

THEMBISILE HANI LOCAL MUNICIPALITY



SUPPLY CHAIN MANAGEMENT POLICY DRAFT (2017-2018)

CHAPTER 1

1. INTRODUCTION

A Green Paper on Public Sector Procurement Reform in South Africa was published in April 1997. The Green Paper recognized that public sector procurement could be used by government as a mechanism to also achieve certain broader policy objectives such as black economic empowerment, local economic development spin-offs for small and medium sized business, skills transfer and job creation. To achieve this, institutional and economic reform was necessary within two broad themes, namely, to establish principles of good governance in the area of supply chain management and to introduce a preference system to achieve certain socio-economic policy objectives.

PURPOSE OF THE POLICY

This document is to serve as both a policy guideline and as a general user manual for the personnel of THLM (Thembisile Hani Local Municipality) in which the policy and directives with regard to supply chain management are made known. This policy therefore addresses the following as required by the Local Government: Municipal Finance Act, 2003 and the Preferential Procurement Regulations of 2004, the Broad-Based Black Economic Empowerment Act (Act 53 of 2003) and the Draft Supply Chain Management Regulations from National Treasury (3 May 2005):

- a. Procurement of goods and services;
- b. Disposal of goods no longer needed;
- c. Selection of contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Systems Act applies; and
- d. Selection of external mechanisms referred to in section 80(1)(b) of the Systems Act

This policy does not apply if the municipality contracts with another organ of state for-

Provision of goods or services to the municipality;

The provision of a municipal service or assistance in the provision of a municipal service; or

The procurement of goods and services under a contract secured by that other organ of state, provided that the relevant supplier has agreed to such procurement.

2. ABBREVIATIONS

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| BEE | Black Economic Empowerment |
| BBEEA | Broad-Based Black Economic Empowerment Act (Act 53 of 2003) |
| MFMA | Municipal Finance Management Act, 2003 (Act 56 of 2003) |
| THLM | Thembisile Hani local municipality established i.t.o. Act No 117 of 1998 |
| CEO | Chief Executive Officer |
| CFO | Chief Financial Officer |
| CBC | Central Bid Committee |
| HDI | Historically Disadvantaged Individual |
| HOD | Head of Department |
| MM | Municipal Manager |
| PPPFA | Preferential Procurement Policy Framework Act, (Act no 5 of 2000) |
| RDP | Reconstruction and Development Programme |
| RFI | Request for Information |
| RFP | Request for Proposal |
| SCM | Supply Chain Management |
| SFEC | Standing Financial Expenditure Committee |
| SMME | Small Medium and Micro Enterprise |
| TOR | Terms of Reference |

3. DEFINITIONS

In this Policy, unless a written context otherwise indicates, a word or expression to which a meaning has been assignment in the Act has the same meaning as in the Act, and:

“Bid” means a written offer submitted in a prescribed or stipulated form, in response to an invitation by the Thembisile Hani Municipality for procurement as part of a competitive bidding process;

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

“Final award” means the final decision on which bid or quote to accept;

“In the service of state” means to be:

- (a) a member of
 - (i) any municipal council;
 - (ii) any provincial legislature;
 - (iii) the National Assembly or National Council of provinces;
- (b) a member of the board of directors of any municipal entity;
- (c) an official of any municipality or municipal entity;

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

“Long term contracts” means a contract with a duration period exceeding one Year;

“other applicable legislation” means any other legislation applicable to municipal Supply chain management, including:

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

“municipality” means Thembisile Hani Municipality;

“Historically Disadvantaged Individual” means a South African citizen:

- (a) Who had no franchise in national elections prior to the introduction of the Constitution of the Republic of South Africa, 1983 (Act no 110 of 1983) or the Constitution of the Republic of South Africa, 1993 (Act no 200 of 1993) (“the Interim Constitution”); and/or
- (b) Who is a female; and/or
- (c) Who has a disability;
- (d) 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.
- (e) “Small Medium and Micro Enterprise” (SMME) is as defined in the National Small Business Act, 1996 (act 102 of 1996) and refers to companies Employing a maximum of 100 employees in any sector except manufacturing or construction where the maximum is 200 employees.

“Council” means Thembisile Hani Municipal council referred to in Sec 157(1) of the constitution;

“delegation” means the issuing of a written authorization by delegating authority to a delegated body to act in his stead;

“Physically disabled” shall mean suffering from an impairment of a physical, intellectual or sensory function, resulting in a restriction or lack of ability to perform an activity in a manner or within a range considered normal.

“Head of department” shall mean a senior manager as referred to in Section 56 of the Municipal Systems Act.

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

“the Regulation” means the Local Government: Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations, Gazette Number 865 of 2005;

“youth” means any person who is thirty-five years old or below;

“Municipal Finance Management Act” shall mean the Municipal Finance Management Act no 56 of 2003

“Municipal manager” shall mean the person appointed in terms of Section 82 of the Municipal Structures Act.

“Municipal Structures Act” shall mean the Local Government: Municipal Structures Act No. 117 of 1998.

“Municipal Systems Act” shall mean the Local Government: Municipal Systems Act No. 32 of 2000.

“Supply chain management policy” shall mean the policy referred to in Section 111 of the Municipal Finance Management Act.

“Budget and treasury office” shall mean the office established in terms of Section 80 of the Municipal Finance Management Act”

“Chief financial officer” shall mean the person designated as such in terms of Section 80(2)(a) of the Municipal Finance Management Act No. 56 of 2003.

“Councilor” shall mean a member of the municipal council.

4. LEGISLATIVE ENVIRONMENT & REGULATORY FRAMEWORK [here you can simply provide two explanatory sentences for mentioning the Act. Then your policy should try as much as possible to be in line with those provisions.

4.1 THE CONSTITUTION

In establishing a supply chain management policy document, the Thembisile Hani local municipality must produce a document that complies with section 217 of the Constitution of the Republic of South Africa, 1996 (Act 208 of 1996) which reads as follows:

- (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 and services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost-effective.
- (2) Subsection (1) does not prevent the Organs of State or institutions referred to in that subsection from implementing a procurement policy providing for-
 - (a) categories of preference in the allocation of contracts; and
 - (b) the protection or advancement of persons, or categories of persons, disadvantaged by unfair discrimination.
- (3) National legislation must prescribe a framework within which the policy referred to in subsection (2) must be implemented.

4.2 THE MUNICIPAL SYSTEMS ACT

The "Municipal Systems Act 2000 (Act 32 of 2000) requires that municipalities assess, according to specific criteria and processes, whether to provide municipal services internally or externally by way of service delivery agreements. This Act stipulates the requirements for service delivery agreements through competitive bidding selection and pre-qualification processes which-

are competitive, fair, transparent, equitable and cost-effective,

allow all prospective service providers to have equal and simultaneous access to information relevant to the bidding process;

minimise the possibility of fraud and corruption; and

make the municipality accountable to communities, residents and role-players about progress with selecting a service provider and the reasons for any decision in this regard; and

take into account the need to promote the empowerment of small and emerging enterprises.

4.3 THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT

The Preferential Procurement Policy Framework Act, (Act No. 5 of 2000) and its regulations are applicable to local government. It provides that THLM shall implement a preference system in the allocation of contracts for categories of service providers to advance the interest of persons disadvantaged by unfair discrimination. However, it must be applied without compromising or limiting the quality, coverage, cost and developmental impact of the services.

4.4 THE LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003 (ACT 56 OF 2003)

This Act and Chapter 11 in particular deals with supply chain management in detail and it is essential that it is strictly adhered to by the municipality in order to achieve the objectives as set out in this document. It is compulsory for a municipality to have a supply chain management policy to give effect to the relevant provisions of the Act. The intention of THLM is therefore to compile an SCM policy that will give effect to the provisions of this Acts.

The Municipal Finance Management Act, 2003 (Act 56 of 2003) provides that the municipal supply chain management shall comply with a regulator framework that must cover at least the following:

- The range of supply chain management processes that will be used including tenders, quotations, auctions and other types of competitive bidding.
- When a particular type of process must be used.
- Procedures and mechanisms for each type of process.
- Procedures and mechanisms for more flexible processes where the value of a contract is below a prescribed amount.
- Open and transparent pre-qualification processes for tenders or other bids.
- Competitive bidding processes in which only pre-qualified persons may participate.
- Bid documentation, advertising of and invitations for contracts.

Procedures and mechanisms for-

- The opening, registering and recording of bids in the presence of interested persons;
- The evaluation of bids to ensure best value for money;
- Negotiating of final terms of contracts; and
- The approval of bids.

Screening processes and security clearances for prospective contractors on tenders or other bids above a prescribed value.

Compulsory disclosure of any conflicts of interests prospective contractors may have in specific tenders and the exclusion of such prospective contractors from those tenders or bids.

Participation in the supply chain management system of persons who are not officials of the municipality.

The barring of persons from participating in tendering or other bidding processes, including persons-

- Who were convicted for fraud or corruption during the past five years;
- Who wilfully neglected, reneged on or failed to comply with a government contract during the past five years; or
- Whose tax matters are not cleared by SARS.

