Treasury SCM ~~unit must~~ can be invited to attend the proceedings on an observer status.

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- 3.3.1 The OTP will always ensure that the relevant technical expertise is represented on the Bid Specification Committee as well as supply chain expertise where required.

## 4 DEPARTMENTAL BID EVALUATION COMMITTEE (DBEC)

### 4.1 FUNCTIONS OF DEPARTMENTAL BID EVALUATION COMMITTEE

#### POLICY

- ☐ The Departmental Bid Evaluation Committee will evaluate all bids received from above the quotation threshold.
- ☐ Evaluate offers received within the quotation threshold where the requirement is technically complex and/or there are risks involved that warrant this process.
- ☐ Evaluation must be done in accordance with the criteria specified in the bid documentation.
- ☐ The Bid Evaluation Committee will submit a report and recommendations regarding the award to the Bid Adjudication Committee for consideration and/or approval if they have a delegation up to a certain threshold value to approve.
- ☐ Members of the Bid Evaluation Committee may present their report to the Bid Adjudication Committee to clarify uncertainties.
- ☐ A quorum for the meeting shall be 50% plus 1 of the members appointed.

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### 4.2 ESTABLISHMENT OF BID EVALUATION COMMITTEE

#### POLICY

- ☐ The Accounting Officer or delegate must establish a Departmental Bid Evaluation Committee.
- ☐ The Accounting Officer may utilise the services of any other institution's Bid Evaluation Committee if and when required.
- ☐ The Accounting Officer may co-opt members with certain expertise to the Evaluation Committee whenever necessary for the award of a specific contract.
- ☐ Should a member declare a conflict of interest at any stage, the member may not be part of the Bid Evaluation Committee and must be replaced by a member of suitable expertise.
- ☐ No person other than a member of the Bid Evaluation Committee or the official rendering the Secretariat function is allowed to attend the meeting.
- ☐ The term of office of Committee members is two (2) years, effective from the date of appointment by the Accounting Officer.
- ☐ A representative from the Provincial Treasury SCM unit can be invited to ~~must~~ attend proceedings on an observer status.

- 4.2.1 The Accounting Officer or delegate will be responsible to establish the Bid Evaluation Committee.
- 4.2.2 Once a bid is advertised, the SCM Unit shall inform the established Bid Evaluation Committee for readiness before closing date of the bid as Department has establish the permanent structures.
- 4.2.3 The members of the Committee must be informed in writing of their appointment to the Committee.
- 4.2.4 As part of the bid evaluation pack, each member should declare its interest in writing pertaining to the specific bid in question.
- 4.2.5 Should an interest be declared which constitutes a conflict or is regarded as material, the member must recuse him/herself as a member of the Committee for a specific bid under consideration/being discussed. The SCM Unit must then facilitate the appointment of a replacement member to the Committee if the remaining size of the Committee is not regarded as representative enough to proceed. The Accounting Officer shall be responsible to appoint such a replacement.

## Chapter 5: Institutionalisation

### COMPOSITION OF BID EVALUATION COMMITTEE

#### POLICY

- ☐ The Bid Evaluation Committee will be composed of at least four OTP officials.
- ☐ The Committee will have its Chairperson to lead the proceedings and Vice-Chair-person to lead the proceedings during Chairperson's absence. The chairperson must be an official with the rank of at least Director.
- ☐ The Bid Evaluation Committee should be cross-functional and should comprise of supply chain practitioners and officials from the user department requiring the goods /services.
- ☐ If considered necessary, appoint additional persons with suitable expertise from other departments/institutions with voting rights.
- ☐ If considered necessary, appoint additional experts in an advisory capacity only with no voting rights.
- ☐ A Representative from the Provincial Treasury SCM unit can be invited to ~~must~~ attend the proceedings on an observer status.

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- 4.2.6 The Accounting Officer or delegate will ensure that sufficient technical expertise, financial expertise as well as supply chain expertise is represented on the Bid Evaluation Committee.

## 5 BID ADJUDICATION COMMITTEE

### 5.1 FUNCTIONS & COMPOSITION OF THE DEPARTMENTAL BID ADJUDICATION COMMITTEE

#### POLICY

- ☐ The Departmental Bid Adjudication Committee considers the report and recommendations made by the Bid Evaluation Committee which performed the evaluation of the bid.
- ☐ The Bid Evaluation Committee should be cross-functional and should comprise of supply chain practitioners and officials from the user department requiring the goods /services.
- ☐ Should a member declare a conflict of interest at any stage, the member may not be part of the Bid Evaluation Committee and must be replaced by a member of suitable expertise.
- ☐ The Committee will assess the process followed in making the recommendation to ensure that the SCM policy have been complied with in full.
- ☐ The Committee will obtain clarity from members of the Bid Evaluation Committee if required.
- ☐ The Committee shall approve the recommendation submitted and award the contract if delegated to do so by the Accounting Officer up to a certain threshold.
- ☐ If the Committee, other than the Accounting Officer, is not delegated to award a specific bid, it shall comment on the recommendations made to it by the evaluation committee and forward it together with the report to the

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Accounting Officer who shall finally award the contract.

- ☐ All award structures shall refer the recommendation back when they do not agree with the recommendation to endeavour to sort out the differences if they are process related.
- ☐ Should the award structures other than the Accounting Officer not agree with the recommendations made by the Bid Evaluation Committee, only the Accounting Officer may make the final award.
- ☐ A quorum for the meeting shall be 50% plus 1 of the members appointed.
- ☐ The Bid Adjudication Committee should preferably consist of senior officials of the department.
- ☐ When possible, the chairperson of the Bid Adjudication Committee should be the CFO.
- ☐ The term of office of Committee members is two (2) years, effective from the date of appointment by the Accounting Officer.
- ☐ A Representative from the Provincial Treasury SCM unit can be invited to attend the proceedings on an observer status.

### 5.2 ESTABLISHMENT OF AWARD STRUCTURES

#### POLICY

- ☐ The Accounting Officer shall establish the necessary award structures to perform the award/adjudication of quotations and bids.
- ☐ The following award structures must be provided for:
  - A delegated official for awards up to a certain threshold.
  - A Bid Adjudication Committee for awards as delegated by the Accounting Officer in writing.
  - The Accounting Officer for awards not formally delegated to any other award structure.
- ☐ The award structure for a specific quotation/bid cannot be an official who:
  - Performed the evaluation or made a recommendation in respect of that quotation/bid.
  - Served on the Bid Evaluation Committee, which processed that quotation/bid.
- ☐ No advisor may form part of the final decision-making process regarding the award of bids.
- ☐ The Accounting Officer may utilise the services of any other institution's Bid Adjudication Committee if and when required.
- ☐ A quorum for the meeting shall be 50% plus 1 of the members appointed.

- 5.2.1 The SCM Unit shall be responsible to establish the Award Structures in conjunction with the Accounting Officer.
- 5.2.2 The delegated officials who shall act as award structure shall be appointed in writing by the Accounting Officer.
- 5.2.3 Predetermined meetings at regular intervals shall be held by the award structure

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- 5.2.4 Before the start of the each meeting, each member should declare its interest in writing pertaining to the specific bid(s) in question.
- 5.2.5 Should an interest be declared which constitutes a conflict, the member must recuse him/herself as a member of the Committee for the discussion of the quotation or bid under consideration. The Committee must quadrate before the meeting proceeds. The member is allowed to re-join the meeting after discussion of a specific bid/quote has been finalised. The best way is to discuss any memos where there is conflict of interest last so that a member who operates a business or whose family does is replaced.
- 5.2.6 The SCM Unit shall timely route the recommendations/all necessary supporting documentation for the proposed award to the Committee Members.
- 5.2.7 The SCM Unit shall act as Secretariat for the Committee meetings.

### 5.3 RESOLUTION OF DISAGREEMENTS ON AWARD OF CONTRACTS

#### POLICY

- ☐ Where the Departmental Bid Adjudication Committee disagrees with the recommendation of the relevant Bid Evaluation Committee on the adjudication of a contract, the request with the recommendation of the Bid Evaluation Committee, the commentary and reasons of the award structure is to be submitted to the Accounting Officer for a final decision.
- ☐ The Accounting Officer may obtain advice as deemed necessary, including advice from outside the OTP and should inform Auditor General and Provincial SCM unit before a final award can be made. **(NB: Provincial Treasury SCM unit must be informed)**

- 5.3.1 Should the award structure, after the recommendation has been referred back, not have consensus with the Bid Evaluation Committee on the final award of the bid, the final recommendations must be submitted to the Accounting Officer for a final decision.
- 5.3.2 Should the final award be different from that of the Bid Evaluation Committee, and the Bid Evaluation Committee did use the correct process to determine their recommendation, the details of the award must be forwarded to the Relevant Provincial Treasury and Auditor General with justification why the alternative award is made.

## 6 PROVINCIAL TREASURY STRUCTURES

#### POLICY

- ☐ The Department shall liaise with and make use of the Provincial Treasury Structures where required in terms of the mandate of those structures.

### 6.1 SCM OFFICE



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### POLICY

- ☐ The SCM Office in the Provincial Treasury shall serve as a link between National Treasury and the Department and shall have a provincial coordination and directional role in respect of SCM.
- ☐ The OTP shall implement all SCM instructions issued by the Provincial SCM Office.
- ☐ The OTP shall timely provide the Provincial SCM Office with such reporting and other information as required.
- ☐ The OTP shall participate in transversal period contracts to be established through the facilitation of the Provincial SCM Office.

- 6.1.1 The Provincial Treasury shall from time to time issue instructions regarding SCM. The Department must immediately consider these instructions for implementation. Where required, the policies and procedures of the Department must be amended to incorporate such information.
- 6.1.2 The OTP shall collect all the information required by the Provincial Treasury SCM Office and provide it to the Provincial Treasury within the required deadline for submission.
- 6.1.3 No information may be provided directly to the National Treasury without the facilitation of Provincial Treasury SCM Office.
- 6.1.4 The OTP shall indicate the need to participate in transversal period contracts when requested to do so by the Provincial Treasury SCM Office.
- 6.1.5 The OTP shall participate in the establishment of the transversal period contract by providing the information and involvement required by the SCM Office.

## 7 TRAINING OF SCM OFFICIALS

### POLICY

- ☐ The Accounting Officer shall ensure that OTP officials dealing with the SCM System shall be appropriately and continuously trained and deployed in accordance with the requirements of the Framework for minimum Training and Deployment issued by National Treasury.
- ☐ The Provincial Treasury SCM Office shall regulate the training in the Province.
- ☐ National Treasury must validate the training material of providers.

### 7.1 TYPES OF TRAINING

- 7.1.1 In order to develop officials for a career in SCM, provision should be made for the following types of training:
  - 7.1.1.1 Introduction to SCM.
  - 7.1.1.2 Intermediate training with the focus on intensive training on all the elements of SCM.

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7.1.1.3 Advanced training that includes specialist skills within each element of SCM such as strategic sourcing.

7.1.1.4 Training of all bid committee members.

7.1.2 Training should be performance and outcomes based.

### **7.2 TARGET AUDIENCE**

7.2.1 Provide for the training of at least the following officials:

7.2.1.1 Senior management (SMS)

7.2.1.2 Practitioners who are involved with the day-to-day operations of SCM (senior and operational level).

7.2.1.3 New entrants – new appointees irrespective of the level at which they are appointed.

### **7.3 RESPONSIBILITY FOR TRAINING**

#### **7.3.1 National Treasury**

7.3.1.1 National Treasury will regulate training. The training material must be of an acceptable level of quality and in accordance with the relevant SCM policy reforms and legislation and must be validated by National Treasury.

#### **7.3.2 Provincial Treasury**

7.3.2.1 The Provincial Treasury SCM unit coordinates all SCM training in the Province.

#### **7.3.3 Accounting Officer**

7.3.3.1 The Accounting Officer should ensure that SCM practitioners are acquainted with the training as outlined above.

#### **7.3.4 Training Providers**

7.3.4.1 The services of training providers whose training material have been validated by the Validation Board of the National Treasury may be utilised. This form of validation is aimed at giving the Accounting Officer an indication that courses presented by these training providers comply with the requirements and will provide value for money.

#### **7.3.5 SCM Unit**

7.3.5.1 The SCM Unit should facilitate the training interventions in conjunction with the Human Resources (training component) of the OTP and Provincial Treasury SCM unit.

### **7.4 IMPLEMENTATION STRATEGY**

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7.4.1 A phased-in approach as outlined below could be followed:

7.4.1.1 Short term

- ☐ Introduction to SCM.

7.4.1.2 Medium term

- ☐ Training in all elements of SCM as well as training in specialised skills.

7.4.1.3 Long term

- ☐ Formal diploma and degree courses by tertiary institutions.

### 7.5 MONITORING

7.5.1 The National Treasury and Provincial Treasury SCM Office will monitor and assess the quality and content of training provided by training providers whose training material have been validated by the Validation Board of the National Treasury.

7.5.2 Evaluation reports in this regard as well as details of all officials who have successfully completed a course must be submitted to the National Treasury through the facilitation of the Provincial Treasury SCM Office

## Chapter 6: Authority to Execute

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### 1 ASSIGNMENT OF AUTHORITY

#### POLICY

- ☐ All SCM activities shall be executed in accordance with pre-established levels of authority through delegations attached thereto to ensure control and division of responsibility.
- ☐ Delegations shall be in writing to a specific individual or the holder of a post.
- ☐ A delegation shall be subject to such limitations and conditions as the Accounting Officer or the Provincial Treasury may impose in a specific case.
- ☐ The Accounting Officer is entitled to confirm, vary or revoke any decision taken in consequence of a delegation, provided such variation or revocation is within the ambit of the SCM framework.

- 1.1 Any activity to be executed must be done in accordance with a delegation. These delegations must be personalised (indicating a person and/or a rank), in writing and contained in the Accounting Officer's delegated powers.

### 2 RESPONSIBILITIES OF OFFICIALS

#### POLICY

- ☐ Each official shall carry out its activities within its area of responsibility.
- ☐ Each official shall take appropriate steps to prevent any unauthorised, irregular, fruitless and wasteful expenditure in its area of responsibility.

- 2.1 A person in the relevant division holding the rank to which the authority has been delegated or the person with the authority in the Department appointed for the task must carry it out satisfying the various supply chain requirements, including the ability to commit the Department.
- 2.2 All activities not delegated to a person in the relevant division or the supply chain division holding the rank to which the authority has been delegated, must be forwarded upwards to the person holding the required rank or to the relevant delegated structure.

### 3 PARTICIPATION OF ADVISORS

#### POLICY

- ☐ Advisors may not assist in the execution of the supply chain management function. They may only provide advice.
- ☐ No advisor may form part of the final decision-making process regarding the award of a bid.

- 3.1 The use of advisors for any supply chain function is not allowed as they not appointed officials.

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### POLICY

- ☐ The OTP commits itself to a policy of fair dealing and integrity in the conducting of its SCM activities.
- ☐ The OTP Code of Conduct shall incorporate the Code of Conduct for SCM practitioners as contained in Practice Note Number SCM 4 of 2003 and shall direct all SCM officials and role players in their conduct within and with the Department. Non-compliance shall be subject to the appropriate action. All role players (e.g. bid committee members, SCM unit officials e.t.c.) to sign a copy of the code of conduct
- ☐ All SCM officials and role players are required to promote an environment where business will be conducted in a fair and reasonable manner and with integrity.
- ☐ All SCM officials should ensure that they perform their duties efficiently, effectively and with integrity, in accordance with the relevant legislation and regulations.
- ☐ An official in the SCM Unit who becomes aware of a breach of or failure to comply with any aspect of the SCM system must immediately report the breach or failure to the Accounting Officer, in writing.

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## 1 ETHICAL PRINCIPLES IN THE SCM ENVIRONMENT

### 1.1 THE HIGHEST ETHICAL STANDARDS

- 1.1.1 All SCM officials and other role players must comply with the highest ethical standards in order to promote:
  - 1.1.1.1 Mutual trust and respect.
  - 1.1.1.2 An environment where business can be conducted with integrity and in a fair and reasonable manner.
- 1.1.2 Preserve the highest standards of honesty, impartiality and objectivity.
- 1.1.3 Maintain the highest level of impartiality and objectivity.
- 1.1.4 The SCM officials and role players:
  - 1.1.4.1 Must treat all providers or potential providers equally whilst still promoting the BBBEE Act and the PPPFA.
  - 1.1.4.2 May not use their position for private gain or to improperly benefit another person.
- 1.1.5 The Accounting Officer shall take all reasonable steps to prevent abuse, corruption and collusion through at least regular internal audit reviews, and external audit as well as risk assessments in the supply chain environment.
- 1.1.6 All allegations of corruption, improper conduct or compliance failure shall be reported to the Accounting Officer and investigated by an appropriate individual/organisation appointed by the Accounting Officer:

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- 1.1.6.1 Take steps against such official or other role player and inform the Provincial Treasury of such steps.
- 1.1.6.2 Report any conduct that may constitute an offence to the South African Police Services.
- 1.1.7 The Accounting Officer shall ensure that the Department considers all complaints received and shall respond thereto in a timely manner.
- 1.1.8 All bidders and contractors shall be made aware of the ethical standards of the OTP, its expectations of them and the consequences of non-compliance. The application of these standards by bidders that the Department does business with must be promoted.

### **1.2 DECLARATION OF INTEREST**

- 1.2.1 All SCM officials and other role players must recognise and disclose any interest and determine any possible conflict that may arise.
- 1.2.2 SCM officials, to the extent required by their position, should declare any business, commercial and financial interest or activities undertaken for financial gain that may raise a possible conflict of interest. The Accounting Officer shall determine whether the interest declared, constitutes a conflict of interest in circumstances where it is not clear that it presents a conflict.
- 1.2.3 SCM officials or other role players 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.
- 1.2.4 SCM officials should not take improper advantage of their previous office after leaving their official position.

### **1.3 EQUAL TREATMENT**

- 1.3.1 All SCM officials and other role players must treat all suppliers and potential suppliers equally.
- 1.3.2 All departmental SCM officials associated with supply chain management, particularly those dealing directly with service providers/suppliers or potential service providers/suppliers, are required to:
  - 1.3.2.1 Provide all assistance in the elimination of fraud and corruption.
  - 1.3.2.2 Be fair, efficient, firm and courteous.
  - 1.3.2.3 Achieve the highest professional standards in the adjudication of contracts.

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### 1.4 ACCOUNTABILITY

- 1.4.1 All SCM officials and other role players must be accountable for their decisions and actions to the public as well as to the Department.
- 1.4.2 The Accounting Officer or its delegate is fully responsible and should be held accountable for any expenditures relating to SCM within its area of responsibility.
- 1.4.3 Officials should not make any false or misleading entries into the accounting system for any reason whatsoever.

### 1.5 OPENNESS

- 1.5.1 Officials should give reasons for their decisions and actions.

### 1.6 CONFIDENTIALITY

- 1.6.1 Matters of a confidential nature in the possession of supply chain officials should be kept confidential unless legislation, the performance of duty or the provisions of law requires otherwise. Such restrictions should also apply after separation from service.
- 1.6.2 Any information that is the property of the Department or its suppliers/service providers should be protected at all times.

### 1.7 INDEPENDENCE

- 1.7.1 All SCM officials and role players will not use their position for private gain or to improperly benefit another person.
- 1.7.2 If a SCM official or other role player's family member, partner or associate of such official or role player, has any private or business interest in any bid to be submitted or to be adjudicated, such interest must be disclosed and recorded and the party with the interest must withdraw from participating in the evaluation process relating to the bid if there is a conflict of interest.

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### 1.8 GIFTS AND HOSPITALITY

- 1.8.1 All SCM officials and other role players e.g. Bid committee members must:
  - 1.8.1.1 Ensure that officials do not compromise the credibility or integrity of the OTP through the acceptance of gifts or hospitality or any other related act. Officials should exercise caution in the acceptance of such gifts. The gifts/hospitality (in cash or kind) to be received must be approved by the Accounting Officer before acceptance in line with Treasury regulations
- 1.8.2 The Department shall maintain a gift register in which gifts as well as hospitality received must be recorded in line with the departmental policy and nominate the responsible officer.

## Chapter 7: Ethics in Supply Chain Management

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### 2 CONDUCT OF MEMBERS OF BID COMMITTEES

#### POLICY

- ☐ Conduct of all members and non-members must be in accordance with the relevant legislative environment, the National Treasury's Code of Conduct for SCM practitioners/Bid Committee members and instructions issued from time to time by the Provincial Treasury in this regard.
- ☐ A member of any Bid Committee, technical advisor or user representative who contravenes or fails to comply with the aforementioned must summarily be dismissed from its role and appropriate steps taken against the person.

- 2.1 It is the responsibility of the SCM Unit to ensure that all members of Bid Committees are aware of the required conduct and that they are provided with a copy of the relevant documentation regulating the behaviour.
- 2.2 Should a member fail to comply, the SCM Unit must draw in the relevant role players such as HR to deal with the issue and to escalate it appropriately.

### 3 FRAUD AND CORRUPTION

#### POLICY

- ☐ The Prevention and Combating of Corrupt Activities Act, Act No 12 of 2004 shall be adhered to.
- ☐ The Department is to ensure that all officials, clients and other stakeholders (including providers) are made aware of the implications of The Prevention and Combating of Corrupt Activities Act.
- ☐ Fraud prevention and anti-corruption plans should be instituted.
- ☐ A SCM practitioner or other role player must assist the Accounting Officer in combating corruption and fraud in the SCM system.
- ☐ The Accounting Officer must reject a proposal for adjudication if he/she determines that the supplier/service provider recommended for adjudication, has engaged in corrupt or fraudulent activities in competing for the contract in question.

- 3.1 Contractors shall observe the highest standard of ethics during the selection and execution of the contract. In terms of this provision corrupt and fraudulent practices can be defined as follows:
- 3.1.1 Corrupt practice means the offering, giving, receiving or soliciting of any thing of value to influence the action of a public official in the selection process or in contract execution.
- 3.1.2 Fraudulent practise means a misrepresentation of facts in order to influence a selection process or the execution of a contract to the detriment of the Accounting Officer and includes collusive practices designed to establish prices at artificial, non-competitive levels and to deprive the Accounting Officer of the benefits of competition.



## Chapter 7: Ethics in Supply Chain Management

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- 3.2 Contractors must assist in combating corruption in supply chain management in line with the Prevention and Combating of Corrupt Activities Act, by not giving, receiving or soliciting any item of value to influence the action of an official dealing with supply chain management.
- 3.3 Contractors and departmental officials must assist in combating procurement fraud through awareness, vigilance and consistent assessment in line with the Prevention and Combating of Corrupt Activities Act by not misrepresenting facts in order to influence a procurement process or the execution of a contract to the detriment of the Department including collusive practices.
- 3.4 The Constitution provides for rights such as just administration and access to information and requires high standards of ethics within public administration. Recent legislation dealing with transparency and anti-corruption measures strengthen Government's ability to combat corruption and also protects employees from making disclosures against their employers in both the public and private sectors.
- 3.5 All SCM practitioners and other role players must assist the Accounting Officer in combating corruption and fraud.
- 3.6 The Accounting Officer may insist that a provision be included in the contract agreement, requiring contractors to permit the Accounting Officer to inspect their accounts and records relating to the performance of the contract and to have them audited by auditors appointed by the Accounting Officer.

