

**THEEWATERSKLOOF  
MUNICIPALITY**



**SUPPLY CHAIN  
MANAGEMENT POLICY REVIEW AMENDMENTS**

**JULY 2016**

**Read Currently as:**

## **SUPPLY CHAIN MANAGEMENT POLICY**

**Model policy for adoption by municipalities and municipal entities in terms of section 111 of the Municipal Finance Management Act, No 56 of 2003, and the Municipal Supply Chain Management Regulations.**

Instructions:

1. Review this model policy to ensure it meets the needs and requirements of the municipality or entity amend where required.
2. Insert the name of municipality or entity and other variable information where required throughout the policy. Delete all notes and instructions contained in boxes.
3. Municipal entities must substitute the term “board of directors” wherever “council” appears in the policy.
4. The Accounting Officer is responsible for implementing the policy and must ensure it is promptly prepared and submitted to council or the board of directors for adoption (regulation 3).
5. Municipal entities must ensure their policy is consistent with the parent municipality, to the extent determined by the parent municipality (regulation 2(2)).
6. If the Accounting Officer submits a draft policy to the council or board of directors that differs from the model policy, the Accounting Officer must ensure that such draft policy complies with the regulations. The Accounting Officer must report any deviation from the model policy to the National Treasury and the relevant provincial treasury (regulation 3).
7. The Accounting Officer must at least annually review the policy and where necessary submit proposals for amendment to the council or board or directors (regulation 3).

**Recommended:**

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- ~~4. The Accounting Officer is responsible for implementing the policy and must ensure it is promptly prepared and submitted to council or the board of directors for adoption (regulation 3).~~
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- ~~6. If the Accounting Officer submits a draft policy to the council or board of directors that differs from the model policy, the Accounting Officer must ensure that such draft policy complies with the regulations. The Accounting Officer must report any deviation from the model policy to the National Treasury and the relevant provincial treasury (regulation 3).~~
- ~~7. The Accounting Officer must at least annually review the policy and where necessary submit proposals for amendment to the council or board of directors (regulation 3).~~

**Read Currently as:**

**CHAPTER 1**  
**IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY**

**2. Supply Chain Management Policy**

- (3) This Policy, except where provided otherwise, does not apply in respect of the procurement of goods and services contemplated in section 110 (2) of the Act, including –
- a) water from the Department of Water Affairs or a public entity, another municipality or a municipal entity;
  - b) electricity from Eskom or another public entity, another municipality or a municipal entity;
  - c) the acquisition of services of attorneys and advocates;
  - d) the payment of accommodation and air travel for official purposes subject that same be dealt with in terms of the Travelling and Subsistence allowance/cost Policy, as amended from time to time;
  - e) any publication of notices and advertisements in local, regional and national newspapers;
  - f) the acquisition of services of medical practitioners for fitness examinations;  
and
  - g) the acquisition of services for insurance claims.

**Recommended:**

- (3) This Policy, except where provided otherwise, does not apply in respect of the procurement of goods and services contemplated in section 110 (2) of the Act, including –
- a) water from the Department of Water Affairs or a public entity, another municipality or a municipal entity;
  - b) electricity from Eskom or another public entity, another municipality or a municipal entity;
  - ~~c) the acquisition of services of attorneys and advocates;~~
  - ~~d) the payment of accommodation and air travel for official purposes subject that same be dealt with in terms of the Travelling and Subsistence allowance/cost Policy, as amended from time to time;~~
  - ~~e) any publication of notices and advertisements in local, regional and national newspapers;~~
  - ~~f) the acquisition of services of medical practitioners for fitness examinations;~~  
and
  - ~~g) the acquisition of services for insurance claims.~~

**Read Currently as:**

**13. General Preconditions for Consideration of Written Quotations or Bids**

- (1) A written quotation or bid may not be considered unless the provider who submitted the quotation or bid
- a. has furnished that provider's –
    - i. full name;
    - ii. identification number or company or other registration number;  
and
    - iii. tax reference number and VAT registration number, if any;
  - b. has either supplied the a valid tax clearance certificate or has authorised the Theewaterskloof Municipality to obtain a tax clearance from the South African Revenue Services that the provider's tax matters are in order; and