Measures for –

- Combating fraud, corruption, favouritism and unfair and irregular practices in municipal supply chain management; and
- Promoting ethics of officials and other role players involved in municipal supply chain management.

The invalidation of recommendations or decisions that were unlawfully or improperly made, taken or influenced, including recommendations or decisions that were made, taken or in any way influenced by –

- Councillors in contravention of item 5 or 6 of their Code of Conduct;
- Municipal officials in contravention of items 4 or 5 of their Code of Conduct.

The procurement of goods and services by municipalities through contracts procured by other organs of state.

Contract management and dispute settling procedures.

Delegation of municipal supply chain management powers and

duties.

5. VISION AND OBJECTIVES

THLM is a municipality that undertakes to the “provision of affordable and sustainable services above RDP standards”.

THLM intends to “provide essential, affordable quality services to communities efficiently and effectively in a transparent and accountable manner”

- Values
- Integrity
- Accountability
- Equity
- Transparency
- Excellence and Trust

Principles

This supply chain management policy is intended to be in line with the prescribed national procurement policy and will also take into consideration the following key principles:

- creating opportunities for SMME’s;
- ensuring that value for money is obtained;
- to eliminate and counter any form of corruption, favoritism and irregular practices;
- implementation of systems of control and accountability; and standardisation in procedures of bid evaluations, documentation and contracts;
- Effective monitoring and support
- Total quality management

- Reporting

CHAPTER 2

Supply Chain Management system

Municipality shall use the following system for Supply Chain Management:

- (a) demand management;
- (b) acquisition management;
- (c) logistics management;
- (d) risk management;
- (e) performance management;

1. DEMAND MANAGEMENT

1. Demand management provides for an effective system to ensure that the resources required to support the strategic operational commitments of the municipality 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 municipality.

2. The municipality's Integrated Development Plan (IDP) is a comprehensive strategy document setting out how the municipality intends to tackle its development challenges in a financial year. It is on the basis of the IDP that the resources of the municipality will be allocated and on which the budget is based.

3. In order to achieve effective demand management, the DH: Supply Chain Management shall continuously ensure:

3.1 That efficient and effective provisioning and procurement systems and practices are implemented to enable the municipality to deliver the required quantity and quality of services to the communities.

3.2 The establishment of uniformity in policies, procedures, documents and contract options and the implementation of sound systems of control and accountability.

3.3. The development of a world-class professional supply chain management system which results in continuing improvement in affordability and value for money, based on total cost of ownership and quality of procurement as competition amongst suppliers is enhanced.

3.4 In dealing with suppliers and potential suppliers, that the municipality shall respond promptly, courteously and efficiently to enquiries,

suggestions and complaints.

Major Activities

4. Demand management lies at the beginning of the supply chain and the major activities associated with identifying demand are:

4.1 establishing requirements;

4.2 determining needs; and

4.3 deciding on appropriate procurement strategies.

5. Demand management accordingly shall involve the following activities:

5.1 understanding the future needs;

5.2 identifying critical delivery dates;

5.3 identifying the frequency of the need;

5.4 linking the requirement to the budget;

5.5 conducting expenditure analyses based on past expenditure;

5.6 determining requirements,

5.7 conducting commodity analyses in order to check for alternatives;
and

5.8 conducting industry analyses.

2. ACQUISITION MANAGEMENT

2.1 SYSTEM OF ACQUISITION MANAGEMENT

(a) the accounting officer must implement the system acquisition management as set out in this section in order to ensure:

- (i) that goods and services are procured by municipality in accordance with authorized processes only;
- (ii) that expenditure on goods and services is incurred in terms of an approved budget and IDP in terms of section 15 of the Act;
- (iii) that the threshold values for the procurement for the different procurement processes are complied with;
- (iv) that bid documentation, evaluation and adjudication criteria, and general conditions of contract, are in accordance with any applicable legislation; and

- (v) that any treasury guidelines on acquisition management are properly taken into account.

(b) this policy does not apply in respect of procuring goods and services contemplated in section 110(2) of the Act, including:

- (i) water from department of water affairs or a public entity, another municipality or municipal entity; and
- (ii) electricity from Eskom or another public entity, another municipality or municipal entity.

(c) Accounting officer must ,when procuring goods or services contemplated in section 110(2) of the Act make public the fact that it procures such goods or services otherwise than through its Supply Chain Management system, including:

- (i) the kind of goods or services; and
- (ii) the name of supplier.

2.2 RANGE OF PROCUREMENT PROCESSES

(a) Goods may only be procured by way of:

- (i) petty cash purchases, up to a transaction value of R 500(VAT Included);
- (ii) One quotation for procurement of transaction value of over R 0.00 up to R 2000 (VAT included)

The procurement of goods and services below 0-R30 000.00 is done by the request for quotation through telephonic request, threshold must be awarded based on compliance to Specifications and based on lowest acceptable price. It is proposed that spending on procurement should be aligned to the Thembisile Hani Local Municipality and Mpumalanga Provincial government BBEE targets prior to the creation of the Purchase Order, the Supply Chain Manager should ensure that Tax matters are in order and declaration forms are completed by Bidder are in order.

- (iii) formal written quotations for procurements of transaction value over R 2000 up to R 200 000 (VAT included); and
- (iv) Competitive bidding process for procurement above R 200 000 and long term contracts.

The procurement of goods and services above R30 000.00 but below R200 000.00 must be procured through formal written price quotations (Public notice) from the Thembisile Hani Local Municipality database. The database must be opened quarterly to attract more new entries.

The suppliers must be selected from the database of suppliers for a period of four to seven days and when using vendors who are on the database, ongoing competition must be promoted by rotating the invitation to vendors to participate in the system where women, youth, people with disabilities and co-operatives are considered. Rotation should also apply to bids where it becomes clear that the supplier/contractor may not perform due to being overloaded with work, as a result, there is a possible risk of not completing work on time. Part 4 of Preferential Procurement regulations under award of contract states that:

"A contract must be awarded to the bidder who scored the highest total number of points in terms of the preference point system"

"In exceptional circumstances a contract may, on reasonable and justifiable grounds, be awarded to a bidder that did not score the highest number of points. The reasons for such a decision must be approved and recorded for audit purposes and must be defensible in the court of law".

Offers above R30 000.00 to R200 000.00 (VAT Included) must be awarded based on, compliance to Specifications, Preferential Point System and ability and capacity to deliver the goods and services. Valid Tax Clearance certificate and Municipal accounts of all the Directors should be submitted with the Proposal.

(b) Goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of this policy.

UNBUNDLING STRATEGIES (NOT FOR QUOTATIONS)

In order to encourage increased participation and the sustainable growth of the small business sector, the unbundling of larger projects into smaller, more manageable, contract by the relevant department is encouraged. Unbundling must however be considered in the context of:

- economies of scale being lost
 - Abortive work becoming necessary
 - Additional Demands (not only financial) being placed on the areas resources,
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- The risk of later phases not being completed as the result of budget cuts becoming necessary in the future. Unbundling, and all of its associated implications, must therefore be carefully considered at the planning stage of any project and the budgets for, the design thereof, should be structured accordingly. It is important to note that while it is Thembisile Hani Local Municipality Policy to procure works in the smallest practicable quantities, the practice of breaking out project in order circumvent the formal tender process is not permitted. When it is considered in Thembisile best interest to divide the total requirement on any tender between two or more tenderers e.g in order to

draw from the nearest source, or to support SMME's and Cooperatives to supply or service may be divided amongst several tenderers, and contracts can be placed accordingly, provided that this was tender condition set by relevant department.

(c) When determining transaction values, a requirement for goods or services consisting of different parts or items must as far possible be treated and dealt with as a single transaction.

2.3 GENERAL PRECONDITIONS FOR CONSIDERATION OF WRITTEN QUOTATIONS OR BIDS

A written quotation or bid may not be considered unless the provider who submitted quotation or bid

(a) has furnished the following:

- (i) full name
- (ii) identification number or company or other registration number;
- (iii) VAT registration number, where applicable.

(b) has declared

- (i) whether he or she is in the service of the state or has been in the service of the state in the previous twelve months
- (ii) if the provider is not natural person, whether any of its directors, managers, principal shareholders or shareholder is in the service of state, or has been in the service of state in the previous twelve months ; or
- (iii) Whether a spouse, child or parent of the service provider or of director, shareholder or stakeholder referred to in subparagraph(ii) is in the service of state or has been in the service of state in the previous twelve months.

2.4 SUPPLIERS DATABASE

The accounting officer through SCM must;

(a) keep a list of accredited prospective suppliers of goods or services that must be used for the procurement requirements of municipality.

(b) at least once a year via newspapers commonly circulating locally, the website of the municipality and any other appropriate way, invite prospective suppliers of goods or services to apply for evaluation and listing as accredited prospective suppliers;

(c) Specify the listing criteria for prospective service providers;

(d) disallow the listing of any prospective provider whose name appears on the national treasury's database of person prohibited from doing business with the state;

(e) Update the list at least quarterly to include any additional prospective providers and any new commodities or types of services.