### 4 COMBATIVE PRACTICES

#### **POLICY**

- ☐ The use of combative practices shall not be allowed.

- 4.1 Combative practices are unethical and illegal and should be avoided at all cost. They include but are not limited to:
  - 4.1.1 Suggestions of fictitious lower quotations.
  - 4.1.2 Reference to non-existent competition.
  - 4.1.3 Exploiting errors in bids.
  - 4.1.4 Soliciting bids from bidders whose names appear on the list of restricted bidders/suppliers/persons.
- 4.2 The use of these practices should be avoided at all costs.

## Chapter 7: Ethics in Supply Chain Management

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### 5 INTERNAL ABUSE OF THE PREFERENTIAL PROCUREMENT SYSTEM

#### POLICY

- ☐ The Accounting Officer shall ensure that the preferential procurement system is not abused for any purpose, neither for the benefit of the Department nor for the benefit of any potential provider/contractor or individual.
- ☐ All conducts, dealings and actions are to be bona fide.
- ☐ Any employee suspected of acting contrary to this policy, will be dealt with in terms of the disciplinary code of the Department.

5.1 No official of the Department should be involved in or promote the abuse of the preferential procurement system.

5.2 Internal control mechanisms should have as objective to at least try and avoid abuse of the system internally.

### 6 EXTERNAL ABUSE OF THE PREFERENTIAL PROCUREMENT SYSTEM

#### POLICY

- ☐ This Department shall vigorously pursue all legal remedies available in the event that the preferential procurement points system is abused, particularly through for example, but not limited to the following ways:
  - That a provider or contractor is suspected of contravening Regulation 13 of the PPPFA.
  - Has promised, offered or given a bribe during the bidding process and/or after conclusion of the contract.
  - 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.
  - That 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.
- ☐ To protect both parties to an agreement, potential providers, contractors and government officials must be made aware of the implications of any contraventions.
- ☐ Potential providers shall be informed via the special conditions of contract and the applicable paragraphs in the GCC of implications of contraventions.

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### 7 FRONTING

#### POLICY

- ☐ The Department shall ensure that, where possible, fronting is identified before a contract is awarded.
- ☐ Where, after award of a contract it becomes evident that the award made to the organisation based on incorrect information constituting fronting, the appropriate action is to be taken in accordance with all legal remedies available.
- ☐ The Department shall ensure that Regulation 13 of the PPPFA is adhered to.
- ☐ Where the Department becomes aware of a possible fronting case, the process in accordance with the Constitution, the rules of Administrative Law and the Promotion of Administrative Justice Act, shall be followed as a starting point.

- 7.1 Fronting is inseparably linked to equity and therefore largely finds its application in those particular circumstances.
- 7.2 Where, after award of a contract it becomes evident that the award made to the organisation based on incorrect information constituting fronting, the appropriate action is to be taken in accordance with all legal remedies available, especially the Prevention and Combating of Corrupt Activities Act, Act No 12 of 2004 and the Promotion of Administrative Justice Act, Act No 3 of 2000.
- 7.3 The Department shall ensure that Regulation 13 of the PPPFA is adhered to i.e. equity ownership, active management and active control.
- 7.4 Where the Department becomes aware of a possible fronting case, the following process that is in accordance with the Constitution, the rules of Administrative Law and the Promotion of Administrative Justice Act, should be followed as a starting point:
- 7.4.1 The Organ of State must inform the bidder/contractor of the alleged/suspected offence, i.e.
- 7.4.1.1 That he is suspected of contravening Regulation 13 of the PPPFA or;
- 7.4.1.2 Has promised, offered or given a bribe during the bidding process and/or after conclusion of contract; or
- 7.4.1.3 Has acted in a fraudulent manner or in bad faith or in any other improper manner during the bidding process or after conclusion of contract; or
- 7.4.1.4 That 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.
- 7.4.2 The bidder/contractor must be informed of the recourse sought.

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- 7.4.3 The bidder/contractor must also be afforded an opportunity to state their case. This is the application of the principles of natural justice, with particular reference to the audi alteram partem rule.
- 7.4.4 The organ of state must follow the requirements for procedural fairness as outlined in Section 3 of the Promotion of Administrative Justice Act, 3 of 2000. Briefly it states:
  - 7.4.4.1 An administrator must give a person adequate notice of the nature and purpose of the proposed administrative action.
  - 7.4.4.2 A reasonable opportunity to make representations.
  - 7.4.4.3 A clear statement of the administrative action.
  - 7.4.4.4 Adequate notice of any right of review or internal appeal, where applicable.
  - 7.4.4.5 Adequate notice of the right to request reasons in terms of Section 5 of this Act.

## Chapter 8: Risk Management

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### 1 APPLICATION OF RISK MANAGEMENT IN SCM

#### POLICY

- ☐ The Accounting Officer shall ensure that the Department has and maintain an effective system of risk management for the identification, consideration and avoidance of potential risks in the SCM system.
- ☐ Aspects of risk management shall be allocated to the CFO, the SCM practitioners, the internal audit function and other affected stakeholders, each of which shall ultimately be accountable to the Accounting Officer for the discharge of their responsibilities.
- ☐ The department shall, where applicable, apply AS/NZS 4360 (Risk management standard) or if appropriate, apply the Code of Practice for Enterprise Risk Management published by the Institute of Risk Management

- 1.1 Risk management is a key responsibility of the Accounting Officer.
- 1.2 Treasury Regulations assign responsibilities for aspects of risk management to the CFO, the internal audit function and entity's management, each at the appropriate level of execution.
- 1.3 Risk management is however a continuous and proactive process that relates to all organisational activities at all levels. All SCM practitioners must have a thorough understanding of the risks involved in the activities under their control and actively work towards managing these risks. Each practitioner has a responsibility toward risk management.

## Chapter 9: Preferential Procurement

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### 1 PREFERENCE SYSTEM

#### POLICY

- ☐ The application of preferential procurement and broad based black economic empowerment must be consistent with:
    - The Preferential Procurement Policy Framework Act and its Regulations.
    - The Broad Based Black Economic Empowerment Act.
  - ☐ The Department shall stipulate the preference point system in bid documents to be applied in adjudication.
  - ☐ Documentation must include criteria for the evaluation of quotations/bids to identify the quotation/bid that represents the best value for money.
  - ☐ No preferential procurement system has to be applied in respect of acquisition with a Rand value of less than R30 000 (vat included) per case.
  - ☐ The relevant preference point formula as per the PPPFA must be used to calculate the points for price in respect of acquisition with a Rand value equal to, or above R30 000 (vat included).
  - ☐ The maximum score must be allocated to the responsive quote/bid with the lowest price. Any other acceptable quotations/bids, which are higher in price, must score fewer points on a pro rata basis, calculated on their prices in relation to the lowest responsive quotation/bid in accordance with a prescribed formula.
  - ☐ The contract shall be awarded to the bidder who scores the highest points unless objective criteria in addition to that pertaining to specific goals justify the award to another bidder.
- 1.1 The 80/20 preference points formula must be used to calculate the points for price in respect of acquisition with a Rand value equal to, or above R30 000 (Vat included) and up to a Rand value of R500 000 (vat included) with a maximum number points for price of 80.
- 1.2 The 90/10 preference points formula must be used to calculate the points for price in respect of acquisition with a Rand value above R500 000 (vat included) in terms of legislation with a maximum number points for price of 90.
- 1.3** A maximum of 20 or 10 points must be allocated for equity ownership according to the stipulations in the regulations. For contracts with a Rand value equal to or below a prescribed amount a maximum of 20 points may be allocated for specific goals provided that the lowest acceptable bid scores 80 points for price.
- 1.4 Any other acceptable quotations/bids, which are higher in price must score fewer points on a pro rata basis, calculated on their prices in relation to the lowest acceptable quotation/bid in accordance with a prescribed formula.

## Chapter 9: Preferential Procurement

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### 2 EQUITY OWNERSHIP

#### POLICY

- ☐ Equity ownership must be promoted through quotations/bids equal to or above R30 000 (vat included).

2.1 Equity ownership must be promoted in line with the stipulations of the PPPFA.

2.2 Where bidders bid in consortium, the equity ownership of each party to the bid must be taken into consideration commensurate with the percentage of the bid that will be executed by the party to the bid.

### 3 OBJECTIVES OF THE RDP

#### POLICY

- ☐ The PPPFA range of specific RDP goals may be pursued.
- ☐ Any specific goals for which points may be awarded shall be clearly specified in the invitation to submit a quotation/bid and shall be measurable, quantifiable and monitored for compliance.

3.1 The specific activities, which may be stipulated towards achieving specific goals as per section 17 of the Preferential Procurement Policy Regulations. Examples of such specific goals are as follows:

3.1.1 The promotion of South African owned enterprises.

3.1.2 The promotion of SMME's.

3.1.3 The promotion of enterprises located in a specific province for work to be done or services to be rendered in that province.

3.1.4 The promotion of enterprises located in a specific region for work to be done or services to be rendered in that region.

3.1.5 The promotion of enterprises located in a specific municipal area for work to be done or services to be rendered in that municipal area.

3.1.6 The promotion of enterprises located in rural areas.

3.1.7 The upliftment of communities through, but not limited to, housing, transport, schools, infrastructure donations and charity organisations.

## Chapter 9: Preferential Procurement

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### 4 APPLICATION OF THE PREFERENCES

#### POLICY

- ☐ Preference calculations or decisions made during evaluations shall be clear and documented.
- ☐ Including when appointing consultants (professional services contracts) the points allocation for price may be replaced with a combination of points for functionality and price, which should be clearly stipulated in the TOR.

- 4.1 A maximum number of 20 or 10 points depending on the contract value may be awarded to a bidder based on BEE level as per BEE certificate or sworn affidavit for being an HDI and/or subcontracting with an HDI and/or achieving any of the specified goals stipulated. The preference must be stipulated in the specification/TOR to be used as a final multiplier (a final weighting advantage) during the evaluation process.
- 4.2 Should the relevant functionary however be of the opinion that specific goals must be achieved through the execution of the contract, the number of points to be allocated for specific goals must reduce the points allocated for equity ownership; the details of which must be included in the specification/TOR. The specific goals must be measurable and quantifiable and must be monitored in the execution of the contract.



## Chapter 10: Demand Management

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### 1 SYSTEM OF DEMAND MANAGEMENT

#### POLICY

- ☐ The demand management system must ensure that the resources required supporting the strategic and operational commitments of the Department are delivered at the correct time, at the right price and at the right location, and that the quantity and quality satisfy the needs of the Department.
- ☐ Demand management shall be a cross functional team that brings the supply chain practitioner closer to the end user and ensure that value for money is achieved.
- ☐ The SCM Unit must compile a business plan for procurement for the next financial year.

- 1.1. The official responsible for the demand management function must coordinate the needs analysis and costing of each and every programme in the Department.
- 1.2. Under demand management, a need analysis to determine the total needs required to support the annual performance plan will be performed. Such a need analysis will include the following activities.
  - Understanding future needs;
  - Identifying critical delivery dates;
  - Frequency of needs;
  - Linking requirements to the budget;
  - Doing an expenditure analysis based on past expenditure;
  - Determining the specifications;
  - Doing a commodity analysis *i.e.* looking at alternatives; and
  - Doing an industry analysis.

## Chapter 10: Demand Management

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### 2 PLANNING FOR PUBLICATION

#### POLICY

- ☐ The Department shall ensure that proper planning takes place at the beginning of the year by establishing as far as possible the Government Tender Bulletin publishing dates for that year and the date of the first bulletin for the following year.
- 2.1 Past experience has shown the tendency to invite bids or place orders for goods or services near the end of the financial year in order to spend unused funds in their budgets. This practice places extreme pressure on both providers and SCM practitioners. It also, does not reflect prudent planning and in fact is an indication that unspent funds drive the needs.
- 2.2 No Special Government Tender Bulletins are published anymore. It is therefore imperative to ensure that it is known when Bulletins are published.

# Chapter 11: Acquisition Management: Range of procurement processes and thresholds excluding consultants

## 1 UTILISATION OF THE PROSPECTIVE PROVIDER LIST PER COMMODITY

### POLICY

- ☐ ~~On a frequent basis, the~~ The Department shall obtain ~~the recently updated list of~~ shall only obtain quotations from prospective service providers per commodity ~~for the purpose of obtaining quotations from the Provincial Treasury SCM office registered on the central supplier database. (The central supplier registration function is performed by Provincial database maintained by National Treasury SCM office for the entire Provincial administration) came into effect on 1 July 2016.~~
- ☐ The ~~prospective provider list~~ central supplier database shall be used ~~effectively to promote the participation of HDI's and SMME's to comply with National Instruction Note 4 A of 2016/17~~
- ☐ Quotes must be obtained from the service providers appearing on the ~~Provincial Treasury~~ central supplier database as the first point of departure. The department shall source quotes from service providers not listed ~~in the Treasury on the central supplier~~ database under certain circumstances e.g. when the services/goods cannot be provided by suppliers on the ~~Treasury central supplier~~ database.
- ☐ Should the department source quotations from service providers not registered on the central supplier database, the onus rests on the department to ensure that such suppliers are registered within 7 (seven) days.
- ☐ ~~Tax clearance shall be obtained for all purchases exceeding R 30 000 in instances where quotes have not been sourced from suppliers that are listed in the database.~~
- ☐ Rotation of suppliers when obtaining quotations is a pre-requisite.

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1.1 The following essential information should be reflecting on ~~the supplier database for each quotations by~~ prospective providers to enable the Department to establish a provider profile per commodity: procure goods and services from them:

1.1.1 Unique CSD number

1.1

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1.1.1.1.2 Name of the entity/individual.

1.1.1.1.3 Physical and postal address.

1.1.1.3 Entity type for example public company, private company, close corporation, partnership, sole trader.

1.1.1.4 Appropriate registration numbers.

## Chapter 11: Acquisition Management: Range of procurement processes and thresholds excluding consultants

1.1.5 Contact details, such as telephone number, facsimile numbers and e-mail if applicable.

1.1.6 Name(s) of director(s), member(s), partner(s) and owner(s)/principal(s) of the entity.

1.1.7 Annual turnover of the entity/individual.

1.1.8 Equity profile of the entity.

1.1.9 Black economic empowerment profile of the entity.

1.1.10 Original tax clearance certificate as proof of tax compliance and Registration Document

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## 2 SYSTEM OF ACQUISITION MANAGEMENT

### POLICY

- ☐ All possible methods (internal sources as well as external sources) of obtaining the requirements should be considered within the stipulated hierarchy.
- ☐ Goods and services must only be procured in accordance with authorised procurement processes.
- ☐ Procurement of goods and services, either through quotations or through a bidding process, must be within the threshold values as determined by National Treasury and Provincial SCM office.
- ☐ Expenditure on goods and services may only be incurred in terms of an approved budget and within the limits of the amounts appropriated for the different votes in an approved budget.

2.1 Acquisition Management is the process and management of procuring goods, services or works.

2.2 Following the system of acquisition management shall ensure avoidance of unauthorised, irregular, fruitless and wasteful expenditure.

## 3 HIERARCHY FOR SATISFYING REQUIREMENTS

### POLICY

- ☐ When a requirement becomes known, the noted hierarchy for satisfying requirements shall apply starting first with the processes of obtaining stock from internal resources and then only from external sources.

3.1 Obtaining goods, services and works do not mean that these requirements should only be procured from outside sources. As part of acquisition

## Chapter 11: Acquisition Management: Range of procurement processes and thresholds excluding consultants

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management, all possible methods of obtaining the requirements should be considered.

- 3.2 In order to determine the appropriate procurement process, it is necessary to first decide the monetary value of the project or acquisition and then to determine the monetary threshold in which the activity belongs. For period contracts, the total value of the contract for the entire period must be calculated to determine the monetary threshold in which the contract belongs.
- 3.3 In general when a requirement becomes known, the following hierarchy for satisfying requirements applies:

### 3.4 OBTAIN THE REQUIREMENTS FROM INTERNAL SOURCES

#### 3.4.1 Items in stock

- 3.4.1.1 Obtain from stock according to the prescribed process. An example of this may be stationery.

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#### 3.4.2 Procure the requirements from pre-established sources

- 3.4.2.1 There are a number of pre-established sources that may be considered.

- 3.4.2.2 Items or services available from other government institutions

☐ *Sourcing from the State Information Technology Agency*

#### POLICY

- Information technology requirements (goods and services) shall be sourced from or through the State Information Technology Agency (SITA) valid contract reflecting approved/preferred service providers in line with National Treasury practice number 5 of 2009/2010.
- The Office of the Premier shall deviate from sourcing IT related goods and services through SITA under certain circumstances that are justifiable e.g. value for money considerations. The department shall not deviate on mandatory services that are provided by SITA as documented in paragraph 3.2 National Treasury practice number 5 of 2009/2010.

- Service providers on the update SITA contract should be used as a first preference.

☐ *Items on departmental contract*

## Chapter 11: Acquisition Management: Range of procurement processes and thresholds excluding consultants

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- Investigate whether the requirements are available on an existing contract arranged for the Department and obtain from the contract accordingly.
- The non-utilisation of a contract could be regarded as breach of contract and will be regarded as breach of procedure. Also see the discussion on period contracts below.

### ☐ *Sourcing from other government institutions*

- Services that are the core function of a specific government institution shall be sourced from or through the auspices of such an institution. However, should the government institution not be able to assist the Department, the normal acquisitioning procedures will apply.

### ☐ *List of redundant, obsolete materials and supplies*

- Units are to keep a list of redundant, obsolete materials and supplies. Such redundant materials/supplies shall be disposed in accordance with processes as prescribed in Treasury Regulations.

### ☐ *Contracts arranged by other organs of state*

- The Accounting Officer may participate in any contract arranged by means of a competitive bidding process by any other organ of state, subject to the written approval of such organ of state and the relevant contractors.

## **3.5 DISPOSALS AND RENTALS**

3.5.1 Bids in these categories are handled in the same manner as other bids with the exception that since revenue is applicable; the objective is to receive the highest bidding price. However, preferential procurement objectives still apply in these instances.

3.5.2 The Department must endeavour to obtain market related prices when dealing with disposal of movable assets. Thus it is the Disposal Committee's responsibility to ensure that every disposal action has been investigated to achieve the best advantage for the State. The Departmental Disposal Committee will be appointed in writing by the Accounting Officer.

## **3.6 PROCURE THE REQUIREMENTS FROM EXTERNAL SOURCES & OTHER RELATED ISSUES**

3.6.1 The range of procurement processes from external sources is discussed in more detail in the following later paragraphs.

## **3.7 TERM CONTRACTS & OTHER RELATED ISSUES**

## Chapter 11: Acquisition Management: Range of procurement processes and thresholds excluding consultants

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### POLICY

- ☐ The Accounting Officer may opt to participate in transversal term contracts facilitated by the relevant treasury.
- ☐ Should the Accounting Officer opt to participate in a transversal term contract facilitated by the relevant treasury, the Accounting Officer may not solicit a bid for the same or similar product or service during the tenure of the transversal term contract.
- ☐ The department is making transfer payments to public entities and trusts (of which the Executing Authority is a Patron). From time to time such trusts or Public entities may be disestablished in terms of the appropriate legislation/determination. SCM framework, Provincial SCM policy as well as National Treasury SCM practice notes are silent on the appropriate treatment to be followed by an inheriting entity in instances where the transferring entity did not follow appropriate SCM processes on specific transactions. It is the policy of the department to ensure proper compliance is followed by the department on inheriting the affected transaction/s before any further payment is executed.

3.7.1 A term contract is a contract entered into for the supply of goods, the rendering of services or the disposal of movable assets over a specified period of time for the minimum period of one year.

3.7.1.1 Specific term contracts which are arranged for the specific repetitive requirements of only the Department.

3.7.1.2 Transversal term contracts are arranged for the repetitive common requirements of more than one provincial department or all national and/or provincial departments.

### 3.7.2 Utilising department-specific term contracts

3.7.2.1 The SCM Unit shall arrange and renew, if necessary, term contracts for requirements of a repetitive nature through the invitation of competitive bids.

3.7.2.2 Bids shall not be invited for items available on a term contract.

3.7.2.3 Small quantities may, however, be acquired outside the contract if:

- ☐ An emergency arises.
- ☐ The supplier's point of delivery is not situated at or near the required point of delivery.
- ☐ The required supplies are not readily available.

### 3.7.3 Utilising provincial transversal term contracts

3.7.3.1 The SCM Unit shall facilitate the arranging and monitoring of provincial transversal term contracts, provided that they are cost-effective.

## Chapter 11: Acquisition Management: Range of procurement processes and thresholds excluding consultants

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3.7.3.2 Small quantities may, however, be acquired outside the contract if:

- ☐ An emergency arises.
- ☐ The supplier's point of delivery is not situated at or near the required point of delivery.
- ☐ The required supplies are not readily available.

### 3.7.4 Utilising national transversal term contracts

3.7.4.1 The option to utilise a transversal term contract arranged by National Treasury and/or Provincial Treasury.

3.7.4.2 Should it be opted to participate in a transversal term contract and items included in such a contract are required, these items shall be purchased in terms of the contract.

3.7.4.3 Small quantities may, however, be acquired outside the contract if:

- ☐ An emergency arises.
- ☐ The supplier's point of delivery is not situated at or near the required point of delivery.
- ☐ The required supplies are not readily available.

## THRESHOLDS

### POLICY

The thresholds set are as follows:

- Petty cash transactions to the prescribed value in accordance with the Accounting Officer's delegated powers. The department must have its petty cash policy.
- One written quote up to R 2 000 (vat included)
- Three verbal quotations, of which at least one should be written, from R 2 001 up to R10 000 (vat included). Details of the other two verbal quotes must be documented as part of the supporting documentation for audit purposes/future references.
- Minimum three written quotations above R10 000 and up to R500 000.
- Bids above R500 000 (vat included)
  - ☐ Advertised bids.



## Chapter 11: Acquisition Management: Range of procurement processes and thresholds excluding consultants

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- ☐ Limited bidding.
- ☐ Other procurement arrangements and procedures.
- ☐ Promote the principles of being fair, equitable, transparent, competitive and cost-effective through the range of procurement processes.
- ☐ Subdivision of requirements to circumvent the Accounting Officer's delegated powers will not be tolerated.