(f) Compile the list per commodity and type of service.

2.5 PETTY CASH PURCHASES

The following petty cash procurement process shall apply:

(a) Procurement of goods to a maximum amount of R 500 may be made by means of petty cash purchases;

(b) Maximum amounts of petty cash procurement for each department shall be R 2000 per department;

(c) Only Divisional Head of Supply Chain Management can give a department a go ahead to request petty cash after taking into account the nature of expenditure and satisfying himself that procurement can be done via petty cash and that petty cash system is not abused.

2.6 FORMAL WRITTEN QUOTATIONS

(a) Quotations must be obtained from at least three different providers whose names appear on the supplier database of the municipality, provided that if quotations are obtained from providers who are not listed, such providers must register before providing service or goods

(b) if it is not possible to obtain three quotations, the reasons must be approved by Chief Financial Officer, recorded and reported quarterly to accounting officer;

(c) Supply Chain Management Unit must record names of potential providers requested to provide quotations as referred in (b) above and their quoted price;

2.7 PROCEDURES FOR PROCUREMENT VIA WRITTEN QUOTATIONS

(a) all requirements in excess of R 30 000(VAT included) will be advertised for at least seven days on the website of municipality and local notice boards.

(b) THLM will apply the rotation when procuring goods and services from the list of suppliers on the municipal database

(C) Accounting officer via SCM unit must take all reasonable steps to ensure that procurement of goods or service via quotations is not abused.

(d) SCM unit must on a monthly basis notify chief financial officer in writing of all written quotations accepted by it.

(e) where quotations have been invited via local notice boards and municipal website, no additional quotations are needed should the number of received quotations be less than three.

2.8 COMPETITIVE BIDS

(a) goods and services above a transaction value of more than R 200 000 (VAT included) and long term contracts may be procured by municipality via competitive bidding process.

2.8.1 PROCESS FOR COMPETITIVE BIDS

Procedures for competitive bidding process will be as follows:

- (i) Compilation of bid documents
- (ii) Public Invitation of bids;
- (iii) Site meetings or briefing sessions, if applicable;
- (iv) Handling of bids submitted in response to public invitation;
- (v) The evaluation of bids
- (vi) Award of contracts
- (vii) Administration of contracts
- (viii) Proper record keeping

2.8.2 BID DOCUMENTATION FOR COMPETITIVE BIDS

Municipal Bid documents must comply with following requirements:

(a) take into account :

- (i) the general conditions of contact;
- (ii) treasury guidelines on bid documentation and
- (iii) the requirements of the construction Industry Development board, in respect of bids relating to construction, upgrading or refurbishment of buildings or infrastructure;

(b) Stipulate the preference point system which will be applied in evaluation and adjudication of contracts;

(c) Compel bidders to make declaration of interest and fill declaration of interest form;

Bid Amounts above R 10 million

(d) if the transaction value is estimated to exceed R 10 million(VAT included), require bidders to furnish the followings:

- (i) the audited financial statements(if bidder is required by law to prepare financial statements) for the past three years or since establishment if entity is established within or during the past three years;
- (ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue f or more than 30 days;
- (iii) particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
- (iv) a statement indicating whether any portion of the goods or services are expected to be sourced from outside Republic, and, if so, what portion and whether any portion of payment from municipality is expected to be transferred out of the Republic;

(e) Stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law.

2.9.2 PUBLIC INVITATION OF BIDS

(a) Bids are invited publicly through the general press, notice boards and other forms of communication to ensure that the target market is reached. The intention is to ensure that communities, who may not be in a position to access the general press, are also reached.

(b) The minimum period of time, which may be allowed between the publication date of bid invitations and closing time for bids, must be stipulated and should be sufficient for bidders to reply to the specific requirement. This period may not be less than 14 days for bid which does not exceed R 10 million and 30 days for bid of transaction value equal or exceeding R 10 million. When determining a closing date, sufficient time must be allowed for prospective bidders to prepare and submit their bids. The necessary information regarding the date and time of closure must appear in the bid document and shall be collected from the THLMoffices during working hours It is essential that a definite cut-off time for submitting bids should be set and it should be strictly observed. Late bids, bids by telephone, fax or email are not considered.

(c) Accounting officer may determine closure of bids which is less than 30 or 14 days requirements only on grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow official procurement process;

(d) The bid advertisement must clearly indicate that it is the municipality's prerogative not to award the bid or any part thereof to the lowest or any bidder.

2.9.3 SITE INSPECTION/BRIEFING OR INFORMATION SESSION

(a) The necessary information regarding a site inspection/information session must appear in the bid document, if applicable. A fully explanatory site inspection may be conducted before the close of bids to ensure that the bidders understand the scope of the project and that they can comply with the conditions and requirements.

(b) Should it be a condition that prospective bidders attend a site inspection, non-attendance of this compulsory briefing session may invalidate a bid

(c)The following information shall be necessary:

- (i) Particulars of the place and time of the site inspection, indicated in the advertisement as well as in the bid document
- (ii) Proper minutes to be taken on all information disclosed during the site inspection
- (iii) Copies of these minutes must be made available to all interested parties that attend the meeting
- (iv) The same copies must also be made to all other prospective bidders
- (iv) Bidders should be requested in the Bid documents to certify that the site inspection was attended and that they are fully aware of the extent of the task

Bidders should certify that the site inspection meeting was attended and that they are fully aware of what is reasonably expected from them

Bidders should state on a form (to be included in the Bid document)

The name of the person who represented the company/firm;

Particulars of the company/firm;

Date and place of inspection; and

Any other information that is required by the THLM

2.9.4 PROCEDURE FOR HANDLING, OPENING AND RECORDING OF BIDS

(a) The following procedure shall be followed when opening bids:

- (i) SCM unit Head shall open the bids in public.
- (ii) The opening of bids must be at the same time as soon as possible after the closing time.
- (iii) Names of bidders and their bidding price must be read out to public.
- (iv) All bids received must be recorded in the register for that purpose
- (v) Register will be available to public; and
- (vi) Entries in the bid register and bid results shall be published on the website of the municipality.

2.10. NEGOTIATIONS WITH PREFERRED WINNER.

(a) Accounting officer can negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provided that such negotiations

- (i) does not allow any preferred bidder to a second or unfair opportunity;
- (ii) is not to the detriment of other bidders; and
- (iii) does not lead to a higher price than the bid as submitted

(b) Minutes of such negotiations must be kept for record purpose.

2.11. TWO STAGE BIDDING PROCESS

(a) two stage process is allowed only for:

- (i) large complex projects
- (ii) projects where it may be undesirable to prepare complete detailed
- (iii) long term projects with a duration period exceeding three years.

(b) In the first stage technical proposals on conceptual design or performance specification should be invited, subject to technical as well as commercial clarifications and adjustments.

(c) In the second stage final technical proposals and priced bids should be invited.

2.12. COMMITTEE SYSTEM FOR COMPETITIVE BIDS

(a) The following committee system for competitive bids must be maintained:

- (i) Bid specification committee
- (ii) Bid evaluation committee
- (iii) Bid adjudication committee

(b) Accounting officer to appoint members of each committee, taking into account section 117 of the Act.

(c) Accounting officer may appoint independent observer when necessary.

2.12.1 BID SPECIFICATION COMMITTEE

(a) a bid specification committee must compile the specifications for each procurement of goods or services by the municipality.

(b) Specifications:

- (i) must be in an unbiased manner to allow all potential suppliers to offer their goods or services;
- (ii) must take into account standards such as those issued by the Standards South Africa, the International Standards Organization, or an authority accredited by or recognized by the South African National Accreditation System with which the equipment or material or workmanship should comply;
- (iii) where possible described, be described in terms of performance required rather than in terms of descriptive characteristics for design;
- (iv) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labeling of conformity certification;
- (v) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the words "equivalent".
- (vi) Must indicate each specific goal for which points may be awarded in terms of the points system set out in this policy;
- (vii) Must be approved by the accounting officer prior to publication of the invitation to bid.

(c) a bid specification committee must be composed of one or more officials of municipality from the End-User department and must include manager responsible for function involved.

(d) no person, advisor or corporate entity involved with bid specification committee, or director of such a corporate entity, may bid for any resulting contracts.

2.12.2 BID EVALUATION COMMITTEE

(1) Bid evaluation committee must

(a) Evaluate bids in accordance with:

- (i) the specifications for specific procurement; and
- (ii) the points system as set out in this policy.

(b) evaluate each bidder's ability to execute the contract;

(c) Check in respect of the recommended bidder whether municipal rates and taxes and service charges are not in arrears.; and

(d) Via Supply Chain Unit submit the evaluation report to Bid adjudication committee;

(e) Before submitting evaluation report to Bid adjudication committee the Supply Chain Management Unit must make sure that evaluation comply with this policy and other applicable legislations;

(2) A Bid evaluation committee must be composed of:

- (a) Officials from departments requiring goods or services; and
- (b) At least one supply chain management practitioner of the municipality.

2.12.3 BID ADJUDICATION COMMITTEE

(a) A bid evaluation committee must consider the report and recommendation of the bid evaluation committee; and either depending on its delegations:

- (i) make final award or a recommendation to Accounting Officer to make the final award; or
- (ii) make another recommendation to accounting officer how to proceed with the relevant procurement

(b) the accounting officer must appoint the chairperson of the committee; and if the chairperson is absent the present members must elect one of them to preside at the meeting.

(c) a bid adjudication committee must consist of at least four Senior Managers which must include:

- (i) the chief financial officer
- (ii) at least one senior supply chain practitioner

(d) Neither a member of bid evaluation committee, nor advisor or person assisting the evaluation committee, may be a member of bid adjudication committee.

(e) if bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee must prior to awarding of contract check in respect of the preferred bidder's municipal rates and service charges are not in arrears and notify the accounting officer of its intention.

(f) the accounting officer may after due consideration of the reasons for adjudication committee to deviate from evaluation committee recommendations, approve or reject the decision and if the decision is rejected refer the matter back to adjudication committee for reconsideration.

(g) if accounting officer approves the decision of the bid adjudication committee to deviate from bid evaluation committee recommendation he or she must comply with section 114 of the Act.

2.13 APPOINTMENT OF CONSULTANT

(a) Accounting officer can appoint consulting services provided that any treasury guidelines in respect of consulting services are taken into account when such procurement are made.

(b) A contract to appoint consultants must be procured via competitive bids if :

- (i) the value of the contract exceeds R 200 000(VAT included) or
- (ii) the duration period of contract exceed one year.

(c) in addition to requirements prescribed by this policy for competitive bids, bidders must furnish particulars of all and similar consultancy services provided to organ of state in the last five years.

(d) Accounting officer must ensure that the copyright in any document produced, and the patent rights or ownership in any plant, machinery or process designed or devised by consultant in the course of the consultancy service is vested in the municipality.

2.14 ACQUISITIONING EVALUATION PROCESS

2.14.1 EVALUATION CRITERIA

(a) The decision of awarding a contract to a prospective provider must be based on a determination of which bidder has the best likelihood of successfully completing the contract at the best value to the THLM. Proposal evaluation is the process of evaluating both the proposal and the bidder to determine whether the bidder by means of that proposal can successfully accomplish the contract. It forms the basis of choosing between competing offers.

(b) Evaluation factors (criteria) are those aspects of a proposal that will be measured, quantitatively and qualitatively, to arrive at an integrated assessment as to which proposal is likely to best meet the needs as described in the RFP. (This naturally means that the evaluation factors must be a true reflection of the requirements expressed in the RFP). Evaluation factors can be divided into two categories:

(c) Critical factors (criteria) are the essential characteristics that a bidder and/or the proposal must possess. If a proposal does not satisfy any of the critical factors (criteria), then it can immediately be rejected. This can also be referred to as minimum requirements.

(d) Relevant non-critical factors (criteria) allow for trade-off between proposals (for ones that meet critical factors).

(e) To compensate for important differences between evaluation criteria, weights are allocated to the criteria. For each proposal, each evaluator individually assigns a score to each evaluation factor. These scores are weighted according to the relative importance of

the evaluation criterion. The subtotal of the weighted scores is an indication of the degree to which that proposal satisfies the RFP. Weighted score ranking is not a decision; it is merely a consistent and defensible method of arriving at a comparative judgment point.

(f) The criteria according to which the bid proposals will be evaluated will depend on what is required in the proposal and will be specifically noted in the Terms of Reference. The weighting attached to each criterion will also be indicated in the TOR.

- Price.
- Small, medium and micro enterprises
- HDI and RDP preference
- BBBEE preference
- Local business should receive preference
- Technical requirements of personnel.
- Perceived ability to render the services required.
- Flexibility (to adapt to client requirements).
- Availability to meet deadlines.

2.14.2 PREFERENCE POINT SYSTEM AND BROAD-BASED BLACK ECONOMIC EMPOWERMENT

(a) In the acquisition of local goods and services this policy will provide for categories of preference in terms of Section 5 of the Preferential Procurement Policy Framework Act 2000 (Act No.5 of 2000) and applicable Preferential Procurement Regulations of 2011.

(b) The preference point system as detailed below will be followed. No system will be applied in respect of bids/acquisition with a Rand value of less than R30 000 per legislation.

2.14.3 THE 80/20 PREFERENCE POINT SYSTEM FOR ACQUISITIONING OF GOODS AND/OR SERVICES UP TO A RAND VALUE OF R 1 000 000.00

(a) The following formula must be used to calculate the points for price in respect of competitive bids/price quotations with a Rand value equal to, or above R30 000 and up to a Rand value of R 1 000 000.00

$$Ps = 80 \left\{ 1 - \frac{Pt - Pmin}{Pmin} \right\}$$

Where

Ps = Points scored for comparative price bid / offer under consideration

Pt = Comparative price of bid / offer under consideration

Pmin = Comparative price of lowest acceptable bid / offer.

(b) The balanced scorecard measuring Broad-Based Black Economic Empowerment prescribed by the National Treasury must form part of the evaluation criteria of all bids. **(See Annexure SCM 1)**

(c) A maximum of 20 points may be awarded to a bidder for achieving Governments procurement related socio-economic objectives. The total percentage scored for Broad-Based Black Economic Empowerment will be converted to a point out of a maximum of 20 points. No points will be awarded for achieving Governments Broad-Based Black Economic Empowerment objectives if the total percentage scored for Broad-Based Black Economic Empowerment is less than the prescribed minimum.

(d) The points scored by a bidder in respect of the objectives above on Broad-Based Black Economic Empowerment must be added to the points scored for price.

(e) Only the bid with the highest number of points scored may be selected.

2.14.4 THE 90/10 PREFERENCE POINT SYSTEM FOR ACQUISITIONING OF GOODS AND/OR SERVICES WITH A RAND VALUE ABOVE R 1 000 000.00

(a) The following formula must be used to calculate the points for price in respect of competitive bids with a Rand value above R 1 000 000.

$$Ps = 90 \left\{ 1 - \frac{Pt - Pmin}{Pmin} \right\}$$

Where

Ps = Points scored for comparative price of bid under consideration

Pt = Comparative price of bid under consideration

Pmin = Comparative price of lowest acceptable bid.

(b) Bidders are required to, together with their bids, submit original and valid BBBEE status level verification certificate or certified copies thereof to substantiate their BBBEE rating claims.

Bidders who do not submit BBBEE status level verification certificates do not qualify for preference points for BBBEE but should not be disqualified from the bidding process.

(c) Confirmation of the valid BBBEE status level verification certificate can be done by tracing the name of the issuing verification agency to the list of all SANAS accredited agencies.

All valid BBBEE status level verification certificate should have the following information detailed on the face of the certificate:

- The name and the physical location of the measured entity
- The registration number and where applicable the VAT number of the measured entity
- The date of issue and date of expiry
- The certificate number for identification and reference
- The scorecard that was used
- The name and / or logo of the verification
- The SANAS logo
- The certificate must be signed by the authorized person from the verification agency
- The BBBEE status level of contribution obtained by the measured entity

(d) The points earned by a bidder in respect of the objectives above on Broad-Based Black Economic Empowerment must be added to the points scored for price.

(e) Only the bid with the highest number of points scored may be selected.

2.14.5 THE 80/20 PREFERENCE POINT SYSTEM FOR THE SALE AND LETTING OF ASSETS UP TO A RAND VALUE OF R 1 000 000

(a) The following formula must be used to calculate the points for price in respect of competitive bids / price quotations with a Rand value equal to, or above R30 000 and up to a Rand value of R 1000 000 and which relate to the sale and letting of assets.

$$Ps = 80 \left\{ 1 + \frac{Pt - Ph}{Ph} \right\}$$

Ps = Points scored for price of bid / offer under consideration

Pt = Price of bid / offer under consideration

Ph = Price of highest acceptable offer

(b) The points earned by a bidder in respect of the objectives above on Broad-Based Black Economic Empowerment must be added to the points scored for price.

(e) Only the bid with the highest number of points scored may be selected.

2.14.6 THE 90/10 PREFERENCE POINT SYSTEM FOR SALE AND LETTING OF ASSETS WITH A RAND VALUE ABOVE R 1 000 000.00

(a) The following formula must be used to calculate the points for price in respect of bids with a Rand value above R 1 000 000.00 and which relate to the sale and letting of assets.

$$Ps = 90 \left\{ 1 + \frac{Pt - Ph}{Ph} \right\}$$

Ps = Points scored for price of bid under consideration

Pt = Price of bid under consideration

Ph = Price of highest acceptable bid

(d) The points scored by a bidder in respect of the objectives above on Broad-Based Black Economic Empowerment must be added to the points scored for price.