### 2. RANGE OF PROCUREMENT PROCESSES UP TO R500 000 (VAT INCLUDED)

#### 2.1 PETTY CASH TRANSACTIONS

##### POLICY

- ☐ The Department shall ensure that petty cash procedures are in place.
- ☐ The petty cash policy must stipulate for which items and under which circumstances petty cash may not be utilised.
- ☐ The petty cash procedure may not be used for items available on contract.
- ☐ If the requirement falls within the petty cash monetary threshold for a transaction, the Department may satisfy the requirement according to the prescribed petty cash processes.
- ☐ An order form is not required for transactions that are within the petty cash threshold.
- ☐ Procurement from the central supplier database is not a requirement for transactions within the petty cash threshold.

- 1.1.1 In accordance with the departmental petty cash policy, the Department may procure supplies without inviting price quotations and bids. The intention of petty cash is to facilitate the smooth running of the office and where quotations cannot be practically obtained.
- 1.1.2 The advantages of petty cash payment are the turnaround times, the reduced administration, the elimination of orders, and the utilisation of cash discounts for immediate payments.
- 1.1.3 The following conditions apply to petty cash:
  - 1.1.3.1 The thresholds indicated in the petty cash procedures for the float as well as the transaction value shall be strictly adhered to.
  - 1.1.3.2 All transactions must be recorded and documentary evidence must be submitted.

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- 1.1.3.3 Subdivision of requirements to circumvent the required procurement processes will not be tolerated.
- 1.1.4 Should the value of a transaction exceed the prescribed transaction value, the petty cash procedure may not be used.
- 1.1.5 Cash purchases shall only be made against available funds.
- 1.1.6 Proof of payments will be a cash register slip or receipt, approve memorandum and invoice, unless the invoice has been endorsed with proof of payment.
- 1.2 The procedure followed for a petty cash transaction must be as prescribed in the financial delegations.

### 2.2 THREE VERBAL QUOTATIONS UP TO R10 000

#### POLICY

- ☐ Requirements may be procured without inviting competitive bids or written quotations.
- ☐ At least one written quote up to R 2 000 must be obtained
- ☐ From R2001 to R 10 000, 3 verbal quotations from ~~a list of~~ prospective providers registered on the central supplier database, of which at least one must be written.
- ☐ **Where no suitable providers are available from the list, quotations may be obtained from other possible providers not on the list, provided that the service providers register on the central supplier database within seven (7) days.**
- ☐ Place the order only against written confirmation from the selected provider.
- ☐ The rotation principle on service providers shall be applied.

- 2.2.1 At least 3 (three) verbal quotations must be obtained, where applicable, from ~~the list of~~ prospective providers per commodity registered on the central supplier database, on rotational basis.

- 2.2.2 Where no suitable providers are available from the list, other possible providers not on the list may be contacted to solicit quotations from.

- 2.2.2
  - 2.2.3 If it is not possible to obtain at least three quotations, ~~the reasons~~ deviation must be recorded and submitted to the Accounting Officer on his/her delegate for approval. ~~approved by the Unit Head or his/her delegate.~~

- 2.2.4 The order may only be placed against written confirmation from the selected provider.

- 2.2.5 The cost of obtaining quotations may not exceed the benefit gained through

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## Chapter 11: Acquisition Management: Range of procurement processes and thresholds excluding consultants

competition.

### 2.3 WRITTEN QUOTATIONS ABOVE R10 000 AND UP TO R30 000

**POLICY**

- ☐ Requirements may be procured by inviting written quotations from as many providers as possible (Minimum requirement is three quotes).
- ☐ **Where no suitable providers are available from the list, quotations may be obtained from other possible providers not on the list, provided that the service providers register on the central supplier database within seven (7) days.**
- ☐ The prescripts of the PPPFA need not be applied.
- ☐ If it is not possible to obtain at least three (3) quotations, the reasons should be recorded and approved by the Accounting Officer or ~~the his/her~~ delegate ~~(Unit Head).~~
- ☒ The rotation principle on service providers shall be applied.
- ☐ ~~The department shall appoint a Travel agent/s that are Northern Cape Based-based shall be rotated amongst the 22 units of the department in line with medium term strategic framework (MTSF)'s goal of supporting SMME's with an objective of local economic development. This practice is consistent with prior years and within the SCM framework.~~
- ☐ Due to the nature of the Department, it organises various big events during the financial year e.g. children's, disability, women, premiers award e.t.c. for the Provincial Government. Therefore, it sometimes becomes necessary to use principles of consortium in organising such events.
- ☐ **Payments for goods and services out of the Executing Authority's discretionary fund is R-2.5 million per annum and must be procured in terms of supply chain management processes. Cash donations is-are not within the ambit of this SCM policy as the substance of its workings is donations in nature. Therefore, workings donations out of the discretionary funds are guided by chapter 21 provisions of Treasury regulations.**

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- 2.3.1 Requests for quotations in this category must be accompanied by specifications and optional special conditions, or in the case of professional services, the TOR. Quotations must be requested in writing. Date and closing time of submission and address where it must be submitted must be indicated.
- 2.3.2 The SCM Unit may invite and accept quotations from as many providers as possible that are registered on the ~~list of prospective providers~~ central supplier database. If there are too many providers on the list, invite quotations from at least three (3) providers at a time and apply the rotation principle.
- 2.3.3 The request for quotations shall contain a detailed specification.
- 2.3.4 A request for quotations should be compiled by the SCM Unit and cleared with the end user before forwarded to the potential providers.

## **Chapter 11: Acquisition Management: Range of procurement processes and thresholds excluding consultants**

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- 2.3.5 The cost of obtaining quotations may not exceed the benefit gained through competition.

## Chapter 11: Acquisition Management: Range of procurement processes and thresholds excluding consultants

### 2.4 QUOTATIONS ABOVE R30 000 (INCL.VAT) UP TO R500 000 (INCL.VAT)

#### POLICY

- ☐ Requirements may be procured by obtaining written quotations from as many providers as possible (Minimum 3 quotes)
- ☐ Where no suitable providers are available from the list, quotations may be obtained from other possible providers not on the list, provided that the service providers register on the central supplier database within seven (7) days.
- ☐ If it is not possible to obtain at least three (3) quotations, the reasons should be recorded and approved by the Accounting Officer or ~~the~~ his/her delegate.
- ☐ The rotation principle on service providers shall be applied.
- ☐ Due to the nature of the Department, it organises various big events during the financial year e.g. children's, disability, women, premiers award e.t.c. for the Provincial Government. Therefore, it sometimes becomes necessary to use principles of consortium in organising such events.
- ☐ Payments for goods and services out of the Executing Authority's discretionary fund must be procured in terms of supply chain management processes. Cash donations are not within the ambit of this SCM policy as the substance is donations in nature. Therefore, donations out of the discretionary funds are guided by chapter 21 provisions of Treasury regulations.
- ☐ The department shall appoint a travel agent/s that are Northern Cape based. Payments out of the Executing Authority's discretionary fund is R 2.5 million per annum and is not within the ambit of this SCM policy as the substance of its workings is donations in nature. Therefore, workings of the discretionary funds are guided by chapter 21 provisions of Treasury regulations.
- ☐ Travel agents that are Northern Cape Based shall be rotated amongst the 22 units of the department in line with medium term strategic framework (MTSF)'s goal of supporting SMME's with an objective of local economic development. This practice is consistent with prior years and within the SCM framework.

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- 2.4.1 Requests for quotations in this category must be accompanied by specifications and if necessary by special conditions, or in the case of professional services, the TOR. Quotations must be requested in writing. Date and closing time of submission and address where it must be submitted must be indicated.
- 2.4.2 The SCM Unit may invite and accept quotations from as many providers as possible that are registered on the ~~list of prospective providers~~ central supplier database. If there are too many providers on the list, invite quotations from at least three (3) providers at a time and apply the rotation principle.
- 2.4.3 The request for quotations shall contain a detailed specification.

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- 2.4.4 A request for quotations must be compiled by the End User and forwarded to the SCMU for implementation.
- 2.4.5 The cost of obtaining quotations may not exceed the benefit gained through competition.

## Chapter 11: Acquisition Management: Range of procurement processes and thresholds excluding consultants

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### 3. RANGE OF PROCUREMENT PROCESSES ABOVE R500 000 (INCL.VAT)

#### POLICY

- ☐ The Department shall invite competitive bids.
- ☐ Bids shall be advertised in at least the Government Tender Bulletin and/or in the DFA, Volksblad as well as in any other appropriate media should the Accounting Officer deem it necessary.
- ☐ If, in a specific case, it is impracticable to invite competitive bids, the Accounting Officer may procure the required goods, services or works by other means such as price quotations or negotiations, provided that the reasons for deviating from inviting competitive bids must be recorded and approved by the Accounting Officer or ~~the~~ his/her delegate. **Furthermore, the department shall adhere to provisions of National Treasury Practice note no 5 of 2009/2010 especially paragraph 4.**
- ☐ The prescripts of the PPPFA shall be adhered to.
- ☐ The prescripts of the central supplier database as per National Instruction Note 4A of 2016/17 shall be adhered to.

3.1 Range of procurement processes are divided mainly in the following two major categories:

3.1.1 Competitive bidding

3.1.2 Limited bidding.

### 4. COMPETITIVE BIDDING

#### POLICY

- ☐ As a rule competitive (open) bidding is to be used as far as possible.

4.1 Competitive bidding is where open competition exists and the requirement is advertised for all prospective bidders to participate.

#### 4.2 ADVERTISED BIDS

1.2.1. The Bid Specification Committee advises on the compilation of a comprehensive specification for the required goods, or terms of reference (TOR) in the case of professional services. It should be confirmed that budget is available. The specification is then forwarded to the Accounting Officer for approval or to the Adjudication Committee if delegated in writing by the Accounting Officer.

1.2.2 The SCM Unit shall compile a complete bid document.

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3.2.3 The SCM Unit must administer the whole procurement process including advertising in the relevant media and/or Tender Bulletin.

4.3 Competitive bidding also includes two-stage bidding, pre-qualifying bidders and the establishment of a list of approved service providers.

### 4.4 TWO-STAGE BIDDING

Normally the invitation to bid for major contracts is preceded by a detailed design and engineering of the goods, services and works to be provided, including the preparation of technical specifications and other bidding documents. However, in the case of turnkey contracts or contracts for large complex plants or works of a special nature, it may be undesirable or impractical to prepare complete technical specifications in advance. In such a case, a two-stage bidding procedure may be used, under which first unpriced technical proposals on the basis of a conceptual design or performance specifications are invited, subject to technical as well as commercial clarifications and adjustments, to be followed by amended bidding documents and the submission of final technical proposals and priced bids in the second stage. These procedures are also appropriate in the procurement of equipment, which is subject to rapid technological advances, such as major computer and communications systems.

Subject to approval by the Accounting Officer, the Department may engage in procurement by means of two-stage bidding, or request for proposals, in the following circumstances:

- ☐ If it is not feasible for the procuring entity to formulate detailed specifications for the goods or construction or, in the case of services, to identify their characteristics and, in order to obtain the most satisfactory solution to its procurement needs;
- ☐ If it seeks bids, proposals or offers as to various possible means of meeting its needs; or
- ☐ When the procuring entity seeks to enter into a contract for the purpose of research, experiment, study or development, except where the contract includes the production of goods in quantities sufficient to establish their commercial viability or to recover research and development costs.
- ☐ The prescripts of the PPPFA and its Regulations must always be adhered to. The Regulations do allow that the points prescribed for price to be split into points for price and functionality. The method of evaluation, including the allocation of points, must be clearly specified in the bidding documents.



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### 5. LIMITED BIDDING

#### POLICY

- ☐ Limited bidding is only to be used if justification exists and the necessary approval has been obtained within the delegated powers (from Accounting Officer or delegate.)
- ☐ It must be used responsibly and as such will only be allowed in this Department in exceptional circumstances such as following:
  - Where the Department went out on the competitive (open) bidding process, but the bids received were all non-responsive, thus the time required to go out on the same process has elapsed.
  - Where the Department can buy under exceptionally advantageous conditions that only arise in the very short term.
  - In the event that a change of provider would compel the Department to obtain spare parts or additional equipment or services that are not compatible or interchangeable with existing equipment or services that were obtained from an original provider.
  - The goods, services or works to be bought have to be designed by the provider.
  - When goods, services or works can only be supplied or rendered by a particular provider and no reasonable alternative or substitute exists.
  - There are legislative, technological or safety reasons to restrict purchases to providers who have proven their capability.
  - In cases of urgency.
  - In cases of emergency.

- 5.1 Limited bidding is where the competition is limited in one way or another. Limited bidding is reserved for a specific group or category of possible providers.
- 5.2 Three categories of limited bidding can be distinguished:
  - 4.2.1 Multiple source: There is limited competition, hence only a few prospective bidders are allowed to make a proposal. This should be based on a thorough analysis of the market. Reasons for the decision must be documented and readily available.
  - 4.2.2 Single source: This form of bidding uses a transparent and equitable pre-selection process, to request only one amongst a few prospective bidders to make a proposal. This should be based on a thorough analysis of the market. Reasons for the decision must be documented and readily available.
  - 1.2.3 Sole source: There is no competition and only one bidder exists. Documentation substantiating the sole source, as proof must be submitted along with reasons for the decision that should be readily available.

## Chapter 11: Acquisition Management: Range of procurement processes and thresholds excluding consultants

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### 6. OTHER PROCUREMENT ARRANGEMENTS

#### 6.1 DIRECT NEGOTIATION

##### **POLICY**

- ☐ Direct negotiations shall only be permitted after approval by the Accounting Officer and shall be conducted in such a manner that none of the stakeholders is advantaged or prejudiced. Thus care should be taken to ensure that such a process does not allow the bidder concerned a second (unfair) opportunity and is not to the detriment of any other bidder.
- ☐ Direct negotiations may only take place under the following circumstances:
  - In cases of urgency due to unforeseen circumstances where lack of planning or negligence did not play a role and where following the standard competitive bidding process or the process prescribed for urgency would not be in the Department's best interest.
  - Owing to a catastrophic event, there is an urgent need for the goods, works or services (an emergency), making it impractical to use other methods of procurement because of the time involved in using those methods.
  - In cases where preferred bidders were identified through a competitive bidding system.
    - In the case of competitive negotiation because of the technical character of the goods or construction, or because of the nature of the services, it is necessary for the procuring entity to negotiate with suppliers or service providers.
- ☐ Negotiation is led by the official that can contractually commit the Department in this regard and must be supported by the user division and the SCM Unit.

- 5.1.1. The user division must supply the SCM Unit with a comprehensive specification or terms of reference for the requirement.
- 5.1.2. The SCM Unit in consultation with the user division must determine the negotiation strategy and properly prepare for the negotiation.
- 5.1.3. The SCM Unit shall compile a formal and complete bid document and administer the whole bidding and negotiation process.

## Chapter 11: Acquisition Management: Range of procurement processes and thresholds excluding consultants

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### 5.2. URGENT PROCUREMENT & SOLE PROVIDER PROCUREMENT

#### POLICY

- ☐ Irrespective of monetary value an urgent procurement process will only apply where early delivery is of critical importance and the utilisation of the standard procurement process is either impossible, or impractical.
- ☐ In urgent cases the Department may dispense with the invitation of bids and may obtain the requirement by means of quotations by preferably making use of the list of prospective providers per commodity or otherwise in any manner to the best interest of the State.
- ☐ The appropriate course of action for urgency shall be justifiable under the circumstances.
- ☐ The nature of the urgency and the details of the justifiable procurement process followed will be recorded and reported.
- ☐ Furthermore, the department shall engage the affected supplier directly in cases where the vendor is a sole provider.
- ☐ When there is a deviation to the competitive bidding process, reasons for deviation must be recorded and be approved by the Accounting Officer.
- ☐ Furthermore, the Office of the Auditor-General and Provincial Treasury must be informed in writing of the deviation if it exceeds R 1 million (including vat) to comply with National Treasury practice note no.8 of 2007/2008.

### 5.3. EMERGENCY PROCUREMENT

#### POLICY

- ☐ Irrespective of monetary value, an emergency procurement process will only apply in serious, unexpected and potentially dangerous circumstances which require immediate rectification:
  - In the event of a threat or interruption in the Department's ability to execute its mandate.
  - In the event of an immediate threat to the environment or human safety.
- ☐ The standard procurement processes will be bypassed. The Department may dispense with the invitation of bids and may obtain the requirement by means of quotations by preferably making use of the list of prospective providers or otherwise in any manner to the best interest of the State.
- ☐ The appropriate course of action for emergency shall be justifiable under the circumstances.
- ☐ The nature of the emergency and the details of the justifiable procurement process followed will be recorded and reported.

## Chapter 12: Acquisition Management: Appointment of Consultants

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### POLICY

- ☐ In general the normal policy and procedures apply to the appointment of consultants.
- ☐ The Accounting Officer must, in terms of the PFMA regulations, comply with the National Treasury's instructions issued in respect of the appointment of consultants.

## 1 INTRODUCTION

- 1.1 The purpose of this section is to explain the procedures for selecting, contracting, and monitoring consultants required for projects. In general, the procedures described in the previous chapters apply. 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. These 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.
- 1.2 It must be clearly pointed out 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, should be done in terms of the practice note issued by the National Treasury specifically for that purpose.
- 1.3 The term *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 organizations (NGOs) and individuals.
- 1.4 The Accounting Officer may use these organisations as *consultants* to assist in a wide range of activities such as policy advice, reform management, engineering services, construction supervision, financial services, procurement services, social and environmental studies and identification, preparation and implementation of projects to complement Accounting Officer's capabilities in these areas.
- 1.5 Consultants should only be engaged when the necessary skills and/or resources to perform a project/duty/study are not available and the Accounting Officer cannot be reasonably expected either to train or to recruit people in the time available.
- 1.6 The relationship between the Accounting Officer and the consultant should be one of purchaser/provider and not employer/employee. The work undertaken by a consultant should be regulated by a contract. The Accounting Officer is, however, responsible for monitoring and evaluating contractor performance and outputs against project specifications and targets and should take remedial

## Chapter 12: Acquisition Management: Appointment of Consultants

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action if performance is below standard.

### **2 PRIMARY REASONS FOR THE APPOINTMENT OF CONSULTANTS**

- 2.1 Consultants are engaged principally for the following reasons:
  - 2.1.1 To provide specialised services for limited periods without any obligation of permanent employment;
  - 2.1.2 To benefit from superior knowledge, transfer of skills and upgrading of a knowledge base while executing an assignment;
  - 2.1.3 To provide independent advice on the most suitable approaches, methodologies and solutions of projects.

### **3 MINIMUM REQUIREMENTS WHEN APPOINTING CONSULTANTS**

- 3.1 When appointing consultants, it is necessary to strive to satisfy the following minimum requirements:
  - 3.1.1 Meeting the highest standards of quality and efficiency
  - 3.1.2 Obtaining advice that is unbiased, that is, being delivered by a consultant acting independently from any affiliation, economic or otherwise, which may cause conflicts between the consultant's interests and those of government; and
  - 3.1.3 Ensuring the advice proposed, or assignment executed, meets the ethical principles of the consultancy professions.

### **4 APPLICABILITY OF PROCEDURES**

- 4.1 The procedures outlined herein apply to all contracts for consulting services. In procuring consulting services, the Accounting Officer should satisfy himself/herself that:
  - 4.1.1 The procedures to be used will result in the selection of consultants who have the necessary professional qualifications;
  - 4.1.2 The selected consultant will carry out the assignment in accordance with the agreed schedule, and
  - 4.1.3 The scope of the services is consistent with the needs of the project.

## **Chapter 12: Acquisition Management: Appointment of Consultants**

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### **5 APPOINTMENT IN TERMS OF THE PUBLIC SERVICE ACT, 1994 (ACT NO 103 OF 1994)**

- 5.1 Accounting Officer sometimes consider appointing persons as consultants whilst it would be more appropriate to appoint the relevant individuals on contract in terms of the Public Service Act, 1994 (PSA).
- 5.2 If the Accounting Officer wishes to appoint a person for a limited period to perform duties to a post on the fixed establishment, the person should as a general rule be appointed on contract in terms of section 8(c)(ii) of the PSA.

### **6 GENERAL APPROACH**

- 6.1 The Accounting Officer should be responsible for preparing and implementing the project, for selecting the consultant, awarding and subsequently administering the contract. While the specific rules and procedures to be followed for selecting consultants depend on the circumstances of the particular case, at least the following four major considerations should guide the Accounting Officer policy on the selection process:
  - 6.1.1 The need for high-quality services;
  - 6.1.2 The need for economy and efficiency;
  - 6.1.3 The need to give qualified consultants an opportunity to compete in providing the services; and
  - 6.1.4 The importance of transparency in the selection process.
- 6.2 In the majority of cases, these considerations can best be addressed through competition among firms in which the selection is based both on the quality of the services to be rendered and on the cost of the services to be provided (Quality- and Cost-Based Selection [QCBS]) as described below. However, there are cases when QCBS is not the most appropriate method of selection. For complex or highly specialized assignments or those that invite innovations, selection based on the quality of the proposal alone (Quality-Based Selection [QBS]), would be more appropriate.
- 6.3 The method of selection is determined by the scope of the assignment, the quality of the service, the complexity of the assignment and whether assignments are of a standard or routine nature. Other methods of selection and the circumstances in which they are appropriate are outlined below.
- 6.4 When appropriate, the Accounting Officer may include under the special conditions of contract, the following or similar condition:
  - 6.4.1 "A service provider may not recruit or shall not attempt to recruit an employee of the principal for purposes of preparation of the bid or for the duration of the execution of this contract or any part thereof".

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### **7 CONFLICT OF INTEREST**

- 7.1 Consultants are required to provide professional, objective and impartial advice and at all times hold the client's interests paramount, without any consideration for future work and strictly avoid conflicts with other assignments or their own corporate interests. 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 interest of the State. Without limitation on the generality of this rule, consultants should not be hired under the following circumstances:
- 7.1.1 A firm, which has been engaged by the Accounting Officer to provide goods or works for a project and any of its affiliates, should be disqualified from providing consulting services for the same project.
- 7.1.2 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 assessment for the same project, and consultants assisting a client in the privatisation of public assets should not purchase, nor advise purchasers of such assets.

### **8 ASSOCIATIONS BETWEEN CONSULTANTS**

- 8.1 Consultants may associate with each other to complement their respective areas of expertise, or for other reasons. 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. In 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 Requests for Proposals (RFPs) 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 Accounting Officer or his/her delegate. Accounting Officer should not compel consultants to form associations with any specific firm or group of firms, but may encourage associations with the aim to enhance transfer of skills.

### **9 TRAINING OR TRANSFER OF KNOWLEDGE AND SKILLS**

- 9.1 If the assignment includes an important component for training or transfer of knowledge and skills, the TOR should indicate the objectives, nature, scope and goals of the training programme, including details of trainers and trainees, skills to be transferred, time frames 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.