(e) Only the bid with the highest number of points scored may be selected.

2.14.7 EVALUATION OF CONSULTANTS OR OTHER PROFESSIONAL SERVICES ON FUNCTIONALITY.

(a) the following formula shall be used to evaluate consultants based on functionality

$$Ps = \frac{SO}{MS} \times AP$$

Ps = Points scored for functionality

SO = points awarded by a panel member

MS = Maximum weight

AP = Percentage points for functionality

(b) the following formula shall be used to evaluate points scored for price for consultants

$$Ps = \frac{P_{min}}{Pt} \times AP$$

Ps = points scored for price
Pmin= lowest acceptable bid price
Pt = bid price under consideration
AP = Total score for functionality

2.14.8 80/20 POINT SYSTEM FOR EVALUATION OF CONSULTANTS

(a) the following formula shall be used to determine the points scored by bidders through 80/20 system

$$Ps = 80 \left(1 - \frac{HS - RS}{RS} \right)$$

Ps = Points scored

HS = sum of points scored for price and functionality for bid under Consideration

RS = lowest acceptable points for sum of points fro price and Functionality.

2.14.9 STIPULATION OF PREFERENCE POINT SYSTEM TO BE USED

- (a) The Thembisile
- (b) Hani Municipality must, in the bid documents, stipulate the preference point system which will be applied in the adjudication of bids.

2.14.10 EVALUATION OF BIDS ON FUNCTIONALITY (QUALITY) AND PRICE, INCLUDING WHEN CONSULTANTS ARE APPOINTED

(a)The municipality must, in bid documents, indicate if, in respect of a particular bid invitation, bids will be evaluated on functionality and price.

(b)The total combined points allowed for functionality and price may, in respect of bids / offers with an estimated Rand value equal to or below, R 1 000 000,00 not exceed 80 points.

(c)The total combined points allowed for functionality and price may, in respect of bids / offers with an estimated Rand value above, R1000 000,00 not exceed 90 points.

(d)When evaluating the bids contemplated in this item, the points for functionality must be calculated for each individual bidder,

(e)The conditions of bid may stipulate that a bidder must score a specified number of points for functionality to qualify for further adjudication

(f)The points for price, in respect of a bid which has scored the specified minimum number of points contemplated above must, subject to the application of the evaluation system for

functionality and price, be established separately and be calculated in accordance with the other provisions in this section 9.4

(g)The number of points earned for achieving Governments Broad-Based Black Economic Empowerment objectives must be added to the points scored for functionality and price.

(h)Only the bid with the highest number of points scored may be selected.

2.14.11 AWARD OF CONTRACT TO BIDS NOT SCORING THE HIGHEST NUMBER OF POINTS

(a) Despite the above regulations, a contract may, on reasonable and justifiable grounds, be awarded to a bidder that did not score the highest points. Preference calculations or decisions, made during proposal / bid evaluations or candidate selection through interviews, shall be clear and documented. The specific goals must be measurable and quantifiable and must be monitored in the execution of the contract.

2.14.12 CANCELLATION AND RE-INVITATION OF BIDS

(a) In the event that, in the application of the 80/20 preference point system, as stipulated in the bid documents, all bids received exceed the estimated Rand value of R 1 000 000,00 the bid invitation must be cancelled.

(b) In the event that, in the application of the 90/10 preference point system, as stipulated in the bid documents, all bids received are equal to, or below R 1 000 000,00 the bid invitation must be cancelled.

(c)The municipality must, if the bid invitation has been cancelled in terms of the above, re-invite bids and must, in the bid documents, stipulate the correct preference point system to be applied.

(d)The Thembisile Hani Municipality may, prior to the award of a bid, cancel the bid if;

- (i) Due to changed circumstances there is no longer a need for the goods, works or services requested, or
- (ii) Funds are no longer available to cover the total envisaged expenditure; or
- (iii) No acceptable bids are received.

2.14.13 THE SPECIFIC ACTIVITIES, WHICH MAY BE STIPULATED TOWARDS ACHIEVING SPECIFIC GOALS AS PER SECTION 17 OF THE REGULATIONS, ARE AS FOLLOWS:

- (a)
 - (i) The promotion of South African owned enterprises;

- (ii) The promotion of export orientated production to create jobs;
- (iii) The promotion of SMMEs;
- (iv) The creation of new jobs or the intensification of labour absorption.
- (v) The promotion of enterprises located in a specific province for work to be done or services to be rendered in that province;
- (vi) The promotion of enterprises located in a specific region for work to be done or services to be rendered in that region;
- (vii) The promotion of enterprises located in a specific municipal area for work to be done or services to be rendered in that municipal area;
- (viii) The promotion of enterprises located in rural areas;
- (ix) The empowerment of the work force by standardising the level of skill and knowledge of workers;
- (x) The development of human resources, including by assisting in tertiary and other advanced training programmes, in line with key indicators such as percentage of wage bill spent on education and training and improvement of management skills; and
- (xi) The upliftment of communities through, but not limited to, housing, transport, schools, infrastructure donations, and charity organisations.

(b) Preference calculations or decisions, made during proposal evaluations or candidate selection through interviews, shall be clear and documented.

2.15 SMALL, MEDIUM AND MICRO ENTERPRISES

(a) The SMME sector has a particularly important role to play in the creation of job opportunities in the economy. To this end, it is important that the SMME sector be incorporated into the main stream of the economy. Government's supply chain management policies can have a major impact in achieving this objective; particularly in the following two focus areas:

(b) Indirectly awarding contracts to SMMEs. Care should however be taken not to award contracts to SMMEs that are beyond their capabilities. Attempts where feasible should be

made to unbundle large contracts into smaller more manageable contracts, provided that it remains cost effective and feasible (break-out procurement).

- (i) Through sub-contracting
- (ii) Through joint venture arrangements with larger contractors

(c) Care should also be taken to insist on a minimum level of value added by SMMs in entertaining sub-contracting and joint venture arrangements to guard against "fronting" practices.

2.16 INTERVIEW SELECTION CRITERIA

(a) If the selection is going to be made through interview, the selection criteria should be known beforehand (it could be in the form of evaluation criteria and weights). During the interview the members of the interview panel should assign a score to each criteria, and these scores are then added to arrive at a total score. This total score is then used to assist in making the selection decision.

2.17 OTHER FACTORS IN THE ACQUISITIONING PROCESS

2.17.1 TAX CLEARANCE CERTIFICATE

(a) It is a specific requisite that on all projects, a Tax Clearance Certificate, issued by the SA Revenue Services for the bidding company/entity is to be submitted as part of the bid documentation.

(b) No contract may be awarded to a person who has failed to submit an original Tax Clearance Certificate from the South African Revenue Service ("SARS") certifying that the taxes of that person to be in order or that suitable arrangements have been made with SARS.

2.17.2 ACCESS TO BIDDING INFORMATION

(a) To ensure complete transparency in the bidding process, bid documents should provide details of adjudication criteria. This will be especially important in bids where price will no longer be the only criteria in awarding bids.

(b) The THLM will assist with the compilation and dissemination of bidding and related information in a simplified and uncomplicated format.

(c) Bid results and awards must be made available to bidders when requested. This process, which will ensure transparency, will also enable bidders to evaluate their performance and competitiveness for future bids.

(d) THLM will be required to display both the bids and awards in the offices on for example bid notice boards. This place of display should be accessible to the public even after normal working hours. This will enable the information to reach the local community as effectively as possible. Local councillors are responsible to further disseminate information to their constituencies.

2.17.3 UNIFORMITY IN BID PROCEDURES, POLICIES AND CONTROL MEASURES

(a) Uniformity in bid procedures and control measures should be enhanced to ensure efficiency and effectiveness in procurement/ acquisitioning management. This can be accomplished through:

(b) The implementation of a uniform acquisitioning policy that must address at least the following:

- (i) The range of processes to be used for example tender (local/national), quotation (formal/informal) auction etcetera
- (ii) Procedures and mechanisms for each type of process
- (iii) When a particular type of process must be used
- (iv) Categorisation of processes relating to value of transactions (financial thresholds)
- (v) Open and transparent pre-qualification processes
- (vi) Ensuring that bid procedures are easy to interpret, clear, cost-effective, inexpensive, quick, transparent and free of corruption;
- (vii) A system of supply chain management, which is uniformly applied by all organs of State
- (viii) Proper rules pertaining to unsolicited bids (sect. 113 of the MFMA)

2.17.4 GENERAL ACQUISITIONING PRINCIPLES

(a) Irrespective of who will be responsible for the acquisitioning process, the general principles of being fair, equitable, transparent, competitive and cost-effective will apply to, and will be the guiding principles for all stakeholders during all activities in the process.

(b) This entails a proper definition of what is required, adherence to the prescribed selection and evaluation process, as well as proper implementation, monitoring and evaluation.

2.17.5 LETTERS OF ACCEPTANCE

(a) Letters of acceptance shall be issued by the Head of Procurement once a tender has been approved by a person/structure in accordance with the delegated authority. Such letters may also be signed by the relevant delegated authority.