### **10 STEPS TO FOLLOW WHEN SELECTING CONSULTANTS**

- 10.1 The four stages of selection

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10.1.1 There are essentially four distinct stages in the recommended selection process:

10.1.1.1 Identify the approach;

10.1.1.2 Invite bids/proposals;

10.1.1.3 Receive responses; and

10.1.1.4 Evaluate responses.

10.1.2 Other aspects of appointment (such as advertising, opening of proposals) are no different from those set out in the rest of this System Manual.

10.1.3 Each of the four stages above is described in the sections below.

### 11 IDENTIFY THE APPROACH

11.1 Various approaches may be followed in selecting consultants. As stated earlier, in most instances, 'Quality and cost based selection' (QCBS) is recommended. However, other possibilities are:

11.1.1 Quality based selection;

11.1.2 Selection under a fixed budget;

11.1.3 Least cost selection; and

11.1.4 Single source selection.

### 12 APPROACHES

12.1 In determining the most appropriate approach, it may be useful to ask: What sort of Consultancy do I require? Is it for:

An assignment that is not complex or specialised	Use 'Quality and Cost Based Selection' (QCBS)
A complex or highly specialized assignment, for which consultants are expected to demonstrate innovation in their proposals (for example, financial sector reforms)	Use 'Quality-Based Selection' (QBS)
An assignment that has a high downstream impact and requires the best available experts (for example, management studies of large government agencies)	Use QBS
An assignment that could be carried out in substantially different ways, hence proposals will not be comparable (for example, sector and policy studies in which the value of the services depends on the quality of the analysis)	Use QBS
A simple assignment, which is precisely defined and the budget fixed	Use 'Selection under a fixed budget', but evaluate



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	technical proposals first as in QCBS
A standard or routine assignment (e.g. an audit, engineering design of noncomplex works)	Use 'Least-cost selection'. Potential suppliers may be obtained from the list of approved service providers.
A very small assignment which does not justify the preparation and evaluation of competitive proposals	Selection based on Consultants' qualifications. Potential suppliers may be obtained from the list of approved service providers.
A task that represents a natural continuation of previous work carried out by the firm	Use 'Single-source selection
An emergency operation	You may use 'Single source selection.'
An assignment where only one firm is qualified or has experience of exceptional worth for the assignment	Use 'Single-source selection'
Any other situation	Use 'Quality and cost based selection', either by requesting a "BID" or a "PROPOSAL"

### 13 INVITE BIDS/PROPOSALS, USING QCBS

#### 13.1 REQUEST FOR BIDS

- 13.1.1 The following steps would generally be followed in appointing consultants where a clear TOR, including a detailed task directive has been compiled and the objectives, goals and scope of the assignment are clearly defined.

Preparation of the terms of reference (TOR)	<p>The Accounting Officer should prepare the TOR. The scope of the services described should be compatible with the available budget. The TOR should define clearly 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.</p> <p>Time frames linked to various tasks should be specified, as well as the frequency of monitoring actions. The respective responsibilities of the Accounting Officer and the consultant should be clearly defined.</p> <p>The evaluation criteria, their respective weights, the</p>
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	<p>minimum qualifying score for functionality and the values that will be applied for evaluation should be clearly indicated. The evaluation criteria should include at least the following:</p> <p>Consultant's experience relevant to assignment; The quality of the methodology; The qualifications of key personnel; and The transfer of knowledge (where applicable).</p> <p>In more complicated projects, provision may also be made for pre-bid briefing sessions or presentations by bidders as part of the evaluation process.</p> <p>A clear indication should be given of which preference point system in terms of the PPPFA and its associated Regulations will be applicable as well as the goals to be achieved and the points allocated for these goals.</p> <p>Detailed information on the evaluation process should be provided by firstly indicating the ratio of percentage between functionality and price. The percentage for price should be determined taking into account the complexity of the assignment and the relative importance of functionality. The percentage for price should normally be determined and approved by the Accounting Officer or his/her delegate prior to finalizing the TOR.</p> <p>If transfer of knowledge or training is an objective, it should be specifically outlined along with details of number of staff to be trained, etc., to enable consultants to estimate the required resources. The TOR should list the services and surveys necessary to carry out the assignment and the expected outputs (for example reports, data, maps, surveys, etc), where applicable.</p> <p>Evaluation criteria could be divided into sub-criteria.</p> <p>Preparation of a well-thought-through cost estimate is essential if realistic budgetary resources are to be earmarked. The cost estimate should be based on the Accounting Officer assessment of the resources needed to carry out the assignment such as staff time, logistical support and physical inputs (i.e. vehicles, laboratory equipment, etc). The cost of staff time should be estimated on a realistic basis for foreign and local personnel.</p> <p>The TOR should specify the validity period (normally</p>
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	<p>60 – 90 days).</p> <p>The TOR should form part of the standard bid documentation. At this stage the evaluation panel, consisting of at least three members who are demographically representative in terms of race, gender and expertise, should also be selected and finalized.</p>
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### 13.2 DRAFTING OF THE TERMS OF REFERENCE

13.2.1 A consultant shall execute his/her tasks according to the TOR.

13.2.2 The TOR shall clearly define the task directive (methodology), objectives, goals and scope of the assignment and provide background information to facilitate the consultants' preparation of their bids. It shall include at least the following:

13.2.2.1 Timeframes linked to various tasks.

13.2.2.2 Nature and frequency of monitoring actions.

13.2.2.3 Respective responsibilities of the Accounting Officer and consultant.

13.2.2.4 Evaluation criteria, their respective weights, minimum qualifying score for functionality, among others:

- ☐ Consultant's experience.
- ☐ Quality of the methodology.
- ☐ Qualification of key personnel.
- ☐ Transfer of knowledge (where applicable).
- ☐ Pre-bid briefing sessions or presentations by bidders, if necessary.
- ☐ The relevant PPPFA preference point system to be used.
- ☐ PPPFA goals to be attained through the contract as well as points allocated for these goals.
- ☐ The ration between price and functionality.
- ☐ Consultants may be requested to submit their prices and proposals in two separate envelopes (two-envelope system).

### 13.3 REQUEST FOR PROPOSALS

13.3.1 This method should be followed where selection is based both on the quality of a proposal and on the cost of the service through competition among firms. This method will be applicable on more complex projects where consultants are

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requested and encouraged to propose their own methodology and to comment on the TOR in their proposals.

13.3.2 Where clear TOR and scope of the project do not exist, but where the objectives and goals of the assignment are clearly defined, a request for proposals (RFP) is published.

13.3.3 The following documents shall be included in the RFP:

Preparation and issuance of 'Request for Proposals' (RFP)	Whenever possible, the Accounting Officer should include at least the following documents in the RFP: Letter of Invitation; Information to Consultants; The TOR; and The proposed contract.
Letter of invitation (LOI)	The LOI should State the intention to enter into a contract for the provision of consulting services, the details of the client and the date, time and address for submission of proposals.
Information to Consultants (ITC)	The ITC should contain all necessary information that would assist consultants to prepare responsive proposals. It should be transparent and provide information on the evaluation process by indicating the evaluation criteria and factors and their respective weights and the minimum qualifying score for functionality. A clear indication should be given of which preference points system will be applicable in terms of the PPPFA and its Regulations, as well as the goals to be targeted and the points allocated for each goal. The budget is not specified (since cost is a selection criterion), but should indicate the expected input of key professionals (staff time). Consultants, however, should be free to prepare their own estimates of staff time necessary to carry out the assignment. The ITC should specify the proposal validity period (normally 60–90 days). A detailed list of the information that should be included in the ITC is given in paragraph below.
Terms of Reference	The TOR should be compiled by a specialist in the area of the assignment and the scope of services described should be compatible with the available budget. The TOR should define as clearly as possible the objectives, goals and scope of the assignment including background information to facilitate the consultant in the preparation of its proposal. The TOR should be compiled in such a manner that consultants are able to propose their own methodology and staffing and be encouraged to comment on the TOR in their proposals.  Depending on the circumstances, it may be indicated

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	<p>that proposals should be submitted in two separate clearly marked envelopes, one containing the technical proposal and the other the cost for the assignment.</p> <p>In cases where pre-qualification/short listing is required, the TOR should indicate the basis of pre-qualification/short listing, for instance the number of minimum points to be scored to pre-qualify.</p>
Contract	<p>Accounting Officer should use the appropriate Standard Form of Contract issued by the National Treasury. Any changes necessary to address specific project issues should be introduced through Contract Data Sheets or through Special Conditions of Contract and not by introducing changes in the wording of the General Conditions of Contract included in the Standard Form. When these forms are not appropriate (for example, for pre-shipment inspection, training of students in universities), Accounting Officer should use other acceptable contract forms.</p>

### 13.4 RECEIPT OF PROPOSALS

- 13.4.1 The Accounting Officer should allow enough time for consultants to prepare their proposals. The time allowed should depend on the assignment, but normally should not be less than four weeks or more than three months (for example, for assignments requiring establishment of a sophisticated methodology, preparation of a multidisciplinary master plan). During this interval, the firms may request clarification about the information provided in the RFP. The Accounting Officer should provide clarification in writing and copy them to all firms who intend to submit proposals. If necessary, the Accounting Officer should extend the deadline for submission of proposals. The technical and financial proposals should be submitted at the same time. No amendments to the technical or financial proposal should be accepted after the deadline. To safeguard the integrity of the process, the technical and financial proposals should be submitted in separate sealed envelopes. The technical envelopes should be opened immediately after the closing time for submission of proposals. The financial proposals should remain sealed until they are opened publicly. Any proposal received after the closing time for submission of proposals should be returned unopened.

### 13.5 EVALUATION OF BIDS/PROPOSALS

- 13.5.1 Within the ambit of the Preferential Procurement Regulations, 2001, bids/proposals for the appointment of consultants should be evaluated on the basis of functionality and price as well as the achievement of specified RDP goals. The evaluation should be carried out in two phases – first the functionality and then the price. The combined percentages allocated for functionality and price should total to 100%. The ratio to be used for the division between functionality and price should be determined and approved by the Accounting Officer and should be made known up-front in the bid documents. Score sheets should be prepared

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and provided to panel members to evaluate the bids on functionality. In view of impartiality, members of bid committees should not also act as panel members.

- 13.5.2 The score sheet should contain all the criteria and the weight for each criterion as indicated in the TOR as well as the values to be applied for evaluation. Each panel member should after thorough evaluation award his/her own value to every criterion without discussing any aspect of any bid with any of the other members. Under no circumstances may additional evaluation criteria be added to those originally indicated in the bid documentation nor may the evaluation criteria be amended or omitted after closing of the bid. Score sheets should be signed by panel members and if required, written motivation could be requested from panel members in the event of vast discrepancies in the values awarded for each criterion.

### 13.6 CALCULATION OF PERCENTAGE FOR FUNCTIONALITY

- 13.6.1 The percentage scored for functionality should be calculated as follows:

- 13.6.1.1 Each panel member should award values for each individual criterion on a score sheet. The value scored for each criterion should be multiplied with the specified weighting for the relevant criterion to obtain the marks scored for the various criteria. These marks should be added to obtain the total score. The following formula should then be used to convert the total score to a percentage for functionality:

$$Ps = \frac{So}{Ms} \times Ap$$

where

Ps = percentage scored for functionality by bid/proposal under consideration

So = total score of bid/proposal under consideration

Ms = maximum possible score

Ap = percentage allocated for functionality

- 13.6.1.2 The percentages of each panel member should be added together and divided by the number of panel members to establish the average percentage obtained by each individual bidder for functionality.
- 13.6.1.3 After calculation of the percentage for functionality, the prices of all bids that obtained the minimum score for functionality should be taken into consideration.
- 13.6.1.4 Bids/proposals that do not score a certain specified minimum percentage for functionality should be disqualified and not be considered further.

### 13.7 CALCULATION OF PERCENTAGE FOR PRICE

- 13.7.1 The percentage scored for price should be calculated as follows:

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- 13.7.1.1 The lowest acceptable bid/proposal will obtain the maximum percentage allocated for price. The other bids/proposals with higher prices will proportionately obtain lower percentages based on the following formula:

$$P_s = \frac{P_{\min}}{P_t} \times A_p$$

where

$P_s$  = percentage scored for price by bid/proposal under consideration

$P_{\min}$  = lowest acceptable bid/proposal

$P_t$  = price of bid/proposal under consideration

$A_p$  = percentage allocated for price

- 13.7.2 The “*Guide on Hourly Fee Rates for Consultants*” issued by the Department of Public Service and Administration, accessible from the website [www.dpsa.gov.za](http://www.dpsa.gov.za) (click on “Service Delivery Improvement” and then click on “Consultant Frameworks”) should be used as a benchmark to evaluate the offered tariffs or to determine the reasonableness thereof.

### 13.8 CALCULATION OF POINTS FOR FUNCTIONALITY AND PRICE

- 13.8.1 The percentages obtained for functionality should be added to the percentage obtained for price to obtain a percentage out of 100, which in turn should be converted to points out of 80 or 90 in terms of Regulation 8 of the Preferential Procurement Regulations.

- 13.8.2 The points scored out of 80 or 90 should be calculated according to the following formula

- 13.8.2.1 The 80/20 preference point system

$$P_s = 80 \left( 1 - \frac{H_s - R_s}{R_s} \right)$$

- 13.8.2.2 The 90/10 preference point system

$$P_s = 90 \left( 1 - \frac{H_s - R_s}{R_s} \right)$$

where

$P_s$  = points scored for functionality and price of the bid/proposal under consideration

$H_s$  = highest percentage scored by any acceptable bidder for functionality and price

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Rs = percentage scored for functionality and price by bid/proposal under consideration

- 13.8.3 Points scored for specified goals as contemplated by the PPPFA and its Regulations are then calculated separately and added to the points scored for price and functionality in order to obtain a final point. The contract should be awarded to the bidder scoring the highest points.
- 13.8.4 Information relating to evaluation of bids and recommendations concerning awards should not be disclosed to the consultants who submitted bids or to other persons not officially concerned with the process until the successful consultant is notified.

Evaluation of technical proposals (Functionality)	<p>The evaluation of the proposals should be carried out in two stages: first the functionality (quality) and then the price.</p> <p>The evaluation should be carried out in full conformity with the provisions of the RFP.</p> <p>When the two-envelope system is used:</p> <p>Evaluators of technical proposals should not have access to the financial proposals until the technical evaluation is concluded. Financial proposals should be opened only after the technical evaluation and only in respect of those proposals that achieved the minimum qualifying score for functionality. In respect of functionality, the Accounting Officer should evaluate each technical proposal (using an evaluation panel of three or more specialists in that field of expertise) in terms of the specified evaluation criteria that may include the following:</p> <ul style="list-style-type: none"> <li>The consultant's relevant experience for the assignment;</li> <li>The quality of the methodology proposed;</li> <li>(iii) The qualifications of the key staff proposed; and</li> <li>Transfer of knowledge.</li> </ul> <p>The Accounting Officer should normally divide these criteria into sub-criteria; for example, the sub-criteria under methodology might be innovation and level of detail.</p> <p>More weight should be given to the methodology in the case of more complex assignments for example multidisciplinary feasibility or management studies.</p> <p>Evaluation of only "key" personnel is recommended as they ultimately determine the quality of performance.</p>
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	<p>More weight should be assigned to this criterion if the proposed assignment is complex. The Accounting Officer should review the qualifications and experience of proposed key personnel in their curricula vitae which should be accurate, complete and signed by an authorised official of the consultant and the individual proposed. When the assignment depends critically on the performance of key staff, such as a Project Manager in a large team of specified individuals, it may be desirable to conduct interviews. The individuals can be rated, among others, in the following sub-criteria as relevant to the assignment:</p> <p>General qualifications: general education and training, length of experience, positions held, time with the consulting firm staff, and experience in developing countries;</p> <p>Adequacy for the assignment: education, training and experience in that specific sector, field or subject relevant to the particular assignment; and</p> <p>Experience in the region: knowledge of the local language, culture, administrative system, government organization, etc.</p> <p>Accounting Officer should evaluate each proposal on the basis of its response to the TOR. A proposal should be rejected at this stage if it does not respond to important aspects of the TOR or it fails to achieve the minimum qualifying score for functionality as specified in the RFP.</p> <p>At the end of the process, the Accounting Officer should prepare an evaluation report on the quality of the proposals. The report should substantiate the results of the evaluation and describe the relative strengths and weaknesses of the proposals. All records relating to the evaluation such as individual score sheets should be retained until completion of the project and its audit.</p>
Evaluation of financial proposal	<p>For the purpose of evaluation, the price shall include all local taxes and other reimbursable expenses such as travel, translation, report printing or secretarial expenses. The proposal with the lowest price will obtain the maximum percentage for price as prescribed in the RFP. Proposals with higher prices will proportionately obtain lower percentages according to the method as prescribed in the RFP.</p>
Negotiations and award of contract	<p>The Accounting Officer may negotiate the contract only with the preferred bidder identified by means of the competitive bidding process.</p>

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	<p>Negotiations should include discussions of the TOR, the methodology, staffing, Accounting Officer inputs, and special conditions of the contract. These discussions should not substantially alter the original TOR or the terms of the contract, lest the quality of the final product, its cost, and the relevance of the initial evaluation be affected. 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.</p> <p>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 firm may be disqualified and the process continued with the next ranked firm. The key staff proposed for substitution should have qualifications equal to or better than the key staff initially proposed.</p> <p>Financial negotiations should include clarification of the consultants' tax liability. Before the appointment is finalized, the consultant should submit an original tax clearance certificate to the Accounting Officer. Proposed unit rates for staff-months and reimbursable should not be negotiated, since these have already been a factor of selection in the cost of the proposal, unless there are exceptional reasons.</p> <p>Proposed unit rates for staff-months and reimbursable should not be negotiated, since these have already been a factor of selection in the cost of the proposal, unless there are exceptional reasons.</p> <p>If the negotiations fail to result in an acceptable contract, the Accounting Officer should terminate the negotiations and invite the next ranked firm for negotiations. The original preferred consultant should be informed of the reasons for termination of the negotiations. Once negotiations are commenced with the next ranked firm, the Accounting Officer should not reopen the earlier negotiations. After negotiations are successfully completed, the Accounting Officer should promptly notify other firms that they were unsuccessful.</p>
Negotiations and award of contract	The Accounting Officer may negotiate the contract only with the preferred bidder identified by means of the competitive bidding process.

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	<p>Negotiations should include discussions of the TOR, the methodology, staffing, Accounting Officer inputs, and special conditions of the contract. These discussions should not substantially alter the original TOR or the terms of the contract, lest the quality of the final product, its cost, and the relevance of the initial evaluation be affected. 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.</p> <p>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 firm may be disqualified and the process continued with the next ranked firm. The key staff proposed for substitution should have qualifications equal to or better than the key staff initially proposed.</p> <p>Financial negotiations should include clarification of the consultants' tax liability. Before the appointment is finalized, the consultant should submit an original tax clearance certificate to the Accounting Officer. Proposed unit rates for staff-months and reimbursable should not be negotiated, since these have already been a factor of selection in the cost of the proposal, unless there are exceptional reasons.</p> <p>Proposed unit rates for staff-months and reimbursable should not be negotiated, since these have already been a factor of selection in the cost of the proposal, unless there are exceptional reasons.</p> <p>If the negotiations fail to result in an acceptable contract, the Accounting Officer should terminate the negotiations and invite the next ranked firm for negotiations. The original preferred consultant should be informed of the reasons for termination of the negotiations. Once negotiations are commenced with the next ranked firm, the Accounting Officer should not reopen the earlier negotiations. After negotiations are successfully completed, the Accounting Officer should promptly notify other firms that they were unsuccessful.</p>
Contract award	According to the prescripts of the PPPFA and its Regulations, a contract may only be awarded to the

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	<p>bidder who scored the highest number of points, unless objective criteria justify the award to another bidder. Should this be the case, the Accounting Officer should be able to defend the decision not to award the bid to the bidder who scored the highest number of points in any court of law. It should be emphasized that not offering any contributions to prescribed goals as contemplated in the Preferential Procurement Regulations, 2001, does not disqualify a bidder. Under these circumstances a bidder will score no points for the specified goals.</p> <p>The Accounting Officer should award the contract, within the period of the validity of bids, to the bidder who meets the appropriate standards of capability and resources and whose bid has been determined:</p> <p style="text-align: center;">to be substantially responsive to the bidding documents; and to be the highest on points.</p> <p>A bidder should not be required, as a condition of award, to undertake responsibilities for work not stipulated in the bidding documents or otherwise to modify the bid as originally submitted.</p>
Rejection of all proposals and re-invitation	<p>The Accounting Officer will be justified in rejecting all proposals only if all proposals are non-responsive and unsuitable, either because they present major deficiencies in complying with the TOR, or because they involve costs substantially higher than the original estimate. In the latter case, the feasibility of increasing the budget, or scaling down the scope of services with the firm should be investigated. The new process may include revising the RFP and the budget.</p>

### 13.9 OTHER METHODS OF SELECTION

#### 13.9.1 Quality-Based Selection (QBS)

13.9.1.1 QBS is appropriate for the following types of assignments:

- ☐ Complex or highly specialized assignments for which it is difficult to define precise TOR and the required input from the consultants and for which the client expects the consultants to demonstrate innovation in their proposals (for example, country economic or sector studies, multi-sectoral feasibility studies, design of a hazardous waste remediation plant or of an urban master plan, financial sector reforms);
- ☐ Assignments that have a high downstream impact and in which the objective is to have the best experts (for example, feasibility and structural engineering design of such major infrastructure as large dams, policy studies of national

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significance, management studies of large government agencies); and

- ❑ Assignments that can be carried out in substantially different ways, such that proposals will not be comparable (for example, management advice and sector and policy studies in which the value of the services depends on the quality of the analysis).
- ❑ In QBS, the RFP may request submission of a technical proposal only (without the financial proposal), or request submission of both technical and financial proposals at the same time, but in separate envelopes (two-envelope system). The RFP should not disclose the estimated budget, but it may provide the estimated number of key staff time, specifying that this information is given as an indication only and that consultants are free to propose their own estimates.
- ❑ If technical proposals alone were invited, after evaluating the technical proposals using the same methodology as in QCBS, the Accounting Officer should request the consultant with the highest ranked technical proposal to submit a detailed financial proposal. The Accounting Officer and the consultant should then negotiate the financial proposal and the contract. All other aspects of the selection process should be identical to those of QCBS. If, however, consultants were requested to provide financial proposals initially together with the technical proposals, safeguards should be built in to ensure that the price envelope of only the selected proposal is opened and the rest returned unopened, after the negotiations are successfully concluded.