(b) Letters of acceptance must be accurate, unambiguous, complete and contain detail of discounts that THLM may qualify for and must reflect the approval accurately. Such letters are to be handed to the tenderer against signature or sent by registered post as soon as possible after it has been approved and before the validity period expires. A copy must also be made available to the Finance division and Corporate Services Department in order that this commitment can be captured in their records.

(c) A formal contract may also be concluded and must display the same principles than those contained in a letter of acceptance.

(d) New conditions that did not form part of the original tender documentation, may not be included in a letter of acceptance/contract.

2.17.6 PUBLISHING RESULTS

(a) As the letter of acceptance/contract concludes the process of competing for the business, it is important that the final results also be publicized.

(b) Bid results must at least be displayed in the offices of THLM in bid notice boards and/or municipal website.

2.17.7 REPORTING

(a) The Accounting Officer should report, in the prescribed formats and frequencies prescribed by the Treasury, management information to the executive authorities and the National and relevant treasuries.

2.18 POWERS OF ACQUISITIONING STRUCTURES/ INDIVIDUALS

2.18.1 POWERS OF THE COUNCIL

The Council has the power to:

Prioritise expenditure

Receive for the purpose of maintaining oversight over the implementation of the municipality's supply chain management policy, a report within 30 days of the end of each financial year, from the accounting officer regarding the implementation of the supply chain management policy and spending patterns on the budget.

The Council and the Accounting Officer may not delegate any supply chain management power or duties to:

A person who is not an official of the municipality; or

To a committee which is not exclusively composed of officials of the Thembisile Hani municipality.

To a single person or single member of any bid committee. The power to make final awards in a competitive bidding process has been delegated to the committee and therefore the committee system must be used.

2.18.2 POWERS OF THE BID ADJUDICATION COMMITTEE

The Bid Adjudication Committee has the power to:

amend or cancel concluded agreements if delivered goods and services do not conform to specifications

approve bids over the amount of R 200 000.

To invalidate bids on the grounds mentioned in section 112(1)(n) of the MFMA

The Bid Adjudication Committee must within 5 days of the end of each month submit to the Municipal Manager through the Chief Financial Officer, a written report containing particulars of each final award made by this committee during that month, including –

- (i) the amount of the award;
- (ii) the name of the person/business to whom the award was made
- (iii) the reason why the award was made to that person/business.

2.18.3 POWERS OF THE MUNICIPAL MANAGER AS THE ACCOUNTING OFFICER

The Municipal Manager is also the Accounting Officer and has the power to:
Approve all bids

To invalidate bids on the grounds mentioned in section 112(1)(n) of the MFMA

As head of the administration, the municipal manager is responsible and Accountable for:

The implementation of national supply chain management legislation applicable to the municipality

All expenditure of the municipality

Proper and diligent compliance with applicable municipal finance management legislation

Invite offers

Determine the manner in which, and the conditions under which the offers must be made

Conclude agreements

Inspect and test the supplies and services offered, or to have them inspected and tested.

Respond to queries raised by the external and internal auditors,

2.18.4 POWERS OF THE MANAGERS OF DEPARTMENTS

Submit all expenditure requirements as per the budget for the department to the acquisitioning section for approval for initiation,

Assist the acquisitioning section by rendering advice and skills in the bid process.

2.18.5 POWERS OF CHIEF FINANCIAL OFFICER [conflict with 2.18.3]

CFO has the power to approve bids up to R 200 000

Manage the budget of the municipality and approve every

procurement transaction of the municipality.

Invalidate any unauthorized procurement

3. LOGISTICS MANAGEMENT

(a) Accounting officer through SCM must establish and implement an effective system of logistics management, which include;

- (i) the day to day management of stores
- (ii) determining the range and nature of items that will be carried in the store facility
- (iii) Setting inventory level
- (iv) Timely placement of orders when stock levels are low
- (v) Receiving and distribution of goods; and
- (vi) Expediting orders.

4. DISPOSAL MANAGEMENT

(a) THLM accept in principle that no municipal assets shall be sold unless a formal council resolution to that effect has been taken. The supply chain management unit as referred to in 6 above shall decide upon the manner of disposal provided that it is consistent with this policy statement. All assets shall thus be disposed of in a competitive, fair and transparent manner.

5. RISK MANAGEMENT

5.1 GENERAL

(a) It is imperative to take cognisance of potential risks during the supply chain management and specifically the acquisitioning process. Due consideration should ideally be given to the following:

- (i) Identification of acquisitioning risks on a case-by-case basis;
- (ii) Allocation of risks to the party best equipped to manage such;
- (iii) The Municipality bearing the cost of risks where the cost of transferring them is greater than that of retaining them;
- (iv) The exercising of risk management in a proactive manner and providing adequately for the cover of residual risks;

- (v) Contract documentation clearly and unambiguously assigning relative risks to the contracting parties.
- (vi) Development and implementation of appropriate processes.
- (vii) Development and implementation of procedures and mechanisms to minimise risk such as screening processes and security clearances.
- (viii) Development and implementation of adequate administrative procedures relating to the advertising, invitation, opening, registering and recording of bids.
- (ix) Disqualification of bidders who are inherent risks such as those who were found guilty of fraud or who failed to comply with previous government contracts.
- (x) Elimination of prospective contractors who have conflict of interests in specific tenders by implementing a system in terms whereof bidders are obliged to disclose any form of conflict they possibly may have.
- (xi) Risk management should therefore form part of the business plan for the acquisition of all goods and services.

5.2 INSURANCE

(a) Any of the following, or a combination thereof, should be applied to protect the interests of the municipality in the procurement process:

- (i) That insurance is taken out in deserving cases.
- (ii) That risk management programmes are established.
- (iii) That liquidated damage clauses be included in contracts where applicable.

(b) Suitable arrangements should also be made to ensure that insurance related excesses do not cause the failure of emerging small and micro enterprises.

5.3 GUARANTEES

(a) Performance guarantees should be commensurate with the degree of contractual risk to which THLM are exposed.

(b) In cases of large and complex contracts, it is advisable to call for bid guarantees to circumvent the submission of irresponsible bids.

(c) Performance guarantees should spread the cost of the risk of failure between the contracting parties and should be set at such a level that all THLM costs relating to such failure are likely to be recovered.

(d) It would be prudent to make adequate provision in all engineering and construction works contracts to ensure that monies are available to rectify defects.

(e) Performance bonds in engineering and construction works contracts should be waived in low value, low risk contracts or where a third party carries the risk of failure in an acceptable manner.

5.4 CONTRACT MANAGEMENT

(a) The basic requirements as stipulated in the MFMA (section 116) should be adhered to namely: writing, dispute resolution mechanisms, termination, periodic review of contracts and the duties of the Accounting Officer such as enforcement of contracts, monthly monitoring, regular reporting to council, amendment of contracts etc.

5.5 SURETIES

(a) Though the THLM is sensitive to the plight of Emerging Contractors, all projects considered being of high risk due to the nature and scope of work should be subject to high sureties.

(b) In terms of the risk management approach, all constraints are subjected to risk analysis from which alternative strategies are developed to avoid, reduce or control the associated risk for the Contractor as well as THLM.

(c) It is suggested that the following sureties shall be applicable:

| | |
|---|------|
| Micro projects (0 – R30 000) | Nil |
| Small projects (R30 000 – R200 000) | Nil |
| Medium Projects (R200 000 – R1 000 000) | 2.5% |
| Large projects (R1 000 000 >) | 5% |

(d) When classified as a contract that does not require a surety, then such status will apply even if the bid exceeds the maximum amount to prevent bidders preparing a bid under the perception that no surety will be required, but only discover later the surety requirements changed.

(e) In the case of small and medium projects, the sureties have been reduced and a cash surety may be deducted in equal percentages from the progress payments for the duration of the contract. In the case of large projects not exceeding R2,0 million a cash deduction

from the first three progress payments covering the full surety percentage will be allowed. In case of large projects over R2,0 million only bank bonds will be allowed.

5.6 RETENTION

(a) THLM shall retain the following percentages of the project cost from the Contractor during the construction as a guard against defects that might be noticed after practical completion-

| | |
|--------|-----|
| Micro | 0% |
| Small | 0% |
| Medium | 10% |
| Large | 10% |

The retention will be released as follows

Medium - 10% released at completion of the Project and the balance after 12 months

Large - 10% released at completion of the Project and the balance after 12 months

5.7 TECHNICAL AND OTHER PROFESSIONAL CONSULTANTS

(a) THLM has accepted as a fact the appointment of consultants where the in-house skills are in short supply. In order to do work on contract, it is necessary that the planning, contract documentation and site supervision be done in an absolute professional manner, maintaining a very high standard and completed in a minimum time and within budget.

(b) The consultants are to be appointed by applying these guidelines on a rotating roster system and will be grouped together in the different disciplines.