### 13.9.2 Selection under a fixed budget

- 13.9.2.1 This method is appropriate only when the assignment is simple and can be precisely defined and when the budget is fixed. The RFP should indicate the available budget and request the consultants to provide their best technical and financial proposals in separate envelopes, within the budget. The TOR should be particularly well prepared to ensure that the budget is sufficient for the consultants to perform the expected tasks. Evaluation of all technical proposals should be carried out first as in the QCBS method, where after the price envelopes should be opened in public. Proposals that exceed the indicated budget should be rejected. The consultant who has submitted the highest ranked technical proposal should be selected and invited to negotiate a contract.

### 13.9.3 Least-cost selection

- 13.9.3.1 This method is more appropriate to selection of consultants for assignments of a standard or routine nature (audits, engineering design of noncomplex works, and so forth) where well-established practices and standards exist and in which the contract amount is small. Under this method, a “minimum” qualifying mark for the “functionality” is established. Proposals to be submitted in two envelopes are invited. Technical envelopes are opened first and evaluated. Those securing less than the minimum mark should be rejected and the financial envelopes of the rest are opened in public. The firm with the highest points should then be selected. Under this method, the qualifying minimum mark should be established, keeping in view that all proposals above the minimum compete only on “cost” and promotion of HDIs and RDP objectives. The minimum mark to

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qualify should be stated in the RFP.

### 13.9.4 Selection based on consultants' qualifications

- 13.9.4.1 This method may be used for very small assignments for which the need for preparing and evaluating competitive proposals is not justified. In such cases, the Accounting Officer should prepare the TOR, request expressions of interest and information on the consultants' experience and competence relevant to the assignment and select the firm with the most appropriate qualifications and references. The selected firm should be requested to submit a combined technical-financial proposal and then be invited to negotiate the contract.

### 13.9.5 Single-source selection

- 13.9.5.1 Single-source selection of consultants does not provide the benefits of competition in regard to quality and cost and lacks transparency in selection and could encourage unacceptable practices. Therefore, single-source selection should be used only in exceptional cases. The justification for single-source selection should be examined in the context of the overall interests of the client and the project.
- 13.9.5.2 Single-source selection may be appropriate only if it presents a clear advantage over competition:
- ☐ For tasks that represent a natural continuation of previous work carried out by the firm;
  - ☐ Where a rapid selection is essential (for example, in an emergency operation);
  - ☐ For very small assignments; or
  - ☐ When only one firm is qualified or has experience of exceptional worth for the assignment.
- 13.9.5.3 The reasons for a single-source selection should be recorded and approved by the Accounting Officer or his/her delegate prior to the conclusion of a contract.
- 13.9.5.4 When continuity for downstream work is essential, the initial RFP should outline this prospect and if practical, the factors used for the selection of the consultant should take the likelihood of continuation into account. Continuity in the technical approach, experience acquired and continued professional liability of the same consultant may make continuation with the initial consultant preferable to a new competition, subject to satisfactory performance in the initial assignment. For such downstream assignments, the Accounting Officer should ask the initially selected consultant to prepare technical and financial proposals on the basis of TOR furnished by the Accounting Officer, which should then be negotiated.
- 13.9.5.5 If the initial assignment was not awarded on a competitive basis or was awarded under tied financing or reserved procurement or if the downstream assignment is substantially larger in value, a competitive process acceptable to the Accounting

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Officer should normally be followed in which the consultant carrying out the initial work is not excluded from consideration if it expresses interest.

- 13.9.5.6 Where, in exceptional instances, it is impractical to appoint the required consultants through a competitive bidding process and a South African based consultant is used, the *Guidelines on Hourly Fee Rates for Consultants* issued by the Department of Public Service and Administration should be used as a benchmark to establish the appropriate tariffs or to determine the reasonableness of the tariffs.

### 13.9.6 Selection of individual consultants

- 13.9.6.1 Individual consultants may normally be employed on assignments for which:

- ☐ Teams of personnel are not required;
- ☐ No additional outside (home office) professional support is required; and
- ☐ The experience and qualifications of the individual are the paramount requirement.
- ☐ When coordination, administration, or collective responsibility may become difficult because of the number of individuals, it would be advisable to employ a firm.
- ☐ Individual consultants should be selected on the basis of their qualifications for the assignment. They may be selected on the basis of references or through comparison of qualifications among those expressing interest in the assignment or approached directly by the Accounting Officer. Individuals employed by the Accounting Officer should meet all relevant qualifications and should be fully capable of carrying out the assignment. Capability is judged on the basis of academic background, experience and as appropriate, knowledge of the local conditions, such as local language, culture, administrative system and government organization.
- ☐ From time to time, permanent staff or associates of a consulting firm may be available as individual consultants. In such cases, the conflict of interest provisions described in these guidelines should apply to the parent firm.

### 13.9.7 Selection of particular types of consultants

- 13.9.7.1 *Use of Nongovernmental Organizations (NGOs).* NGOs are voluntary non profit organizations that may be uniquely qualified to assist in the preparation, management, and implementation of projects, essentially because of their involvement and knowledge of local issues, community needs, and/or participatory approaches. NGOs may be included in the short list if they express interest and provided that the Accounting Officer is satisfied with their qualifications. For assignments that emphasize participation and considerable local knowledge, the short list must be entirely composed of NGOs. If so, the QCBS procedure should be followed and the evaluation criteria should reflect the unique qualifications of NGOs, such as voluntarism, non profit status, local knowledge, scale of operation, and reputation. An Accounting Officer may select

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the NGO on a single-source basis, provided the criteria outlined for single source selection are fulfilled.

- 13.9.7.2 *Inspection Agents.* Accounting Officer may wish to employ inspection agencies to inspect and certify goods prior to shipment or on arrival in the country. The inspection by such agencies usually covers the quality and quantity of the goods concerned and reasonableness of price. Inspection agencies should be registered with the South African National Accreditation System (SANAS) and the services of these inspection agents should be obtained by means of competitive bidding.
- 13.9.7.3 *Banks.* Investment and commercial banks, financial firms and fund managers hired by Accounting Officer for the sale of assets, issuance of financial instruments and other corporate financial transactions, notably in the context of privatisation operations, should be selected under QCBS. The RFP should specify selection criteria relevant to the activity — for example, experience in similar assignments or network of potential purchasers — and the cost of the services. In addition to the conventional remuneration (called a “retainer fee”), the compensation includes a “success fee.” This fee can be fixed, but is usually expressed as a percentage of the value of the assets or other financial instruments to be sold. The RFP should indicate that the cost evaluation will take into account the success fee, either in combination with the retainer fee or alone. If alone, a standard retainer fee should be prescribed for all short-listed consultants and indicated in the RFP, and the financial scores should be based on the success fee as a percentage of a pre-disclosed notional value of the assets. For the combined evaluation (notably for large contracts), cost may be accorded a weight higher or the selection may be based on cost alone among those who secure a minimum passing mark for the quality of the proposal. The RFP should specify clearly how proposals will be presented and how they will be compared.
- 13.9.7.4 *Auditors.* Auditors typically carry out auditing tasks under well-defined TOR and professional standards. They should be selected according to QCBS, with cost as a substantial selection factor (40–50 points), or by the “Least-Cost Selection.” When consultants are appointed to execute an audit function on behalf of the Accounting Officer, the tariffs agreed by the Auditor-General and the South African Institute for Chartered Accountants (SAICA) may be used as a guideline to determine the appropriate tariff or to determine the reasonableness of the tariffs. These tariffs can be obtained from SAICA’s website under [www.saica.co.za](http://www.saica.co.za). The tariffs are captured in a circular issued by SAICA.
- 13.9.7.5 *“Service Delivery Contractors.”* Projects in the social sectors in particular may involve hiring of large numbers of individuals who deliver services on a contract basis (for example, social workers, nurses and paramedics). The job descriptions, minimum qualifications, terms of employment and selection procedures should be described in the project documentation.
- 13.9.8 Establishment of a list of approved service providers**
- 13.9.8.1 Where consultancy services are required on a recurring basis, a panel of consultants/list of approved service providers for the rendering of these services may be established. These panels/lists should be established through the



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competitive bidding process, usually for services that are of a routine or simple nature where the scope and content of the work to be done can be described in detail.

13.9.8.2 The intention to establish a panel/list of approved service providers is published in the Government Tender Bulletin and the closing time and date for inclusion in the panel/list of approved service providers should be indicated. For this purpose, a questionnaire should be made available and should make provision for the following:

- ☐ Full details of the service provider, among others:
  - Composition of the firm in terms of shareholding;
  - Personnel complement;
  - Representation of expertise in respect of the disciplines required, e.g. accounting, legal, educational, engineering, computer, etc.;
  - National/international acceptability of experts in the various professions;
  - Experience as reflected in projects already dealt with; and
  - Financial position.
- ☐ Requirements for admission to the list and criteria should be linked to the numeric value, in terms of which applicants will be measured, for example qualifications, experience, acceptability, facilities and resources, etc. A pre-determined standard method of awarding points should be followed.
- ☐ The applications received should be evaluated and any rejection of applicants should be motivated and recorded.
- ☐ Once the panel/list of service providers has been approved, only the successful applicants are approached, depending on the circumstances, either by obtaining quotes on a rotation basis, or according to the bid procedure when services are required, with the exception that the requirement is not advertised in the Government Tender Bulletin again.
- ☐ This list should be updated continuously, at least quarterly.

### 13.9.9 Evaluation of the performance of consultants

13.9.9.1 Consultants should observe due diligence and prevailing standards in the performance of the assignment. The Accounting Officer should evaluate the performance of consultants appointed in a fair and confidential process. In the case of repeated poor performance, the firm should be notified and provided an opportunity to explain the reasons for it and the remedial action proposed.

13.9.9.2 Consultants should be responsible for the accuracy and suitability of their work. Although Accounting Officer supervise and review the consultants' work, no modifications should be made in the final documents prepared by the

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consultants without mutual agreement. In the case of supervision of works, consultants may have more or less authority to supervise, from full responsibility as an independent engineer, to that of advisor to the client with little authority to make decisions, as determined by the Accounting Officer and captured in the contract agreement between the Accounting Officer and the consultant.

### 13.9.10 Types of contracts

13.9.10.1 *Lump Sum (Firm Fixed Price) Contract*: Lump sum contracts are used mainly for assignments in which the content and the duration of the services and the required output of the consultants are clearly defined. They are widely used for simple planning and feasibility studies, environmental studies, detailed design of standard or common structures, preparation of data processing systems, and so forth. Payments are linked to outputs (deliverables), such as reports, drawings, bills of quantities, bidding documents and software programs. Lump sum contracts are easy to administer because payments are due on clearly specified outputs.

13.9.10.2 *Time-Based Contract*: This type of contract is appropriate when it is difficult to define the scope and the length of services, either because the services are related to activities by others for which the completion period may vary, or because the input of the consultants required to attain the objectives of the assignment is difficult to assess. This type of contract is widely used for complex studies, supervision of construction, advisory services, and most training assignments. Payments are based on agreed hourly, daily, weekly, or monthly rates for staff (who are normally named in the contract) and on reimbursable items using actual expenses and/or agreed unit prices. The rates for staff include salary, social costs, overheads, fees (or profit), and, where appropriate, special allowances. This type of contract should include a maximum amount of total payments to be made to the consultants. This ceiling amount should include a contingency allowance for unforeseen work and duration and provision for price adjustments, where appropriate. Time-based contracts need to be closely monitored and administered by the client to ensure that the assignment is progressing satisfactorily and payments claimed by the consultants are appropriate. Again the Guidelines on fees for Consultants issued by the Department of Public Service and Administration should be used as a benchmark to establish the appropriate tariffs, or to determine the reasonableness of the tariffs.

13.9.10.3 *Retainer and/or Contingency (Success) Fee Contract*: Retainer and contingency fee contracts are widely used when consultants (banks or financial firms) are preparing companies for sales or mergers of firms, notably in privatisation operations. The remuneration of the consultant includes a retainer and a success fee, the latter being normally expressed as a percentage of the sale price of the assets.

13.9.10.4 *Percentage Contract*: These contracts are commonly used for architectural services. They may be also used for procurement and inspection agents. Percentage contracts directly relate the fees paid to the consultant to the estimated or actual project construction cost, or the cost of the goods procured or inspected. The contracts are negotiated on the basis of market norms for the services and/or estimated staff-month costs for the services, or competitive bid.

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It should be borne in mind that in the case of architectural or engineering services, percentage contracts implicitly lack incentive for economic design and are hence discouraged. Therefore, the use of such a contract for architectural services is recommended only if it is based on a fixed target cost and covers precisely defined services (for example, not works supervision).

13.9.10.5 *Indefinite Delivery Contract (Price Agreement)*: These contracts are used when Accounting Officer needs to have “on call” specialized services to provide advice on a particular activity, the extent and timing of which cannot be defined in advance. These are commonly used to retain “advisers” for implementation of complex projects (for example, dam panel), expert adjudicators for dispute resolution panels, Accounting Officer reforms, procurement advice, technical troubleshooting, and so forth, normally for a period of a year or more. The Accounting Officer and the firm agree on the unit rates to be paid for the experts and payments are made on the basis of the time actually used.

### 13.9.11 Important provisions

13.9.11.1 *Currency*. RFPs should clearly State that firms must express the price for their services, in Rand. If the consultants wish to express the price as a sum of amounts in different foreign currencies, they may do so, provided that the Accounting Officer concurs with this practice and that the proposal includes no more than three foreign currencies outside the borders of South Africa. The Accounting Officer should require consultants to State the portion of the price representing local costs in Rand. Payment under the contract should be made in the currency or currencies expressed in the formal contract.

13.9.11.2 *Price Adjustment*. To adjust the remuneration for foreign and/or local inflation, a price adjustment provision should be included in the contract if its duration is expected to exceed 12 months. Exceptionally, contracts of shorter duration may include a provision for price adjustment when local or foreign inflation is expected to be high and unpredictable.

13.9.11.3 *Payment Provisions*. Payment provisions, including amounts to be paid, schedule of payments, and payment procedures, should be agreed upon during negotiations. Payments may be made at regular intervals (as under time-based contracts) or for agreed outputs (as under lump sum contracts). Payments for advances (for example, for mobilization costs) exceeding 10 percent of the contract amount should normally be backed by advance payment securities. Payments should be made promptly in accordance with the contract provisions. To that end,

- ☐ Consultants can be paid directly by the Accounting Officer;
- ☐ Only disputed amounts should be withheld, with the remainder of the invoice paid in accordance with the contract; and
- ☐ The contract should provide for the payment of financing charges if payment is delayed due to the client's fault beyond the time allowed in the contract. The rate of charges should be specified in the contract.

13.9.11.4 *Bid and Performance Securities*. Bid and performance securities are not

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recommended for consultants' services. Their enforcement is often subject to judgment calls, they can be easily abused and they tend to increase the costs to the consulting industry without evident benefits, which are eventually passed on to the Accounting Officer.

13.9.11.5 *Accounting Officer Contribution.* The Accounting Officer normally assigns members of its own professional staff to the assignment in different capacities. The contract between the Accounting Officer and the consultant should give the details governing such staff, known as counterpart staff, as well as facilities that should be provided by the Accounting Officer, such as housing, office space, secretarial support, utilities, materials and vehicles. The contract should indicate measures the consultant can take if some of the items cannot be provided or have to be withdrawn during the assignment and the compensation the consultant will receive in such a case.

13.9.11.6 *Conflict of Interest.* The consultant should not receive any remuneration in connection with the assignment except as provided in the contract. The consultant and its affiliates should not engage in consulting activities that conflict with the interests of the client under the contract, and should be excluded from downstream supply of goods or construction of works or purchase of any asset or provision of any other service related to the assignment other than a continuation of the "Services" under the ongoing contract.

13.9.11.7 *Professional Liability.* The consultant is expected to carry out its assignment with due diligence and in accordance with prevailing standards of the profession. As the applicable law will govern the consultant's liability to the Accounting Officer, the contract need not deal with this matter unless the parties wish to limit this liability. If they do so, they should ensure that:

- ☐ There should be no such limitation in case of the consultant's gross negligence or wilful misconduct;
- ☐ The consultant's liability to the Accounting Officer in no case be limited to less than the total payments expected to be made under the consultant's contract, or the proceeds the consultant is entitled to receive under its insurance, whichever is higher; and
- ☐ Any such limitation may deal only with the consultant's liability toward the client and not with the consultant's liability toward third parties.

13.9.11.8 *Staff Substitution.* During an assignment, if substitution is necessary (for example, because of ill health or because a staff member proves to be unsuitable), the consultant should propose other staff of at least the same level of qualifications for approval by the Accounting Officer.

13.9.11.9 *Applicable Law and Settlement of Disputes.* The contract should include provisions dealing with the applicable law and the forum for the settlement of disputes. Should it not be possible to settle a dispute by means of mediation, the dispute may be settled in a South African court of law.

13.9.12 Advertising of expected and outstanding procurement

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13.9.12.1 To obtain expressions of interest, the Accounting Officer should include a list of expected consulting assignments in a General Procurement Notice, which should be updated annually for all outstanding procurement. This should be advertised in the Government Tender Bulletin. When appropriate, Accounting Officer may also advertise these contracts in an international newspaper or a technical magazine, seeking "expressions of interest." In such cases the Accounting Officer may also contact embassies and professional organizations. The information requested should be the minimum required to make a judgment on the firm's suitability and not be so complex as to discourage consultants from expressing interest. Sufficient time (not less than 30 days) should be provided for responses, before preparation of the short list.

### 13.10 INFORMATION TO CONSULTANTS (ITC)

#### 13.10.1 Scheduling the Selection Process

##### 13.10.1.1 Modifications of Contract

- ☐ Any granting of a substantial extension of the stipulated time for performance of a contract, agreeing to any substantial modification of the scope of the services, substituting key staff, waiving the conditions of a contract, or making any changes in the contract that would in aggregate increase the original amount of the contract by more than 15 percent, will be subject to the approval of the Accounting Officer or his / her delegate.
- ☐ Whenever possible, the Accounting Officer should use RFPs, which include the ITC, covering the majority of assignments. If under exceptional circumstances, the Accounting Officer needs to amend the standard ITC, it should do so through the technical data sheet and not by amending the main text. The ITC should include adequate information on the following aspects of the assignment:
  - A very brief description of the assignment;
  - Standard formats for the technical and financial proposals;
  - The names and contact information of officials to whom clarifications should be addressed and with whom the consultants' representative should meet, if necessary;
  - Details of the selection procedure to be followed, including:
    - A description of the two-stage process, if appropriate;
    - A listing of the technical evaluation criteria and weights given to each criterion;
    - The details of the financial evaluation;
    - The relative weights for quality and cost in the case of QCBS;
    - The minimum pass score for quality; and

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→ The details on the public opening of financial proposals;

- An estimate of the level of key staff inputs (in staff-months) required of the consultants; and indication of minimum experience, academic achievement, and so forth, expected of key staff or the total budget, if a given figure cannot be exceeded;
- Information on negotiations; and financial and other information that should be required of the selected firm during negotiation of the contract;
- The deadline for submission of proposals;
- A statement that the firm and any of its affiliates should be disqualified from providing downstream goods, works, or services under the project if, in the Accounting Officer's judgment, such activities constitute a conflict of interest with the services provided under the assignment;
- The method in which the proposal should be submitted, including the requirement that the technical proposals and price proposals be sealed and submitted separately in a manner that should ensure that the technical evaluation is not influenced by price;
- Request that the invited firm acknowledges receipt of the RFP and informs the Accounting Officer whether or not it will be submitting a proposal;
- The short list of consultants being invited to submit proposals, and whether or not associations between short-listed consultants are acceptable;
- The period for which the consultants' proposals should be held valid (normally 60–90 days) and during which the consultants should undertake to maintain, without change, the proposed key staff, and should hold to both the rates and total price proposed; in case of extension of the proposal validity period, the right of the consultants not to maintain their proposal;
- The anticipated date on which the selected consultant should be expected to commence the assignment;
- A statement indicating all prices should be VAT inclusive;
- If not included in the TOR or in the draft contract, details of the services, facilities, equipment, and staff to be provided by the Accounting Officer;
- Phasing of the assignment, if appropriate; and likelihood of follow-up assignments;
- The procedure to handle clarifications about the information given in the RFP; and

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- Any conditions for subcontracting part of the assignment.

### 13.10.2 Disbursements

- 13.10.2.1 The responsibility for the implementation of the project, and therefore for the payment of consulting services under the project, rests solely with the Accounting Officer.

### 13.10.3 Consultants' role

- 13.10.3.1 When consultants receive the RFP, and if they can meet the requirements of the TOR, and the commercial and contractual conditions, they should make the arrangements necessary to prepare a responsive proposal (for example, visiting the principal of the assignment, seeking associations, collecting documentation, setting up the preparation team). If the consultants find in the RFP documents — especially in the selection procedure and evaluation criteria — any ambiguity, omission or internal contradiction, or any feature that is unclear or that appears discriminatory or restrictive, they should seek clarification from the Accounting Officer, in writing, within the period specified in the RFP for seeking clarifications.

- 13.10.3.2 In this connection, it should be emphasized that the specific RFP issued by the Accounting Officer governs each selection. If consultants feel that any of the provisions in the RFP are inconsistent with the prescripts of the Framework for Supply Chain Management (chapter 16A of the Treasury Regulations) and / or the PPPFA and its Regulations, they should raise this issue with the Accounting Officer in writing.

- 13.10.3.3 Consultants should ensure that they submit a fully responsive proposal including all the supporting documents requested in the RFP. It is essential to ensure accuracy in the *curricula vitae* of key staff submitted with the proposals. The *curricula vitae* should be signed by the consultants and the individuals and dated. Non-compliance with important requirements should result in rejection of the proposal. Once technical proposals are received and opened, consultants should not be required nor permitted to change the substance, the key staff, and so forth. Similarly, once financial proposals are received, consultants should not be required or permitted to change the quoted fee and so forth, except at the time of negotiations carried out in accordance with the provisions of the RFP.

### 13.10.4 Confidentiality

- 13.10.4.1 The process of proposal evaluation is confidential until the contract award is notified to the successful firm. Confidentiality enables the Accounting Officer to avoid either the reality or perception of improper interference. If, during the evaluation process, consultants wish to bring additional information to the notice of the Accounting Officer, they should do so in writing.

- 13.10.4.2 If consultants wish to raise issues or questions about the selection process, they should communicate directly in writing with the Accounting Officer in this regard. All such communications should be addressed to the chief of the division for the relevant sector for the Accounting Officer.

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13.10.4.3 Communications that the Accounting Officer receives from consultants after the opening of the technical proposals should be handled as follows:

- ☐ In the case of contracts any communication should be sent to the Accounting Officer for due consideration and appropriate action. If additional information or clarification is required from the consultant, the Accounting Officer should obtain it and comment on or incorporate it, as appropriate, in the evaluation report.

### **13.10.5 Debriefing**

13.10.5.1 If after notification of award, a consultant wishes to ascertain the grounds on which its proposal was not selected, it should address its request in writing to the Accounting Officer. If the consultant is not satisfied with the explanation given by the Accounting Officer, the consultant may refer this matter to the relevant treasury, Public Protector or court of law.