5.8 Professional Registration And Indemnity Insurance

(a) In order to maintain such a high standard of work and keeping in mind the possible risk Council is exposed to, as well as the relevant legislation regarding the professions; it is of utmost importance that only firms registered with their relevant professional bodies be allowed to be appointed by THLM. Furthermore, all such firms must have a valid and current

Professional Indemnity insurance policy in place. The purpose of such a policy is to provide protection for any loss, damage, death liability or take-over of a third party or a loss sustained by the THLM, related to an oversight, omission or negligence pertaining to the non-adherence of professional duties for which the consultant is responsible.

(b) In keeping with the principles of the RDP as well as procurement and delivery reform, it is essential that a certain margin of preference should be applied, targeting historically disadvantaged consultants.

5.9 UNSATISFACTORY PERFORMANCE

5.9.1 GENERAL

(a) Where unsatisfactory performance of a contractor occurs, it should be brought to his/her attention in writing, preferably by registered mail. If it is not corrected in an acceptable time (which is agreed upon by THLM and the contractor), the contractor could be informed that THLM would withdraw from its contractual obligations if a suitable response were not forthcoming. If this persists, legal counsel should be consulted to unilaterally withdraw from the contract in a manner recommended by such counsel. All other costs (over and above the contract price), should also be recovered from the contractor who did not perform should it be necessary to procure emergency goods/services at a higher price. The agreement entered into should form the basis of such action.

5.9.2. PENALTIES

(a) All contracts awarded to contractors will be subject to a fair penalty clause. The penalty clause is necessary to encourage contractors to complete their assignments within the contract time. However, due care should be taken so that penalties imposed should not harm emerging contractors to such an extent that the empowerment of HDIs cannot be realised.

(a) The following penalties should be applicable

| | | |
|-----------------|-----------------------------------|-------------------------|
| Micro projects | 0.02 % of contract amount per day | } To a maximum of 5% of |
| Small projects | 0.04 % of contract amount per day | |
| Medium projects | 0.06 % of contract amount per day | |
| Large projects | 0.08 % of contract amount per day | |

(c) A penalty clause does not and cannot ensure that a contract will be completed on time and therefore the enforcement of penalties will become a reality. Penalties should at least cover any loss incurred by THLM.

5.10 CONTRACT AMENDMENTS

(a) To enhance the flexibility of the procurement process, it is proposed that the THLM be allowed to extend the quantities of an approved quotation or tender by not more than 20

percent provided that the budget accommodates the additional 20 percent and the requirement is approved. This may be approved by the THLM at the delegated level, provided that the provider agrees to such extension and the additional goods are supplied at the same (or lower) price originally agreed to.

5.11 PAYMENT FACILITATION

(a) For the sustainability of contractors generally, early payments should be made as soon as all certifications and verifications have been completed. Late payments are detrimental to emerging and small contractors' continuity in business. The THLM undertakes to effect processing invoices as soon as possible but within the time stipulated in the tender document but not exceeding 30 days.

(b) It is therefore the responsibility of the relevant functionary in the THLM to certify/assess invoices as soon as they are presented to determine whether the invoices actually mirrors the services rendered or goods delivered and that services/goods are of the required quality.

5.12 CONTRACTS HAVING FUTURE BUDGETARY IMPLICATIONS

(a) The requirements of section 33 of the MFMA must be adhered to in regard to contracts which impose financial implications for three years or more (current financial year excluded).

5.13 DISPUTE RESOLUTION GUIDELINES

(a) Suppliers who are dissatisfied with the decision of the municipality in regard to any quotation or tender may appeal in writing to the municipal manager, provided such appeal is lodged with the municipal manager as follows:

- (i) for quotations, within 7 (seven) calendar days of the date on which the approved quotation is first listed in terms of part 11 above
- (ii) for tenders, within 14 (fourteen) calendar days of the date on which the approved tender is first listed in terms of part 11 above.

- (b)
- (i) The municipal manager shall provide written acknowledgement of the receipt of such appeals to the appellant concerned, and shall endeavour to finalise such appeals within 7 (seven) calendar days of their receipt.
 - (ii) Where this is not possible, the municipal manager shall promptly advise the appellant in writing of the reasons for the delay.

(c) If the appeal is based on a technically complex matter, the municipal manager may engage an impartial consultant to provide an opinion on the appeal, provided that the municipal manager shall not be bound by any such opinion provided.

(d) The municipal manager shall immediately after a ruling on an appeal has been made, advise the appellant in writing of such ruling.

- (e)
- (i) If the appellant is dissatisfied with the municipal manager's ruling on an appeal in regard to a tender the appellant may request the municipal manager to refer such appeal and ruling to the ensuing council meeting for a decision.
 - (ii) Such request must be lodged in writing with the municipal manager within 14 (fourteen) calendar days of the date on which the ruling was made.

- (f)
- (i) The municipal manager shall decide whether the lodging of an appeal constitutes sufficient grounds for the municipality to delay, where possible, the procurement of the relevant goods or services in terms of the approved quotation or tender against which the appeal is lodged.
 - (ii) If such delay is decided upon, the municipal manager shall immediately advise the approved supplier, in writing, of such delay.

5.14 COMBATING CORRUPTION AND ETHICS

(a) In supply chain management and more specifically procurement/acquisition management, all parties are required to comply with the highest ethical standards to promote:

- (i) mutual trust and respect; and
- (ii) an environment where business can be conducted in a fair, transparent and reasonable manner and with integrity.

(b) The Municipal Manager (Accounting Officer) must take all reasonable steps to ensure that proper mechanisms and separation of duties in the system are in place to minimise the likelihood of fraud, corruption, favouritism and unfair and irregular practices.

(c) All members of the bid/evaluation committees as well as the secretaries to these committees must declare interest for each activity performed.

(d) An official / employee who is involved in the decision-making process must, if a conflict of interest is prevalent:

- (i) Declare the interest;

- (ii) Excuse himself/herself from such decision-making processes
- (iii) Refrain from discussion in any matter related to such process.
- (iv) Refrain from exerting any form of pressure on decision makers.
- (v) Prior to the award of any contract, THLM must ensure that neither the recommended bidder nor any of the directors are listed as companies/directors/persons restricted to do business with the Public Sector.

(e) THLM must:

- (i) Reject a proposal for award if it is determined that the bidder recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question
- (ii) Reject a proposal for award if it is determined that the bidder or contracting party were convicted of fraud or corruption during the past five years
- (iii) Reject a proposal if it is determined that the contracting party willfully neglected, reneged on or failed to comply with a government contract during the past five years
- (iv) Ignore any bid from a bidder whose name appears on the national list of restricted bidders/providers/persons; and
- (v) Cancel the contract allocated to a bidder for goods, services or works if it is at any time determined that corrupt or fraudulent practices were engaged in by representatives of the department and/or the provider during the acquisition or the execution of that contract.
- (vi) Address any interference in the process. (sect. 118 of the MFMA)

(f) To address public complaints, different pieces of legislation were passed in recent years relating to transparency and anti-corruption measures and may the public complain in the first instance at the Municipal Manager. If not satisfied, the person may refer the complaint to the Public Protector or the Courts.

(g) Legislation that are aimed at addressing complaints and therefore preventing corruption are:

Public Protector Act of 1998

Corrupt Activities Act of 1994

Protected Disclosure Act of 2000

Promotion of Administrative Justice Act of 2000

Promotion of Access to Information Act of 2000.

6. PERFORMANCE SYSTEM

(a) Accounting Officer must establish an effective internal monitoring system in order to determine, on the basis of retrospective analysis, whether the authorized supply chain management processes were followed and whether the desired objectives were achieved.

7. NON COMPLIANCE

(a) Non compliance to relevant legislation and this policy statement in regard to supply chain management might result in unauthorized, irregular and fruitless expenses and functionaries may incur personal liability if they are negligent in exercising their duties in terms hereof.

SUMMARY OF AUTHORITY OF PROCUREMENT POWERS OF FUNCTIONARIES

| Functionary | Purchasing power | Process |
|----------------------------|-------------------------|---|
| Bid Adjudication Committee | Over R200 000. | Public tenders |
| Municipal Manager | Over R200 000 | Public tender |
| Chief Financial Officer | Up to R200 000 | Purchases over R30 000 up to R200 000: At least 3 written quotations and advertisement for 7 days on the local notice boards and municipal website Purchases up to R 2000: At least one written quotation. Purchases over R 2000:At least 3 written quotations |
| Managers (Dept. Heads) | Up to R 2000 | |
| Petty Cash | Up to R2000 | Purchases up to R2000 is made either through the Petty Cash system or through the authority of the Departmental Head |

8. COMMUNITY CO OPERATIVES AND YOUTH DEVELOPMENT PROGRAMME

All THLM Departments must provide projects that will be unbundled & also should ring fence portion of their Budgets Amounts to be spent on the Community Co Operatives. Approval be solicited from National Treasury to grant THLM exemption or approval to purchase certain Items from Community Co Operatives registered on THLM Data Base Only.

The development programme applies to all types and forms of cooperatives, in all sectors of the economy. Hence, it also applies to so-called established cooperatives but the emphasis is on supporting emerging co-operative enterprises.

Emerging co-operatives: These co-operatives have been identified as struggling for survival and lacking training. The type of support needed is that which will strengthen these co-operatives in the form of building their capacity, financial support and assistance with marketing. Some of these co-operatives will require support for expansion and modernizing their operations. Institutions like SEDA, MEGA and SEFA can utilize their diagnostic tools to come up with holistic solutions for this sector. Support for this sector is mostly emphasized in the policy.

Established co-operatives: These are co-operatives that are mainly operating in agriculture and are, in the main, controlled by white South Africans. In the past, established co-operatives have been heavily supported by the state. After 1994, most of these co-operatives converted into private companies.

Although this sector is also covered in government policy, the focus will mainly be on emerging co-operatives, mainly owned by black entrepreneurs. Both will benefit from specific support measures such as fiscal support and incentives, savings, credit and banking facilities, and external assistance that government will provide.

Advertising

A comprehensive advertising campaign is recommended urging Community Co Operatives to register on THLM Co Operatives Data Base.

Separate advert for Mentors and Training providers

A 20 days advert for the Community Co Operatives should be placed on Local News Papers, Tender Notice Boards

An easy to fill forms that will assist in an evaluation process should be developed.

Briefing Sessions

A briefing session in THLM building should be held.

Selection

All Community Co Operatives be subjected to evaluation test the the municipality will decide on.

The entry criteria for all the Community Co Operatives include, but not limited to the following:

- Original and valid Tax Clearance Certificate;
- Registration with the Department of Trade and Industry
- 100% Black owned contracting entities; and
- Registration for Value Added Tax (VAT) with SARS.

GOODS AND SERVICES BELOW 30 000.00- R200 000

The procurement of certain goods and services below R30 000.00 be done by requesting the suppliers who are in Councils' Community Co Operatives database to quote. Offers below R30 000 (Vat Included) threshold be awarded based on compliance to Specifications and based on Lowest acceptable Price.

GOODS AND SERVICES ABOVE R200 000

A minimum 30% of works must be allocated to register Co-operatives and a minimum of 40% must be allocated to SMME's (Preferably youth, women and disability) Thembisile Hani Local Municipality.

Early payment — Council shall upon receipt of all relevant documentation pay Community Co Operatives within 7 days whenever possible.

Evaluation of bids based on functionality as criteria to develop community Cooperatives and youth

- Bids invited on the basis of functionality as a criterion must be evaluated in two stages, first functionality must be assessed and in accordance with the 80/20 or 90/10 preference point system prescribed in Preferential Procurement Regulations 5 and 6 for instance bids must be evaluated in terms of the evaluation criteria embodied in

the bid documents. The amendment of evaluation criteria, weights, applicable values and the minimum qualifying score for functionality after the closure of bids is not allowed as this may jeopardise the fairness of the process.

- A bid will be evaluated further if it achieves the prescribed minimum qualifying score for functionality.
- Bids that fail to achieve the minimal qualifying score for functionality must be disqualified.
- Score sheets should be signed by panel members and if necessary, written motivation may be requested from panel members where vast discrepancies in the values awarded for each criterion that exists
- Evaluation of bids based on a stipulated minimum threshold for local production and content. Bids that were invited on the basis of local production and content should be evaluated based on local preference.
- A minimum of 20% of functionality Point (Pre-qualifying) will be applicable on all project as follows :

| CRITERIA | POINT |
|------------------------------------|--------------|
| Youth | 4 |
| Women | 3 |
| Disability | 2 |
| Local Content : | |
| Thembisile Hani Local Municipality | 4 |
| District Municipality | 2 |
| Mpumalanga Province | 1 |
| Cooperatives | 4 |
| Total Point | 20 |

Annexure SCM 1

Calculation of points for B-BBEE status level contributor

Points would be awarded to a bidder for attaining the – BBEE status level of contribution in accordance with the table below:

| B-BBEE Status Level of Contributor | Number of points 90/10 system | Number of points 80/20 |
|---|--------------------------------------|-------------------------------|
| 1 | 10 | 20 |
| 2 | 9 | 18 |
| 3 | 8 | 16 |

| | | |
|----------------------------|---|----|
| 4 | 5 | 12 |
| 5 | 4 | 8 |
| 6 | 3 | 6 |
| 7 | 2 | 4 |
| 8 | 1 | 2 |
| Non –compliant contributor | 0 | 0 |

Note:

A bid would not be disqualified from the bidding process if the bidder does not submit a certificate substantiating the B-BBEE status level of contribution or is a non-compliant contributor. Such a bidder will score zero (0) out of a maximum of 10 or 20 respectively for **B-BBEE**

THLM would be allocating 40% worth of its procurement to youth as part of the functionality criterion, wherein bids would be evaluated in terms of the evaluation criteria embodied in the bid documents.

The amendment of evaluation criteria, weights, applicable values and/or the minimum qualifying score for functionality after the closure of bids is not allowed as this may jeopardize the fairness of the process.

A bid will be considered further if it achieves the prescribed minimum qualifying score for functionality.

Annexure SCM 2



THEMBISILE HANI LOCAL MUNICIPALITY

CODE OF CONDUCT FOR SUPPLY CHAIN MANAGEMENT PRACTITIONERS AND OTHER ROLE PLAYERS

In accordance with regulation 46(4) and 46(5) of the Local Government Municipal Finance Management Act, 2003: Municipal Supply Chain Management Regulations, the supply chain management policy of a municipality or municipal entity is required take into account the National Treasury's code of conduct for supply chain management practitioners and other role players. Alternatively a municipality or municipal entity may adopt the National Treasury code of conduct. When adopted, such code of conduct becomes binding on all officials and other role players involved in the implementation of the supply chain management policy of the municipality or municipal entity.

The **purpose** of this Code of Conduct is to promote mutual trust and respect and an environment where business can be conducted with integrity and in a fair and reasonable manner.

General Principles

Thembisile Hani Local Municipality commits itself to a policy of fair dealing and integrity in the conducting of its business. Officials and other role players involved in supply chain management (SCM) are in a position of trust, implying a duty to act in the public interest. Officials and other role players should not perform their duties to unlawfully gain any form of compensation, payment or gratuities from any person, or provider/contractor for themselves, their family or their friends.

Officials and other role players involved in SCM should ensure that they perform their duties efficiently, effectively and with integrity, in accordance with the relevant legislation, policies and guidelines. They should ensure that public resources are administered responsibly.

Officials and other role players involved in SCM should be fair and impartial in the performance of their functions. They should at no time afford any undue preferential treatment to any group or individual or unfairly discriminate against any group or individual. They should not abuse the power and authority vested in them.

Conflict of interest

An official or other role player involved with supply chain management –

- (a) must treat all providers and potential providers equitably;
- (b) may not use his or her position for private gain or to improperly benefit another person;
- (c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350;
- (d) must declare to the accounting officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;
- (e) must declare to the accounting officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process, or in any award of a contract by the municipality;
- (f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;
- (g) must declare any business, commercial and financial interests or activities undertaken for financial gain that may raise a possible conflict of interest;
- (h) should not place him/herself under any financial or other obligation to outside individuals or organizations that might seek to influence them in the performance of their official duties; and
- (i) should not take improper advantage of their previous office after leaving their official position.

Accountability

Practitioners are accountable for their decisions and actions to the public.

Practitioners should use public property scrupulously.

Only accounting officers or their delegates have the authority to commit the municipality to any transaction for the procurement of goods and / or services.

All transactions conducted by a practitioner should be recorded and accounted for in an appropriate accounting system. Practitioners should not make any false or misleading entries into such a system for any reason whatsoever.

Practitioners must assist the accounting officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system.

Practitioners must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including

- (i) any alleged fraud, corruption, favouritism or unfair conduct;
- (ii) any alleged contravention of the policy on inducements, rewards, gifts and favours to municipalities or municipal entities, officials or other role players; and
- (iii) any alleged breach of this code of conduct.

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

Openness

Practitioners should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only if it is in the public interest to do so.

Confidentiality

Any information that is the property of the municipality or its providers should be protected at all times. No information regarding any bid / contract / bidder / contractor may be revealed if such an action will infringe on the relevant bidder's / contractor's personal rights.

Matters of confidential nature in the possession of officials and other role players involved in SCM should be kept confidential unless legislation, the performance of duty or the provisions of law requires otherwise. Such restrictions also apply to officials and other role players involved in SCM after separation from service.

Bid Specification / Evaluation / Adjudication Committees

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

(iii) Combative Practices

Combative practices are unethical and illegal and should be avoided at all cost. They include but are not limited to:

- (i) Suggestions to fictitious lower quotations;
- (ii) Reference to non-existent competition;
- (iii) Exploiting errors in price quotations / bids;
- (iv) Soliciting price quotations / bids from bidders / contractors whose names appear on the Register for Tender Defaulters.