## Chapter 13: Acquisition Management: Quotation/Bid Compilation, Issuing & Opening

### 1 LANGUAGE OF QUOTATION/BID DOCUMENTS

#### POLICY

- ☐ All documentation is to be compiled in at least English as the official business language.
- ☐ Bidding documents may be compiled in other languages as well subject to stipulated circumstances.

- 1.1 Bidding documents should be worded such that they permit and encourage competition.
- 1.2 Should bidding documents be compiled in an additional language, the Department must ensure that officials with the required language skills are available to review proposals, conduct the evaluation and award process as well as any other communication that may be required during the acquisition process.

### 2 CALLING FOR BIDS

#### POLICY

- ☐ Bids must be invited by the SCM Unit unless other divisions/components have been delegated to do so.

### 3 ADVERTISING OF BIDS

#### POLICY

- ☐ All bids must ~~at least~~ be advertised in the Government Tender Bulletin and e-tender portal or the DFA and/or Volksblad.
- ☐ Bids may also be advertised on the Provincial Government Bid Website, where possible.
- ☐ Other media for publication may be used if considered beneficial to the Department, taking the cost aspect into account.
- ☐ Bids must be advertised for at least 21 days before closing time, except in urgent cases when bids may be advertised for such shorter period as the Accounting Officer may determine.

- 3.1 The following information must be clearly stipulated in an advertisement:
- 3.1.1 The category of supplies, services or disposals involved as provided for in the Government Tender Bulletin.

3.1.2 Sufficient detailed description of the requirement

~~3.1.2~~ , including the contract period applicable.

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- 3.1.3 The place of work, installation or delivery.
- 3.1.4 Bid number.
- 3.1.5 Closing date and time.
- 3.1.6 Where bids are obtainable from: Name of the Institution, street address, postal address, e mail address, contact person for enquiries, telephone number, facsimile number and office hours (Mondays to Friday) applicable.
- 3.1.7 Whether site meetings, information/briefing sessions are applicable and whether they are compulsory or not. For the Government Tender Bulletin, [e-tender portal](#) and other media, this information must be incorporated into the description/[specification](#).
- 3.1.8 Where bids must be posted or delivered to: Name of the Institution, street address, postal address, bid box address, contact per for enquiries, telephone number and facsimile number.

### 4 CLOSING TIME OF BIDS

#### POLICY

- ☐ According to the GCC closing time means the latest date and hour specified in the bid documents for the receipt of bids.
- ☐ Bids of the Department close at 11:00 am on the day indicated in the bid documents.
- ☐ The closing of bids must be strictly observed. Late bid will be listed separately.

### 5 DETERMINING THE CLOSING PERIOD, INCLUDING A SHORTER OR LONGER PERIOD

#### POLICY

- ☐ Normal closing period is not less than 21 days from the date of the publication of the invitation to bid.
- ☐ The principle of allowing bidders enough time to prepare comprehensive proposals must be observed.
- ☐ Approval for the shortening or lengthening of the closing period must be obtained in accordance with the Accounting Officer's delegated powers. Reasons for the deviation must be documented and fully motivated.

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### 6 DETERMINING THE VALIDITY PERIOD, INCLUDING A SHORTER OR LONGER PERIOD

#### POLICY

- ☐ The validity period should allow the Department sufficient time to finalise the quotation/bid.
- ☐ Bids must be valid for at least 90 days from the closing date of the bid. A longer period may be set if problems with the evaluation is envisioned. Approval is to be obtained within the Accounting Officer's delegated powers.
- ☐ An extension of validity must be requested in writing from all bidders before the expiry date on the official form available for this purpose.

- 6.1 The SCM Unit responsible for the invitation of the bids will also be responsible for the extension of the validity period, if and when required, before the validity lapses.
- 6.2 Bidders should be required to submit bids valid for a period specified in the bidding documents. This period should be sufficient to enable the Department to complete the comparison and evaluation of bids, review the recommendation and adjudicate the contract.
- 6.3 For procurement from abroad a longer validity period may be necessary. Approval is to be obtained within the Accounting Officer's delegated powers.
- 6.4 An extension of bid validity, if justified in exceptional circumstances, should be requested in writing from all bidders before the expiry date. The extension should be for the minimum period required to complete the evaluation, obtain the necessary approvals and award the contract. In the case of fixed price contracts, a request for second and subsequent extensions is also permissible. The extension of the validity form makes provision for bidders to indicate if prices are still fixed and if an increase will be applicable as well as a motivation for the increase.

### 7 AVAILABILITY OF BID DOCUMENTS

#### POLICY

- ☐ Bid documents must be available before the requirement is advertised. However documents may not be distributed to potential bidders before the publication date.
- ☐ Bid documents may be collected by or may be posted to prospective bidders. If a bidder requests courier services, it must make necessary arrangements and pay all the costs to the courier service.

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- 7.1 Bid documents may also be made available to bidders at various locations, should the Department deem it necessary.

### 8 SALE OF BID DOCUMENTS

#### POLICY

- ☐ Fees for bid documents must be:
  - Reasonable and only reflect the printing and delivery cost.
  - It should not discourage prospective bidders to obtain bid documents.
- ☐ All monies received are to be paid into the Provincial Revenue Fund as stipulated in the PFMA.
- ☐ All monies received must be recorded and be accounted for.
- ☐ Prospective bidders that access the description/specification document published on e-tender portal do not have to buy the document as they print is at their own cost.

- 8.1 The Accounting Officer may decide to charge a non-refundable fee for bid documents.
- 8.2 Record of the sale of all bid documents must be kept to ensure all documents received at closing time and date has been purchased.

### 9 RESPONSES RECEIVED

#### POLICY

- ☐ The Department shall maintain a register/list of responses to the advertisement.
- ☐ The response list must contain the following information:
  - Bid number.
  - Name of the bidder ~~to who documents were issued to~~that responds.
  - ~~Name of the person/company who collected the bid on behalf of the bidder.~~
  - ~~Name of the person/company on whose behalf the document is collected, the phone number, the fax number and contact person of the prospective bidder.~~
  - ~~The date and time the document was collected.~~
  - ~~The date the document was posted.~~
  - The receipt number if documents were sold to prospective bidders.
- ☐ ~~Particulars as mentioned above, where applicable, must also be indicated where documents are requested by phone.~~

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- 9.1 Bidders should take note that if bidding documents are posted, it is not the responsibility of the Department to ensure that the bidder ~~s receives the document~~bid proposals are received on time ~~in order to prepare a response.~~ Bidders are responsible to arrange courier services if they so wish and they must

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- 9.2      pay for it.  
Bidders should also note that if the courier deliver bid documents to the department it is at the bidders own risk if it is not delivered before 11H00 on the closing date. The same applies if the documents are posted to the department.

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### 10 ELEMENTS FOR INCLUSION IN BID DOCUMENTS

#### POLICY

- ☐ The Department's bid documents shall promote uniformity.
- ☐ Bidders shall all receive the same information in documentation and should be assured of an equal opportunity to obtain additional information on a timely basis to ensure fairness.
- ☐ Where feasible, promote subcontracting and joint ventures with SMME's.
- ☐ The prescripts of the PPPFA and its regulations apply.

#### 10.1 SCM UNIT

#### POLICY

- ☐ The SCM Unit is responsible for compiling the bid documents on receipt of a request by the user division accompanied by specification/terms of reference as compiled by the Bid Specification Committee and the approval received from the Accounting Officer or the delegated authority.

#### 10.2 USER DIVISION REQUEST FOR QUOTATIONS/BIDS

10.2.1 Regarding specifications/TOR for goods, services and/or works, the following must be provided by the user division (inclusive of the approved specification) to the officials of the SCM Units when quotations/bids are to be invited:

10.2.1.1 Description of the requirement.

10.2.1.2 Approved specification or terms of reference.

10.2.1.3 Where a formal contract is to be concluded in addition to the contract form (NCP7), the formal contract has been provided. Full reasons must be given. Such a contract must be approved by legal services prior to signing.

10.2.1.4 Any special conditions applicable.

10.2.1.5 Particulars of site meetings, where applicable:

- ☐ Whether site meetings are compulsory or not and the address and time where the meetings are to take place as well as a contact person (end-user) and telephone number in this regard. Where the time of the meeting cannot be determined it should be clear in the bid documents that prospective bidders should make the necessary arrangements with the Department. Attendance register must be completed at the site meeting especially if the site meeting is compulsory.

10.2.1.6 Particulars of information sessions, where applicable

- ☐ Where information sessions are compulsory or not and the address and time

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where the sessions are to take place as well as a contact person (end-user) and telephone number in this regard. Attendance register must be kept of the meeting.

- 10.2.1.7 Where the submission of alternative bids (alternative designs, materials, completion schedules, payment terms, etc.) is permitted, the conditions for their acceptability and the method of evaluation in such instances should be clearly stated.
- 10.2.1.8 Indicate the estimated financial impact and whether funds are available.
- 10.2.1.9 Indicate the latest possible date that the contract must be in place.
- 10.2.1.10 Contact particulars of a knowledgeable person (user division) that the SCM Unit may contact for technical assistance.

### 10.3 QUOTATION/BID DOCUMENTATION PACK

#### POLICY

- ☐ The quotation/bid documentation pack will consist of the following:
  - Bid Notice, which should at least include the bid number, description of the requirement, name of the Department by whom it is required and the closing date and time.
  - Standard bid documents (NCP's) that includes, but is not limited to the following:
    - Invitation to Bid (NCP1) that is the bidders' consent if signed to enter into a contract under the conditions specified in the bid documents, should the offer be accepted.
    - Tax Clearance requirements (NCP2).
    - Relevant pricing schedule (NCP 3).
    - Declaration of interest (NCP 4).
    - Relevant preference points claim form (NCP 6)
    - Contract form (NCP7)
    - Declaration of bidders past SCM practices (NCP 8).
  - Specification/Terms of reference.
  - Special contract conditions.
  - Copy of the formal contract or service level agreement (SLA) where applicable.
  - Copy of general conditions of contract

#### 10.3.1 Conditions

- 10.3.1.1 The GCC is applicable to all bids with the exception of bids pertaining to the building, engineering and construction industry.
- 10.3.1.2 The standard wording of the GCC may not be amended.
- 10.3.1.3 The GCC may be supplemented by special conditions, thus covering any aspect

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not covered by the GCC if necessary. Should the special conditions be in conflict with the GCC, the provisions of the special conditions will prevail.

### 10.4 STANDARD BIDDING DOCUMENTATION

- 10.4.1 Bid documents may be customized to address contract and project specific issues. The standard wording of the Tax Clearance Certificate and the NIPP form may not be amended.
- 10.4.2 Standard bid documents must always be included.

### 10.5 ELEMENTS TO TAKE INTO ACCOUNT WHEN COMPILING QUOTATION/BID DOCUMENTATION PACK

- 10.5.1 Allocate an alphabetical and numerical bid number e.g. NCOP/000/08. A central point for numbering is needed in the SCM Unit. In each financial year, a new sequence must start e.g. NCOP/0001/09. A register must be kept for all numbers issued.
- 10.5.2 The closing date and time of the bid.
- 10.5.3 Validity period applicable.
- 10.5.4 The price must be quoted in Rand e.g. for a fixed price, NCP 7 will be used and for non fixed price NCP 7.2 to be used.
- 10.5.5 Compliance with any statutory requirements deemed necessary.
- 10.5.6 Evaluation criteria applicable.
- 10.5.7 Evaluation method, for example, the two-envelope system.
- 10.5.8 The format in which the bid must be submitted, such as the information on the envelope and sealing instructions.
- 10.5.9 The number of copies required. Do not ask for unnecessary copies or for an excessive number of copies.
- 10.5.10 The methods of bid delivery allowed are post and hand delivery to a bid box. No faxed or e-mailed bid documents are valid. Bid documents must be original documents filled with a black pen and originally signed.

## 11 PRE-BID INFORMATION MEETINGS

### POLICY

- ☐ Minutes of the meeting should be provided to all prospective bidders. Any additional information, clarification, correction of errors, or modifications of bid documents should be sent to each recipient of the original bid documents in sufficient time before the closing date and time for receipt of bids to enable bidders to take appropriate actions. Attendance registers shall be kept.



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### 11.1 PARTICULARS OF SITE MEETINGS, WHERE APPLICABLE

- 11.1.1 Whether site meetings are compulsory or not and if so, the address and time where the meetings are to take place as well as a contact person (end-user) and telephone number in this regard. Where the time of the meeting cannot be determined it should be clear in the bidding documents that prospective bidders should make the necessary arrangements with the Department. An attendance register must be kept for all attendees.

### 11.2 PARTICULARS OF INFORMATION SESSIONS, WHERE APPLICABLE

- 11.2.1 Whether information sessions are compulsory or not and if so, the address and time where the sessions are to take place as well as a contact person (end-user) and telephone number in this regard.

### 11.3 PARTICULARS OF PRESENTATION MEETINGS, WHERE APPLICABLE

- 11.3.1 The fact that presentation meetings are compulsory and the address and time where the meetings are to take place as well as a contact person (end-user) and telephone number in this regard. Where the time of the meeting cannot be determined it should be clear in the bidding documents that prospective bidders will be informed of the time at a later and appropriate date.

## 12 CHANGING OF INFORMATION BEFORE CLOSING TIME

### POLICY

- ☐ It is preferable to cancel a bidding invitation and to invite fresh bids if conditions or the specification or any other information have to be changed before the closing time or if mistakes are discovered in the documents before the closing time. If all potential bidders cannot be informed of changes timeously, a closing date cannot be extended to provide potential bidders time to comply.

## 13 POSTPONEMENT OF CLOSING DATE

### POLICY

- ☐ In the case of an advertised bid invitation, the closing date may be postponed only if the postponed date can be advertised in the Government Tender Bulletin and other media where applicable, before the original closing date or alternatively a listing of all potential bidders which obtained bid documents is available and can be notified.
- ☐ The closing date may be postponed only if all prospective bidders can be advised of the postponed date in writing before the original closing date.

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### 14 OPENING OF QUOTATIONS UP TO R500 000 (INCL.VAT)

#### POLICY

- ☐ A fair and transparent process should be followed for the closing, receiving, opening and processing of quotations in accordance with the Accounting Officer's delegated powers.

### 15 THREE VERBAL QUOTATIONS UP TO R10 000 (INCL.VAT)

#### POLICY

- ☐ The quotations are to be received by an official as prescribed in the Accounting Officer's delegated powers. However, the same official may not award the quotation.
- ☐ The order shall be placed against written confirmation from the selected provider.

### 16 WRITTEN QUOTATIONS ABOVE R10 000 (INCL.VAT) UP TO R500 000 (INCL.VAT)

#### POLICY

- ☐ Quotations must be submitted in writing preferably by hand, but may also be faxed.

### 17 OPENING OF BIDS ABOVE R500 000 (INCL.VAT)

#### POLICY

- ☐ A fair and transparent process should be followed for the closing, receiving, opening and processing of bids in accordance with the Accounting Officer's delegated powers.
- ☐ A bid box shall be visibly provided on the premises of the Department that is accessible between 7H30-16H00 (Business hours at least)
- ☐ The bid box must always be locked, unless bids are collected to prevent unauthorised removal of bids. At least 2 locks and separate keys separately kept by two different officials who are authorised in writing to keep the keys.
- ☐ A special lockable office with a safe for the receipt and storing of bids must be available.
- ☐ Date stamps to indicate the time and date of receipt of bids.
- ☐ At least two delegated officials must be present during opening of bids on the date and time of closing as specified and they must initial and stamp all pages of each of the bid documents for security purposes.

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- 17.1 Bids received by post, courier or similar service should be administratively dealt with and immediately be channelled to the physical address where bids are to be received. Bids received after the closing time at the physical address indicated in the bid document, must be considered as late and be dealt with accordingly.
- 17.2 The bid box may not be opened more frequently for any reason except to close a bid. If the bid box is full, bids must be handed over the counter. No bid documents deposited may be returned to the bidder. Once deposited, it must be registered as received and if the bidder wants to cancel, it may do so in writing but the document must be available for the annual audit.
- 17.3 The bids should be date stamped on the envelope and sorted according to their particular bid numbers.
- 17.4 All bids received without envelopes, must be sealed in an envelope containing the bid number and closing date.
- 17.5 Where a bid is received, without a bid number on the envelope, it must be opened, the bid number ascertained, written on the envelope, sealed and filed accordingly.
- 17.6 All bids must be opened in public.
- 17.7 All the pages of the bids received should be stamped, checked for any alterations and if there is any alteration, two officials are to co-initial at the place of alteration. Any documents not signed or not submitted should be noted on the covering file of the bid document.
- 17.8 Information on bids received must be captured in a "Bids received record" that may be a register/list/spreadsheet, that must contain ,substantially, the following information:
  - 17.8.1 Bid number.
  - 17.8.2 Closing date.
  - 17.8.3 Date and time received.
  - 17.8.4 Name of the person/company that sent the bid or from whom the bid was received.
  - 17.8.5 Details on how the bid was received, i.e. through courier services, registry or received in the bid box. **All bids must be deposited in the bid box before the closing date.**
  - 17.8.6 The state in which the bid was upon receipt, i.e. was it open or not.
  - 17.8.7 Whether the bid was received in time or late.
  - 17.8.8 Whether the bid was opened, and if so, the reasons for the opening by the receiving officials.

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17.8.9 Signature of the person who delivered the bid.

17.8.10 Signature of the person who received the bid.

17.9 Bids must be stored/filed accordingly with those bids already received of similar bid numbers.

### 17.10 ADMISSION OF BIDS

#### POLICY

- ☐ Bidders shall be allowed to submit bids by mail, by courier or by hand in the bid box or at the physical address of the Department before the closing time of the bids.
- ☐ All bids will then be kept unopened in safe custody until the closing date and time of the bids.

### 17.11 CONFIDENTIALITY

#### POLICY

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

### 17.12 BIDS RECEIVED LATE

#### POLICY

- ☐ Bids are late if they are received at the address indicated in the bid documents after closing date and time.
- ☐ Late bids received shall be returned unopened to the bidder, where feasible accompanied with the explanation that the bid was received late. Where the address of the bidder is not indicated on the envelope, it is opened to obtain the necessary particulars and returned to the bidder.
- ☐ No late bids may be considered under any circumstances.
- ☐ Where no bid or no acceptable bid has been received the bid has to be re-advertised.

17.12.1 Bids received late must be recorded as such.

### 17.13 DEALING WITH UNSOLICITED QUOTATIONS/BIDS

#### POLICY

- ☐ The Accounting Officer is not obliged to consider unsolicited quotations/bids received outside a normal bidding process. If the Accounting Officer decides

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to consider an unsolicited quotation/bid, he or she may do so only if:

- The product or service offered in terms of the quote/bid is a unique innovative concept that will be exceptionally beneficial to, or have exceptional cost advantages for the Department;
- The person who made the offer is the sole provider of the product or service; and
- The need for the product or service by the Department has been established during its strategic planning and budgeting processes.

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### POLICY

- ☐ All bids duly lodged are taken into consideration. The Department is not obliged to accept the lowest, highest or any bid and can decide to award the bid to more than one bidder, thereby splitting the award.
- ☐ Evaluation criteria shall promote the areas of finance, technical compliance/ability and preferential procurement.
- ☐ Members of Bid Evaluation Committees shall be honest, fair, impartial, transparent, cost effective and evaluations should be done in an accountable manner in accordance with the Accounting Officer's delegated powers.
- ☐ Bid Evaluation committee should be familiar with and adhere to prescribed legislation, directives and procedures in respect of SCM.
- ☐ All members of Bid Evaluation Committee/evaluators should be required to declare their financial and business interests annually.
- ☐ No person should interfere with the SCM system of the Department.
- ☐ The Accounting Officer must reject any bid from a service provider who fails to provide written proof from SARS that he/she has no outstanding tax obligations or has made arrangements to meet outstanding tax obligations and must 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 other contracts (NCP8)

### 1 COMPLIANCE CHECK PROCEDURES

- 1.1 Before actual evaluation the SCM Unit shall do a compliance check that the quotation/bid documentation complies with the predetermined conditions and that all required forms are submitted, completed in full and legible.
- 1.2 The SCM Unit should ascertain whether quotations/bids received:
  - 1.2.1 ~~Include original, valid tax clearance certificates~~ Are from service providers registered on the central supplier database.
  - 1.2.2 Have been properly signed.
  - 1.2.3 Are substantially responsive to the quotation/bid documents.
  - 1.2.4 Are otherwise generally in order.
  - 1.2.5 Determine the lowest acceptable bid/quote and perform points calculation for the Bid Evaluation Committee to perform spot checks.
- 1.3 If a quotation/bid is not substantially responsive that is, it contains material deviations to the terms, conditions and specifications in the quotation/bid documents, it should not be considered further but the reasons for elimination must be dealt with by the Departmental Bid Evaluation Committee.

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### 2 SIGNING OF BIDS

#### POLICY

- ☐ In order to avoid confusion regarding precisely what must be signed for a valid bid, the Invitation to Bid (NCP1), or photocopy thereof, must be signed originally in ink.
- ☐ All declarations (NCP 4, NCP 8 and NCP6) must also be signed to qualify as valid claims.
- ☐ Any other documents where a signature is indicated.

#### 2.1 SIGNING OF BIDS

- 2.1.1 Original copies of bid documents, which have been submitted in the prescribed manner, and where the NCP1 and other documents has been signed in ink before submission, are accepted as the official bids. No other document received in confirmation thereof is thereafter accepted as the official bid. Only if such a document is an alternative bid and confirm to all requirements.

### 3 EVALUATION UP TO R30 000 (VAT INCLUDED)

#### POLICY

- ☐ Up to R30 000 (incl vat), where the requirement is not technically complex and where there are no major risks involved, the SCM unit and the relevant end user (guided by approved financial delegations) will select the service provider based on quality and price.
- ☐ Equity need not be applied as procurement up to R30 000 (incl vat) is exempted in terms of paragraph 3(1) of the PPPFA Regulations.

- 3.1 Up to R30 000 (incl vat), the use of at least three (3) written quotation is applicable from Provincial SCM database.

### 4 EVALUATION ABOVE R30 000 (VAT INCLUDED) AND UP TO R500 000 (VAT INCLUDED)

#### POLICY

- ☐ Above R30 000 (incl vat) and up to R500 000 (incl vat), the SCM unit, in liaison with the end user, shall evaluate quotations received and make a recommendation regarding the award to the Accounting Officer for approval. Where the requirement is technically complex and where there are major risks involved, the Bid Evaluation Committee may be used to evaluate the quotation.
- ☐ The Accounting Officer may also delegate the CFO or Senior Managers to make awards up to R 200 000.
- ☐ The Accounting Officer may disregard the offer of any provider if that

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provider, or any of its directors:

- Has abused the SCM system.
- Has committed fraud or any other improper conduct in relation to such system.
- Has failed to perform on any previous contract; and
- ☐ Must inform the Provincial Treasury of any action taken in terms of the aforementioned.
- ☐ During the evaluation processes, the criteria to be taken into account, includes the following:
  - Compliance with the specification/terms of reference and conditions of the quote.
  - Preferential procurement:
    - Price
    - ~~Functionality~~
    - ~~Goals (equity as well as socio-economic)~~ BEEE status
    - ~~Capability / ability of the bidder to execute the contract.~~
  - ~~Tax clearance certificate from SARS.~~

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### 5 BID EVALUATION COMMITTEE FOR PROCUREMENT ABOVE R500 000 (INCL.VAT)

#### POLICY

- ☐ Above R500 000 (incl.vat), a Bid Evaluation Committee shall evaluate bids received and submit a recommendation regarding the award of the bids to the Bid Adjudication Committee.
- ☐ The bid adjudication committee must check the compliance and make final approval if the bids is within the delegated powers or forward the recommendation to the Accounting Officer the request exceeds its delegated amount.
- ☐ The Accounting Officer may disregard the offer of any provider if that provider, or any of its directors
  - Has abused the SCM system.
  - Has committed fraud or any other improper conduct in relation to such system.
  - Has failed to perform on any previous contract; and
  - The Accounting Officer must inform the Provincial Treasury of any action taken in terms of the aforementioned.
- ☐ Bids are to be evaluated against the predetermined criteria in the bid document. The criteria to be taken into account, are inter alia:
  - Compliance with the specification/terms of reference and conditions of the bid.
  - Preferential procurement:
    - Price
    - Functionality



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→ ~~Goals (equity as well as socio-economic)~~ BEE status

- Capability / ability of the bidder to execute the contract.
- ~~Tax clearance certificate with SARS.~~ Proof of registration on the central supplier database
- National Industrial Participation Programme requirements (only applicable for contracts with imported items in excess of R 10 million).

Above R500 000 (Incl Vat), a Bid Evaluation Committee shall evaluate bids received and submit a recommendation regarding the award of the bids to the Bid Adjudication Committee.

### 6. EVALUATION STEPS

- 6.1. Above R500 000(Incl vat), each panel member shall evaluate independently after thorough checking and discussion made for the bids received whether the bids are correct and ascertain him/herself of all the information and facts contained in each bidding document, this includes the preference points score sheet.
- 6.2. Bid Evaluation Committee members shall now discuss the strengths, weaknesses and peculiarities of each offer. Commence the discussions from the highest to the lowest point scorer.
- 6.3. All discussions of each bid as well as the recommendation must be recorded in a recommendation report that must be signed off by all members of the Bid Evaluation Committee.
- 6.4. ***With respect to consultants***, each panel member scores each bid individually according to the predetermined criteria and weightings as reflected in the original bid documents. (The evaluation panel). The calculated average points for service providers are used for evaluation purposes. With regards to goods, services and works, calculations are performed in terms of the 80:20 & 90:10 criteria.
- 6.5. The final recommendation report must be submitted to the Bid Adjudication Committee for consideration.
- 6.6. Bidders shall not be allowed to amend their offers in any material manner, but may be requested to clarify any ambiguities and/or information that are unclear or illegible.

### 7. FORMAT OF THE RECOMMENDATION REPORT

- 7.1. Recommendation/submissions to the Bid Adjudication Committee must be clear regarding the content and purpose of the matter for which approval is desired. The practice of submitting memoranda, reports, contracts, agreements, invoices and the like and requesting general approval is not acceptable. However, such documents may be forwarded as annexures supporting the request. Facts must be set out fully and clearly in the submission and reference must be made only to those portions of the attached documents, which are directly related to the approval being requested.

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- 7.1.1.1. There must be uniformity in the sequence of categories in which bids are recommended, namely:
  - 7.1.1.1.1. Only bid, price reasonable and in accordance with the specification.
  - 7.1.1.1.2. Highest scorer and in accordance with the specification. (No lower priced bids are passed over.)
  - 7.1.1.1.3. Highest scorer in accordance with the specification. (Higher scoring bids are passed over. All higher scoring bids must be listed and the reasons for passing over must be furnished where bids are awarded on a point basis, any bids which scored a higher point, but are not recommended, must be listed and reasons for passing over must be furnished.)
  - 7.1.1.1.4. Highest scorer and acceptable although not strictly to specification.
  - 7.1.1.1.5. Highest acceptable scorer although not strictly to specification.
- 7.1.1.2. A discussion, which explains the recommendation, must always be provided where the recommendation is not self-explanatory in the light of the data already provided.

### 8. INFORMATION THAT MUST BE SUPPLIED WITH RECOMMENDATIONS FOR THE AWARD OF BIDS

- 8.1. The Bid Evaluation Committee must ensure that they are in possession of all relevant information so that accountable decisions can be taken. Since each case is unique, it is not possible to specify all the information, which must be supplied.

### 9. CONSIDERATION OF ADDITIONAL INFORMATION

#### POLICY

- ☐ Information received after the closing date, may only be taken into consideration if it would not influence the original recommendation made, which must be based on the original information received from providers.

- 9.1. Should a discount for instance be offered, it could be taken into account when the contract has been awarded, but not beforehand. Only a fixed discount with no restrictions e.g. 6% irrespective of timeframe to place an order can be taken into account or where it does not limit the department to split the award between two or more bidders.
- 9.2. The Department must communicate with providers where bid information is incomplete or the quotation/bid document is not completed in full, in order to obtain the necessary information. This must not give the bidder the second chance.

### 10. CANCELLATION OF QUOTATIONS/BIDS

#### POLICY

- ☐ Should it be determined through the evaluation process that no acceptable

## Chapter 14: Evaluation

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quotations/bids were received; a recommendation to cancel the quotation/bid must be submitted for approval as part of the evaluation report.

- ☐ The reasons why no acceptable quotations/bids were received by the closing date and time must be investigated before a decision is made what alternative process must be followed to satisfy the requirements.
- ☐ The requirement may now be re-advertised / re-invited or a specific number of pre-identified service providers may be targeted.
- ☐ The evaluation report must contain the request for cancellation accompanied by the perceived reasons determined through the investigation as well as a recommendation on the alternative process to be followed to satisfy the requirements.
- ☐ The relevant award structure shall approve all cases where quotations/bids:
  - Are to be cancelled.
  - New quotations/bids are to be solicited because of the cancellation.
  - Negotiations with the preferred bidder are to take place to determine a reduction in the scope and/or a reallocation of risk and responsibility. A substantial reduction in the scope or modification to the bidding documents may require re-bidding.
- ☐ Where quotations/bids are to be cancelled all bidders must be informed in writing of the cancellation or the cancellation must be advertised in the Government Tender Bulletin.

10.1. The possible reasons for receiving unacceptable quotations/bids may be the following:

10.1.1. Wrong choice of media for advertisement to reach the target audience in the case of advertised bids.

10.1.2. Wrong group of potential providers targeted in the case of non-advertised bids.

10.1.3. Terms of reference were not clear and specific.

10.1.4. Quotations/bids submitted did not address the terms of reference as the latter was not understood or the providers were clearly inexperienced.

10.1.5. The period allowed for the submission of quotations/bids was not sufficient for organisations to submit a sufficient quotation/bid or to submit quotations/bids at all.

10.2. A recommendation may now be considered to either re-advertise/re-invite the quotation/bid or to target a specific number of pre-identified service providers.

10.3. Quotation/bidding documents should provide for the cancellation of all quotations/bids if and when necessary.

10.4. Quotations/bids may be cancelled in the following circumstances:

10.4.1. No responsive quotation/bid has been received.

10.4.2. The prices received are exorbitant.

10.4.3. The requirement is no longer needed.

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### 11. NEGOTIATIONS WITH PROVIDERS/BIDDERS

#### POLICY

- ☐ Without the prior approval of the relevant award structure no negotiations may be conducted with providers regarding any aspect, which might in any way affect the prices i.e. that may change the order in which quotes/bids will be ranked.
- ☐ Where such negotiations are authorised, the relevant award structure must ensure that the negotiations take place at least at the middle management level and that the agreement, which is reached, is placed on record in writing.

### 12. SUBMISSION AND SIGNING OF QUOTATION/BID DOCUMENT DECLARATIONS OR CERTIFICATES

#### POLICY

- ☐ In all cases where the relevant preference claim form, NCP 6 or equivalent has to be submitted and a provider had the intention to claim as evidenced by the fact that he did fill in the preference form or gave other indication of wishing to claim preference, the bidder must be allowed to complete and/or sign the declaration. Recommendations with regard to such matters must be submitted to the relevant evaluation authority and award structure.
- ☐ A valid Tax Clearance Certificate as indicated in NCP 2 **must** be submitted in the original at the closing time. Should the certificate not be attached, or not be in the original, or not be signed, or the date of the certificate not valid anymore, the bid may be regarded as invalid.
- ☐ No contracts may, however, be awarded to bidders who have failed to submit the original Tax Clearance Certificate within the relevant period and they must be reported to SARS.

### 13. CONFIRMATION OF PRICES

#### POLICY

- ☐ A legal contract cannot be concluded by the acceptance of an offer where it is obvious to any reasonable person that a price is out of line with other market prices and/or previous quoted prices. Confirmation of whether the price is correct or not, **must** be obtained from the provider in such cases.
- ☐ Only confirmation of the correctness of the price is involved and **not** negotiation for a better price.

### 14. VERIFYING PREFERENCES

#### POLICY

- ☐ Verification is required whenever it is clear that the claimed preference is

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incorrect or when reasonable doubt exists that the bidder is entitled to the preference in any way at all.

- 14.1. However, where, as a result of a query, there is a change in the percentage preference claimed which affects the ranking of quotations/bids for award, a motivated recommendation must be submitted to the relevant evaluation authority and award structure for consideration.

### 15. AMENDMENT OF QUOTED/BID PRICES PRIOR TO LAPSE OF VALIDITY

#### POLICY

- ☐ An amendment of a quoted price during the validity period is not allowed.

### 16. NEW AND UNPROVEN PRODUCTS

#### POLICY

- ☐ A bid may not be rejected summarily simply because the bidder or the product which he offers is unknown.

### 17. EQUAL OFFERS

#### POLICY

- ☐ When offers are equal in all respects on a comparative basis, thus scoring equal total points, the successful provider must be the one scoring the highest number of preference points for HDI/ SMME/ specified goals as stated in part 3, 12 (8) of the PPPFA Regulations. Should two or more offers still be equal in all respects, the award shall be decided by applying a fair and just mechanism.

### 18. DECLARATION OF INTEREST

#### POLICY

- ☐ A form NCP 4 for the declaration of a provider's position and interest vis-à-vis the evaluating authority, must be included with the quotation/bid documents.
- ☐ An official who is involved in the recommendation process, or who is in any way involved with the procurement process, shall also certify, as part of the recommendation, that he complies with The Prevention and Combating of Corrupt Activities Act, Act No 12 of 2004.
- ☐ All officials who can influence the award of a quotation/bid are seen as officials who are involved in the recommendation process.

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- ☐ The register of attendance of the members of the Bid Evaluation Committee and the Bid Adjudication Committee must contain the following:
  - "I declare that I did not purposefully unlawfully favour or prejudice anyone in the decision making process in the recommendation and award of the quotation/bid."
- ☐ All officials who are involved in the decision making process must sign a similar affidavit.
- ☐ All officials, or users, or committee members who may have an interest in a bid or conflict of interest may arise must make a full declaration and excuse themselves from any discussion, evaluation or awarding process with respect to the relevant bid.

### 19. CONFIDENTIALITY

#### POLICY

- ☐ After public opening of bids, information relating to the evaluation process may not be disclosed to interested parties or other persons not officially concerned with the process, until the successful bidder is notified of the award.
- ☐ After final award any bidder may request the following information in writing: successful bidder's trade name, price, make, model e.t.c. The information required must be requested using Access to Information Act and regulations.

### 20. IRREGULAR EXPENDITURE

#### POLICY

- ☐ It is the policy of the department to follow/adhere to all provisions prescribed for irregular expenditure as documented in National Treasury SCM practice note no.4 of 2008/2009.

## Chapter 15: Contractual Commitments

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### 1 CONCLUSION OF CONTRACTS

#### POLICY

- ☐ After the award has been made, where applicable, the department should prepare a service level agreement.
- ☐ The Legal Advisor of the department must be satisfied that all necessary contractual conditions have been included prior to signing and the relevant end user should put necessary performance conditions, where applicable.
- ☐ The Accounting Officer must sign the contract/service level agreement or other necessary documentation to commit the Department.
- ☐ The SCM Unit, taking into account various delegations within the office of the Chief Financial Officer, must sign orders to commit the Department.
- ☐ Successful bidders must be notified in writing of the acceptance of their bids.
- ☐ **NB: The SLA may not contain any changes in specification that contradict the original bid documents. If so such changes will supersede the bid documents.**

- 1.1 After the awarding of a quotation/bid, the quotation/bid shall be finalised by the relevant SCM Unit by issuing the letter of acceptance, the contract form, including a service level agreement and formal contract, where applicable.
- 1.2 The Legal Advisor and SCM Unit must draw up the contractual documentation in line with recommendations approved by the relevant Award Structure.
- 1.3 The SCM Unit must inform the successful provider of the award by way of the letter of acceptance and invite the provider to come and sign the contract form or formal contract where applicable.
- 1.4 Both parties to the contract shall sign the contract form or formal contract.
- 1.5 The acceptance of a bid must be in writing and must be sent by registered/certified mail or hand-delivered and register of delivery signed. The principle being that there must be a mechanism of proof of delivery. Therefore once the letter of acceptance has been sent, a contractual commitment has been made and it becomes effective. The signing of the contract form or formal contract where applicable serves to enhance the contract established.
- 1.6 If more than one company bids as a consortium, the letter of acceptance and the contract form must be addressed to the company that signed the bid on behalf of the consortium or was nominated in writing by the consortium as a contact person.
- 1.7 After the provider signature has been obtained, the SCM Unit will submit the contract form or formal contract to the official with the authority to commit the Department through a signature.
- 1.8 The signatory must ensure that he/she is satisfied that all the necessary conditions are included.

## Chapter 15: Contractual Commitments

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1.9 The contract form to be signed should be accurate, impersonal, unambiguous, legible and complete. The contract form, together with all the documents such as the specification, special conditions, GCC and signed SLA, which together make up the full contract documents serves as basis for placing orders. Discounts, where applicable, must be indicated in the contract form so that the Department, where possible, may utilise them. The contract documents must be kept for future references e.g. audit purposes.

1.10 Legal copies shall be kept in a safe place for judicial reference.

### 1.11 FORMAL CONTRACTS

#### 1.11.1 Defining formal contracts

##### POLICY

- ☐ The formal contract must form part of the quotation/bid documents.
- ☐ Formal contracts are concluded only where this is stated as a requirement in the quotation/bid document.
- ☐ If a formal contract is concluded, an order must still be placed with the successful provider.

1.11.1.1 Where all parties concerned sign further documentation as an agreement in addition to the letter of acceptance and the contract form, it is defined as a formal contract.

1.11.1.2 Both the user division and the SCM Unit have a responsibility towards managing a contract.

#### 1.11.2 Service Level Agreement

##### POLICY

- ☐ A SLA shall be compiled and signed by the Accounting Officer and successful bidder.

1.11.2.1 A Service Level Agreement (SLA) is a document, which defines the relationship between two parties: the provider and the recipient and spells out services to be rendered, due dates and turnaround times.

## 2 TIME OF CONCLUSION

##### POLICY

- ☐ The contract is concluded at the time that the letter of acceptance is posted even if the contract form and formal contract is only signed at a later date, unless stated otherwise in the quotation/bid documents. See par 31.2 of the GCC.



## Chapter 16: Access to Bidding Information

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### 1 ACCESS TO BIDDING INFORMATION

#### POLICY

- ☐ All bidding information remains strictly confidential.
- ☐ Every bidder shall be informed of final bid results.
- ☐ The information of one bidder shall not be disclosed to any other bidder.
- ☐ Each bidder, on request, is entitled to feedback concerning its own bid.
- ☐ Where no bid has been accepted, particulars of the bids received are not made public.
- ☐ The Department can withhold information if the release or publication of the information:
  - Will impede law enforcement; or
  - Will be contrary to the public interest; or
  - Will harm the legitimate interests of the Department; or
  - Will hinder fair competition between providers by revealing any proprietary information of any bidder.

#### 1.1 INFORMING THE SUCCESSFUL BIDDERS

- 1.1.1 The successful bidder must be notified in writing of the award by through a letter of acceptance signed by the Accounting Officer or any relevant delegated authority e.g. Chief Financial Officer.
- 1.1.2 The above process will allow the SCM Unit to follow the note up with the appropriate contract documentation.
- 1.1.3 The information of other bidders will not be disclosed to the successful bidder.

#### 1.2 INFORMING THE UNSUCCESSFUL BIDDERS

- 1.2.1 Once the successful bidder has been advised of the award, the SCM Unit must inform unsuccessful bidders in writing that their bids were unsuccessful.

#### 1.3 DISCLOSURE OF INFORMATION

- 1.3.1 When divulging information, a balance must be stricken between one party's right to access of information and the right to confidentiality of the other party.
- 1.3.2 Bids are not available for perusal by the public.
- 1.3.3 At all times cognisance should be taken of the provisions of the Promotion of Access to Information Act, No 2 of 2000 when dealing with disclosure of information.

## Chapter 17: Contract Management

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### **POLICY**

- ☐ Contract management can be defined as maintaining control or influence over the contractual agreement between the Department and the contractor including the administering and regulating the agreement.
- ☐ The relevant user division takes responsibility for day-to-day management and monitoring of a contract in line with the contractual conditions.
- ☐ The SCM Unit takes responsibility for maintaining original contract documentation, amendments and monitoring.

## **1 THE MANAGEMENT OF CONTRACTS**

- 1.1 Both the user division and the SCM Unit have a responsibility towards managing a contract.
- 1.2 The nature of the responsibility will determine who manages the specific contractual aspect.
- 1.3 The management of contracts inter alia, includes, but is not limited to the following aspects:
  - 1.3.1 **Transversal period contracts**
    - 1.3.1.1 The Provincial Treasury is responsible for the management of transversal term contracts arranged by National Treasury and they are responsible for term contracts arranged on behalf of Provincial Departments. The Department is however responsible for the managing of contracts arranged by itself.

## **2 CORRECTION OF AN INCORRECT ACCEPTANCE**

### **POLICY**

- ☐ Mistakes in the letter of acceptance, contract form and/or formal contract must be reported immediately to the head of the SCM Unit.
- ☐ Every effort must be made without delay to recover the original letter of acceptance, contract form and/or formal contract from the contractor.
- ☐ Where it is not possible to recover the original, all particulars of the incorrect acceptance must be reported to the relevant award structure together with a recommendation regarding the corrective steps which are envisaged.

## **3 CONTRACT MONITORING**

### **POLICY**

- ☐ Constant monitoring is essential to ensure that contractual obligations are met and that contracts run with as little disruption as possible.
- ☐ The SCM Unit is responsible for notifying the user division timely of contract expiry that will allow the user division sufficient time to decide whether to renew the contract or to re-advertise the requirement.

## Chapter 17: Contract Management

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- ☐ The user division must ensure that the contractor performs according to the stipulations of the contract in delivering the goods or services on time, in the correct quantity and to the required standard (quality).
- ☐ Regular site inspections, where applicable and/or regular meetings with contractors to discuss progress, foreseeable problems and/or amendments must be held during the contract period.

### 4 NON-CONTRACTUAL PURCHASES (PARAGRAPH 21.4 OF THE GCC)

#### POLICY

- ☐ Small quantities of supplies or minor services may be procured outside of the contract in the following circumstances:
  - In cases of emergency; or
  - When the contractor's point of supply is not situated at or near the place where the supply or service is required; or
  - If the contractor's supplies or services are not readily available.
- ☐ Purchases outside the contract must be restricted to requirements that are absolutely necessary to satisfy the immediate requirement and the action must always be justifiable against the contract conditions.
- ☐ Normal acquisitioning procedures must in all instances be followed when procuring outside of existing contracts.

### 5 PLACING ORDERS

#### POLICY

- ☐ Placing orders is the sole responsibility of the SCM Unit.
- ☐ An order must be placed for purchase requests that go through the SCM system.
- ☐ However, there are instances where it may be impractical to issue orders, e.g. cases of emergencies. For such instances a special order book will be kept by management. The key factor with such exceptions would be to ensure that the proper authorisation processes were followed.

#### 5.1. Before an order is place the following must be performed:

- Requisition forms must be completed by the end user
- The requisition form must be signed by the Unit Head as evidence of approval and to ensure that budget is available before the acquisition.
- The Unit Head must never exceed his/her financial delegations
- Quotations must be obtained in line with the stipulated thresholds (Refer to Chapter 11) from the Treasury database (Provincial SCM suppliers database)
- Where, adequate quotes as per the thresholds are cannot be obtained a detailed motivation must be furnished by the Unit Head/delegate official

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- Then an order can be written out by SCM unit within the order authorisation delegations.
- Before an order is written SCM unit must ensure that all the above steps are performed.

### 6 PAYMENTS (PARAGRAPH 16 OF THE GCC)

#### POLICY

- ☐ Under normal circumstances payment is made for supplies in accordance with the contract conditions only after they have been delivered and, where applicable installed, in good working order.

### 7 CONTRACT VARIATIONS/AMENDMENTS

#### POLICY

- ☐ Any extension / variation / modification / amendment of the contract will be done according to the Accounting Officer's delegated powers to achieve the original objective of the contract.
- ☐ Amendments may not materially alter the original objective and as such amendments should form part of a new bid.
- ☐ All contractual parties must agree to the amendment.
- ☐ No contract can be amended after the original contract ceases to exist.

#### 7.1 GENERAL

- 7.1.1 When an item on contract is no longer available and another item has to be substituted, this implies an amendment of the contract. Such an amendment must be submitted to the relevant award structure for approval. When a contractor is no longer able to supply a contract item and he offers a substitute, which is more expensive, the amendment is to the disadvantage of the State unless the substitute item offers additional benefits which can be utilised by the State and which justify the additional cost. If not, Treasury approval must be obtained.
- 7.1.2 For the appointment of consultants any granting of a substantial extension of the stipulated time for performance of the contract, agreeing to any substantial amendment of the scope of the services, substituting key staff, waiving the conditions of a contract, or making any changes in the contract that would in aggregate increase the original amount of the contract by more than 15 percent, will be subject to the approval of the Accounting Officer or the delegate.
- 7.1.3 No variation in or modification of the conditions of contract shall be made without all the parties signing the amendment.
- 7.1.4 The user division must approach the SCM Unit with the request for amendment. The SCM Unit should contact the contractor to determine whether he/she will be agreeable to an amendment to the contract within the allowable parameters.

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7.1.5 If the contractor is prepared to amend the contract and it is confirmed in writing, the SCM Unit shall process the amendment and supply the user division with the details of the amendment.

7.1.6 The SCM Unit must involve legal assistance for the purpose of drawing up the amendment, if required. The SCM Unit must facilitate the signing of the amendment by all parties. A signed copy must be forwarded to the user division and the contractor and the SCM Unit must file the original signed amendment appropriately.

### 7.2 EXTENSION OF CONTRACT PERIODS

#### POLICY

- ☐ It is preferable that the extension of a contract shall be finalised before the current expiry date of the contract.
- ☐ Where prices are amended, the reasonableness of the prices must be established.

7.2.1 Extension of contract periods is undesirable because it often leads to uncontrolled increases in the contract prices. These must therefore be restricted to the minimum. The user division is responsible for ensuring that timely application is made for the arrangement of new contracts. Where justifiable reasons are provided for extending a contract, the relevant application may be considered favourably and contractors may be approached with the request to indicate whether they are prepared to extend the contract period and that goods/services will be rendered at the same price and conditions as per the original contract.

7.2.2 The fact that extension of contracts might affect the schedule for other contracts must also be borne in mind.

7.2.3 If contractors are prepared to extend the contract period, but with amended price conditions, the reasonableness of the prices must be established.

### 7.3 AMENDMENT OF CONTRACT CONDITIONS

#### POLICY

- ☐ Amendments may be considered on their merits bearing in mind the Department's interests. Amendments, which prejudice the Department, can be agreed to only with the approval of the relevant award structure.

7.3.1 Applications for the amendment of contract conditions are received from contractors from time to time and are usually to their advantage.

### 7.4 AMENDMENT OF SPECIFICATIONS

#### POLICY

- ☐ Where a binding contract has been concluded, an amendment of the specification whether initiated by the contractor or by the Department, can be made only after negotiation between the contractor and the Department and

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through the mediation of the relevant award structure.

7.4.1 Each case for the amendment of specifications must be dealt with on its own merits.

7.4.2 Account must be taken of the fact that the contractor has a right of recourse against the State if specifications have to be amended as a result of a mistake by the State. It is essential therefore that a settlement is reached with the contractor.

### 7.5 PRICE ADJUSTMENTS

#### 7.5.1 CONTRACTUAL PRICE ADJUSTMENTS

##### POLICY

- ☐ The contractual conditions shall stipulate the circumstances under which price adjustments shall be considered, the intervals for adjustment, the base date for adjustments as well as the price adjustment formula and the process to be followed in such circumstances.
- ☐ In cases of term contracts, price adjustments shall be considered on an annual basis and this condition shall be indicated in the bid document.
- ☐ No price adjustments should be considered for a contract period less than twelve (12) months.

7.5.1.1 In cases where the user division received a request for price adjustment from the contractor, the request must be immediately forwarded to the SCM Unit for facilitation.

7.5.1.2 The SCM Unit is responsible for confirming that the request is in line with the contractual conditions and will verify the calculations presented.

7.5.1.3 Once the request is accepted as correct and approved by the official with the necessary delegated authority, the SCM Unit will inform the contractor in writing and will inform the user and the finance divisions of the approved amendment to demonstrate the influence of the change on the contract.

7.5.1.4 The SCM Unit must file the amendment with the original contract.

7.5.1.5 Contractual price adjustments are considered in terms of the contract conditions. Since the GCC does not set out conditions pertaining to price increases, it is important that all bidding documentation will contain the relevant special conditions pertaining to price increases.

7.5.1.6 The following will be used for pricing schedules (NCP 3's):

- ☐ Firm prices (Purchases NCP 3.1)
  - If the contract is awarded on the basis of firm prices and during the contract period –

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- A customs or excise duty or any other duty, levy or tax (excluding any anti-dumping and countervailing duties or similar duties), is introduced in terms of any Act or regulation, or
- Any such duty, levy or tax is legally changed or abolished; the said prices shall be adjusted accordingly.

☐ Non-firm prices (Purchases NCP 3.2)

- In respect of any factors which demonstrably have an influence on the production cost of the supplies or the rendering cost of the service for which there have been proposed on the basis of non-firm prices, price adjustments which become effective during the contract period may be allowed with effect from the date indicated in the bid document.

### 7.5.1.7 Price adjustments due to escalation

- ☐ In some instances (contracts exceeding 12 months) it might be in the best interest of the State to allow price adjustments based on escalation. What the best option should be will require a careful analysis of all related aspects that will influence the adjusted price, including the cost for the additional administrative work. If the Bid Specification Committee resolves to allow price escalation as part of the contract, this should be specified in the bid documents, including the formula and the time frames at which intervals such price adjustments should be considered.

### 7.5.2 NON-CONTRACTUAL ADJUSTMENT OF PRICES

**POLICY**

- ☐ Non-contractual adjustment of prices is not allowed.

- 7.5.2.1 For example, when contractors suffer loss as a result of their own negligence, price adjustments not covered by the contract are not favourably considered. However, where a contractor suffers loss as a result of incorrect action by the State, non-contractual price adjustments may be considered by the State. For adjustments that are to the disadvantage of the State, necessary Treasury approval must be obtained.

### 7.6 REDUCTION OF PRICES

**POLICY**

- ☐ The Department must accept price reductions after award of a contract where this is advantageous to the Department, unless the acceptance of the price reduction amounts to breach of contract. In instances, where price reductions lead to the dumping of old stock to the state, it is not acceptable.

### 7.7 TRANSFER AND CESSION OF CONTRACTS

**POLICY**

- ☐ The contractual conditions should stipulate the conditions under which

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transfers/cessions shall be considered and the process to be followed in such circumstance.

- 7.7.1 The SCM Unit in conjunction with the user division shall deal with transfers/cessions.
- 7.7.2 The contractual conditions should stipulate the conditions under which transfers/cessions shall be considered and the process to be followed in such circumstance.
- 7.7.3 Applications for the transfer/cession of contracts must be completed and signed by both the transferor and the transferee and countersigned by two witnesses. Full reasons for the transferring of the contract must be provided and the transferee's ability to carry out the contract must be established and reported to the Accounting Officer or the delegate. Unless it is otherwise in the best interest of the Department, it is unlikely that the transfer will be approved if the Department would suffer a loss as a result thereof or if there is an increased risk to the Department.
- 7.7.4 Should the contract be transferred to another provider it should be checked whether the number of preference points scored are less than that scored by the original contractor. Thus it should be indicated if the transfer would have had an influence on the award. However the circumstances leading to the transfer must be pointed out and taken into consideration.
- 7.7.5 The contractor will raise the issue with the user division in writing where after the user division must comment on the viability of the transfer/cession and submit the request to the SCM Unit.
- 7.7.6 If the transfer/cession is not viewed favourably for a justifiable reason, the SCM Unit must inform the contractor of the decision in writing and provide the user division with copies of the correspondence for filing purposes.
- 7.7.7 If the transfer/cession is viewed favourably, the SCM Unit should involve legal assistance for the purpose of drawing up the transfer/cession documentation if necessary. The SCM Unit must facilitate the signing of the transfer/cession by all parties, must forward a copy to the user division and the contractor and must file the original signed transfer/cession documentation appropriately.

## 8 INSOLVENCY, LIQUIDATION, DEATH, SEQUESTRATION OR JUDICIAL MANAGEMENT OF CONTRACTORS

### POLICY

- ☐ In terms of paragraph 26 of the GCC, the Department has certain options, which it may exercise in the case of insolvency.
- ☐ The risk to the Department is the determining factor and the choice with the smallest degree of risk is preferred.

- 8.1 Insolvency or bankruptcy is the failure/inability to meet financial obligations. An act of insolvency is any of the eight actions as described in the Insolvency Act whereby a guilty person subjects himself to sequestration.



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- 8.2 Sequester is firstly to place an insolvent debtor's estate in the hands where the Master decides on the estate and thereafter it rests with the trustee that distributes the assets (money) among the creditors or, secondly where the court determines insolvency.
- 8.3 Liquidate is to determine and settle/wind up the liabilities of a firm or an estate and to mete out the assets to creditors or inheritress.
- 8.4 Judicial management is the temporary management of a company, in a state of financial difficulty, by a judicial/legal manager appointed by the court to rectify the matter.
- 8.5 When the estate of a contractor is liquidated for whatever reason, a choice must be made in consultation with legal advice of whether to claim against the estate or not. The risk to the Department is the determination factor and the choice with the smallest degree of risk is preferred.
- 8.6 If a firm or person is liquidated it is regarded as a breach of contract. The provisional liquidator or administrator is given the choice of carrying out the contract or not. In most cases, the response is negative and a provisional claim against the estate is then registered and must be qualified to the extent that the Department will claim provided that it does not have to make a financial contribution.

## 9 UNSATISFACTORY PERFORMANCE

### ☐ POLICY

- ☐ Communicate unsatisfactory performance to contractors in writing, compelling him/her to perform according to the contract and thus to rectify or to restrain from unacceptable actions.

### 9.1 UNSATISFACTORY PERFORMANCE: DEPARTMENT'S ROLE

#### 9.1.1 General

- 9.1.1.1 Unsatisfactory performance occurs when performance is not in accordance with the contract conditions. Directives regarding action in such cases appear in **paragraphs 15, 21 to 23, 26 and 28 of the GCC.**
- 9.1.1.2 The user division must identify unsatisfactory performance in terms of the contract timely.
- 9.1.1.3 The SCM Unit must, in consultation with the user division and legal assistance if required, bring unsatisfactory performance to the attention of the contractor in writing. The SCM Unit shall give notice to the contractor of action to be taken in line with the contract due to non-performance.
- 9.1.1.4 If the performance is not rectified, the user division must inform the SCM Unit of this fact.

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9.1.1.5 Before action is taken in terms of the GCC or any other special contract condition applicable, the Department must warn the contractor in writing that action will be taken in accordance with the contract conditions unless he complies with the contract conditions and delivers satisfactory supplies or services within a specified reasonable time. If the contractor still does not perform satisfactorily despite a final warning, the Department may make a recommendation to the Accounting Officer or the delegate for the appropriate penalties to be introduced or for the cancellation of the contract concerned.

9.1.1.6 When correspondence is addressed to the contractor, reference must be made to the contract number, the item number and the number and date of any relevant invoice, statement or letter received from the contractor. Otherwise the number and date of the order, a short description of the supply or service and details of the destination if applicable, must be supplied.

9.1.1.7 Provincial SCM to be informed of actions taken as a result of non-performance to address the issue and possible restriction.

### **9.1.2 Warrantees**

9.1.2.1 If, during the warranty period, a supply does not comply with the requirements because of faulty material used during manufacture, or faulty finishing, or any deficiency, latent or otherwise, the contractor must be requested without delay, by registered mail, to replace or repair the supply depending on the circumstances. Supplies replaced or repaired or services rendered must be warranted for the same period as the original supplies or services. See paragraph 15 of the GCC in connection with warrantees.

### **9.1.3 Late deliveries**

9.1.3.1 Par 10 of the GCC states that delivery of supplies shall be made in accordance with the conditions specified in the contract.

9.1.3.2 Before action due to late delivery is instituted against a contractor who has offered a firm delivery period, the circumstances under which the late delivery took place must be investigated. There may be valid reasons for the late delivery, which are beyond the control of the contractor, in which case action cannot be taken summarily against the contractor.

9.1.3.3 On the other hand, contractors must not be allowed to delay deliveries repeatedly. Wherever possible, firm delivery periods must be insisted upon before a bid is accepted.

### **9.1.4 Penalties for late delivery (paragraph 22 of the GCC)**

9.1.4.1 Penalties are not intended as a source of income for the State, but serve as an incentive to the contractor to perform within the contractual conditions.

9.1.4.2 Circumstances exist where penalties cannot be imposed summarily, for example, transversal period contracts where large quantities are involved and more than one Department may place orders simultaneously. Late deliveries must, however, be thoroughly investigated and action taken where necessary. Therefore, Departments have discretionary powers in this respect.

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- 9.1.4.3 Where an unreasonable delay occurs, the Department concerned must issue a written warning to the contractor in writing, setting a cut-off date (usually three weeks from date of warning) and warn him that the penalty clause will be applied if the order is not executed before the cut-off date. If he does not heed the warning, the penalty clause must be applied and the action reported to the Provincial Treasury.
- 9.1.4.4 Where firm delivery periods are applicable and late delivery occurs, penalties do not have to be imposed where no damage, loss or inconvenience has been suffered by the State.
- 9.1.4.5 In the following cases penalties for late delivery **must** be imposed:
- ☐ Where deliveries within a particular time period (service) were a specific contract condition and where delays caused serious damage, loss or inconvenience to the Department.
  - ☐ Where a firm delivery period (supply) was a contract condition and where delays caused serious damage, loss or inconvenience to the Department.
- 9.1.4.6 Ordinarily, penalties are imposed on the full value of the order. Penalties are calculated as from the contractual date of delivery or such extended delivery date mutually agreed to in writing by the contracting parties.
- 9.1.5 Legal remedies in the case of incorrect preferences**
- 9.1.5.1 If a contractor should win a contract on the basis of wrong information which he has supplied regarding the preferences which he has claimed, and it is shown later that the information is incorrect, then the Accounting Officer has the power to:
- 9.1.5.2 Recover any costs or damage which the State might have suffered as a result of the conclusion of the contract; and/or
- 9.1.5.3 Terminate the contract and to recover any loss which the State may suffer as a result of having to make less favourable arrangements; and/or
- 9.1.5.4 The Provincial Treasury must be informed without delay when such cases come to light so that they may decide on suitable action.
- 9.2 **RESTRICTION**

### **POLICY**

- ☐ The Accounting Officer may in terms of Treasury Regulations 16A9.2:
  - Disregard the bid of any bidder if that bidder, or any of its directors-
    - Have abused the Department's SCM system;
    - Have committed fraud or any other improper conduct in relation to such system; or
    - Have failed to perform on any previous contract; and
  - Must inform the Provincial Treasury of any action taken in terms of the aforementioned paragraph.

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### 10 CONTRACT CANCELLATION

#### POLICY

- ☐ The Accounting Officer must cancel a contract awarded to a provider:
  - If the provider committed any proven corrupt or fraudulent act during the bidding process or the execution of that contract; or.
  - If any official or other role player committed any proven corrupt or fraudulent act during the bidding process or the execution of that contract that benefited that provider. See Treasury Regulation 16A9.1(f)
- ☐ Contract termination may be effected if allowed for in the contractual conditions and if both parties agree to the termination in writing.
- ☐ Termination of a contract may be considered for a variety of reasons, as stipulated in paragraph 21.6, 23 and 26 of the GCC, such as delayed deliveries, failing to perform any other contractual obligation or if the supplier has engaged in corrupt and fraudulent practises and insolvency.

- 10.1 Contract termination required by the Department due to non-rectified breach of contract or corruption, shall be initiated by the SCM Unit in consultation with the user division and legal assistance.
- 10.2 The SCM Unit shall forward a notice of termination to the contractor and the user division must be kept informed of the actions taken.
- 10.3 If the contractor does not agree with the termination, the case must be handed over to legal assistance.
- 10.4 Termination of a contract is usually detrimental to the Department. Therefore serious thought must be given to the grounds for considering termination. 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 termination can be justified. If termination is decided upon, the matter must be explained fully in a memorandum to the Accounting Officer and the following must be addressed:
  - 10.4.1 Indicate the arrangements to be made for completing the contract;
  - 10.4.2 Indicate whether additional costs will be recovered from the contractor
  - 10.4.3 If the additional costs cannot be determined precisely, a careful estimate of it must be made and mentioned in the submission to the Accounting Officer.

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### 18.1. Logistics Management

#### **POLICY**

- ☐ The Accounting Officer shall establish an effective system of logistics management in accordance with Provincial Supply Chain Management (SCM) prescripts.

18.1.1. The following are under logistics management element of Supplier Chain Management:

- Store management (receipt, maintenance and issue)
- Transport management
- Cell-phone management
- Messenger services
- contract administration

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### 18.2. Disposal Management

#### POLICY

- ☐ The Accounting Officer shall establish an effective system of disposal management for the disposal of unserviceable/redundant/obsolete state assets.
- ☐ The Accounting Officer will appoint, in writing, a disposal committee to advise him/her about disposal matters.
- ☐ All disposals of assets will be approved by the Accounting Officer.

#### 18.2.1. Cognisance should be taken of the following:

- A Register of redundant/obsolete items to be kept.
- Assets are to be inspected for potential re-use.
- Determination of the appropriate disposal method of obsolete items.
- Disposal of movable assets must be at market-related value utilizing price quotations, competitive bids or auction, whichever is most advantageous to the department.
- The Accounting Officer may also transfer assets to other organs of state.
- The Accounting Officer must, when disposing of computer equipment, firstly approach a state institution or Non Governmental Organisation (NGO) involved in education and/or training to determine whether such an institution requires IT equipment - if so IT equipment shall be transferred free of charge to the identified institution.

#### POLICY

- ☐ The Accounting Officer must submit to the Provincial Treasury such SCM information e.g. monthly reports, as that Treasury may require and in such format and at such intervals as specified.
- ☐ The Department will implement an information gathering and recording system to facilitate the above.

#### Gathering of information/determining criteria

Provincial Treasury has determined that they require certain information so as to determine the implementation and progress made by Departments regarding the SCM system. This Department is therefore compelled to ensure the continuous gathering and recording of this information to satisfy the requirement. In certain cases, the criteria to be used in determining progress will have to be compiled and updated at regular intervals. Steps will then have to be taken within the

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Department to ensure that this system is implemented. Monthly statistical reports on the relevant format must be submitted to Provincial Treasury SCM Unit.

### **18.3. RECORD KEEPING**

#### **1.1 RECORD KEEPING HAS TO BE STRUCTURED AS FOLLOWS:**

- 1.1.1 The necessary information, to satisfy the internal and external reporting requirements, has to be kept in an orderly manner. The gathering of information and recording system must provide for the type of information required, deadlines and the allocation of duties and responsibilities.
- 1.1.2 The necessary records can be maintained either manually or electronically. The consolidation of the required returns and forwarding thereof has to be allocated to the responsible person or section.
- 1.1.3 The necessary records should be updated as the required information becomes available, and could contain information such as:
  - 1.1.3.1 Percentage of total spend in respect of HDIs and/or BEE.
  - 1.1.3.2 Percentage of total spend in respect of SMMEs.
  - 1.1.3.3 Information required regarding urgent/emergency procurement processes followed.
  - 1.1.3.4 Information regarding deviation from SCM processes.

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### **1.2 THE DEPARTMENT SHOULD CONSIDER KEEPING SOME OF THE FOLLOWING RECORDS:**

#### **1.2.1 Record of gifts received per division/directorate**

- 1.2.1.1 Name of official that received the gift.
- 1.2.1.2 Description of the gift.
- 1.2.1.3 Estimated value of the gift.
- 1.2.1.4 Name of person or company that presented the gift.
- 1.2.1.5 Pages must be numbered.

#### **1.2.2 Bid documents issued (must be kept)**

- 1.2.2.1 Bid numbers.
- 1.2.2.2 Names and addresses of prospective bidders.
- 1.2.2.3 Where applicable, indicate money received for the payment of bid documents issued.
- 1.2.2.4 All inscriptions must be numbered.

#### **1.2.3 List of bids received (must be kept)**

- 1.2.3.1 Bid number.
- 1.2.3.2 Closing date.
- 1.2.3.3 Names of bids received.
- 1.2.3.4 All inscriptions must be numbered.

#### **1.2.4 Record of urgency and emergency procurement (must be kept)**

- 1.2.4.1 Reference number.
- 1.2.4.2 Description.
- 1.2.4.3 Nature and the details of the urgency or emergency process followed.
- 1.2.4.4 Particulars of person or body that granted the approval.
- 1.2.4.5 Date of approval.
- 1.2.4.6 Delegation number.



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1.2.4.7 Financial implication.

1.2.4.8 All inscriptions must be numbered.

### **1.2.5 Record of complaints received from bidders or contractors (must be kept)**

1.2.5.1 Date of complaint received.

1.2.5.2 Date of company or person complaining.

1.2.5.3 Reference of bid number.

1.2.5.4 Description.

1.2.5.5 Details of complaint.

1.2.5.6 Action taken including the relevant dates.

1.2.5.7 Date of finalisation.

1.2.5.8 All inscriptions must be numbered.

### **1.2.6 Record of instances of fraud or corruption (must be kept)**

1.2.6.1 This record reflects the instances of fraud or corruption that occurred including fraud or corruption by government officials, prospective providers, contractors or any other legal person/entity. This record will reflect all actions taken in this regard.

### **1.2.7 Record of irregular, fruitless and wasteful expenditure**

1.2.7.1 Date of request received.

1.2.7.2 Description.

1.2.7.3 Particulars of end user, contact person and telephone number.

1.2.7.4 Details of irregular, fruitless and wasteful expenditure.

1.2.7.5 Action taken.

1.2.7.6 Date finalised.

1.2.7.7 Financial implication.

1.2.7.8 All inscriptions must be numbered.

### **1.2.8 Record of transversal term contracts distributed**

1.2.8.1 Date of request for participation received from the Provincial Treasury.

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- 1.2.8.2 Contract number.
- 1.2.8.3 Contract period.
- 1.2.8.4 Description.
- 1.2.8.5 Date on which the request for participation or information was distributed to the end users for input.
- 1.2.8.6 Date of reply to the Provincial Treasury.
- 1.2.8.7 Date of the contract or amendments received from the Provincial Treasury.
- 1.2.8.8 Date when the final contract or amendments were distributed to the end user to take note of the department's participation in the contract.
- 1.2.8.9 Date of confirmation of receipt of the contract/amendment by the end user.
- 1.2.8.10 All inscriptions must be numbered.

### 1.2.9 Record of Circulars Distributed within the Department

- 1.2.9.1 Circular number.
- 1.2.9.2 Description.
- 1.2.9.3 Date on which the circular was sent to the end user.
- 1.2.9.4 Date of confirmation of receipt of the circular.
- 1.2.9.5 All inscriptions must be numbered.

## 18.4 ASSESSMENT OF SUPPLY CHAIN PERFORMANCE

### POLICY

- ☐ The Department must monitor and assess the performance of all contractors during the contract period.
- ☐ The Department must measure and monitor the SCM policy and process through a performance measurement system to ascertain whether government's objectives have been achieved. In this regard complete records pertaining to SCM will be kept.

### DEFINING SCM PERFORMANCE MEASUREMENT

- 18.4.1 Supply chain performance is a monitoring process during which a retrospective analysis is undertaken to determine whether the prescribed SCM processes are being followed and whether the desired objectives are in the process of being achieved.