***Recommended:***

- (1) A written quotation or bid may not be considered unless the provider who submitted the quotation or bid
  - b. has either supplied ~~the~~ a valid tax clearance certificate or has authorised the Theewaterskloof Municipality to obtain a tax clearance from the South African Revenue Services that the provider's tax matters are in order;

***Read Currently as:***

**18. Procedures for Procuring Goods or Services through Written or Verbal Quotations and Formal Written Price Quotations**

The procedure for the procurement of goods or services through written or verbal quotations or formal written price quotations is as follows:

***Recommended:***

- (1) The procedure for the procurement of goods or services through written or verbal quotations or formal written price quotations is as follows:

***Read Currently as:***

**20. Process for competitive bidding**

The procedures for the following stages of a competitive bidding process are as follows:

***Recommended:***

- (1) The procedures for the following stages of a competitive bidding process are as follows:

***Read Currently as:***

**23. Procedure for Handling, Opening and Recording of Bids**

- (1) The procedures for the handling, opening and recording of bids, are as follows:
  - a) Bids–

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- i) must be opened only in public;
  - ii) must be opened at the same time and as soon as possible after the period for the submission of bids has expired; and
  - iii) received after the closing time should not be considered and returned unopened immediately.
- b) Any bidder or member of the public has the right to request that the names of the bidders who submitted bids in time must be read out and, if practical, also each bidder's total bidding price;
- c) No information, except the provisions in subparagraph (b), relating to the bid should be disclosed to bidders or other persons until the successful bidder is notified of the award;
- d) The Accounting Officer must –
- i) record in a register all bids received in time;
  - ii) make the register available for public inspection;
  - iii) publish the entries in the register and the bid results on the website; and
- e) Opening of Bids, –
- i) the bids shall be opened in public as soon as practical after the closing time.
  - ii) bids found to be inadvertently placed in the incorrect bid box will be redirected provided that the applicable bids either closed on the same day at the same time, or are still open (in which case the Municipality disclaims any responsibility for seeing that the bids are in fact lodged in the correct bid box).
  - iii) all bids shall be opened in public and checked for compliance.
  - iv) the official opening the bids shall in all cases read out the name of the bidder and, if practical, the amount of the bid.
  - v) the bid/proposal shall be stamped with the official stamps, and endorsed with the opening official's signature,
  - vi) the name of the bidder, and where possible, the bid sum shall be recorded in a bid opening record kept for that purpose, and
  - vii) the responsible official who opened the bid shall forthwith place his/her signature on the bid opening record and shall ensure that the bid opening record and the bid prices, where applicable, are made available

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for public inspection and are published on the Municipality's official website.

- f) The Theewaterskloof Municipality should after the closure of bids above the threshold value of R 30,000 (Vat incl.) publish on the website:-
  - i) the reference number of the bid;
  - ii) the description of the goods, services or infrastructure  
(1) project;
  - iii) names of all bidders;
  - iv) the B-BBEE Status Level of Contribution of all bidders;
  - v) the Local Content Percentages of the goods offered  
(1) (if practical);
  - vi) the total price of bids (if practical);
  
- g) Copies of the results must be made available at municipal offices and libraries. The information must be published within 10 working days after closure of the bid and it must remain on the website for at least 30 days.

***Recommended:***

- f) Bid validity periods, –
  - i) The validity period is calculated from the bid closure date and bids shall remain in force and binding for a period as indicated in the invitation to bid and the bid documents, subject to any other applicable legislation and instructions from the National Treasury for specific types of procurement.
  - ii) The period of validity may be extended, provided that the original bid validity period has not expired and that all bidders are given an opportunity to extend such period.
  - iii) Any such extension shall be agreed to by a bidder in writing. Bidders who fail to respond to such a request before the validity of their bid expires, or who decline such a request shall not be considered further in the bid evaluation process.
  - iv) All bidders who indicated the acceptance of the extension of the bid validity period, bids will be considered for evaluation purposes.

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- v) To cater for a possible objection or complaint in terms of paragraph 49 of this policy or an appeal in terms of section 62 of the Municipal Systems Act, the official responsible for the bid must ensure that all bidders are requested to extend the validity of their bids where necessary in order to ensure that the bids are valid throughout the objection, complaint or appeal period.
  - vi) If the validity of all bids expired without it being awarded, including any extensions thereof allowable in terms of applicable legislation, the bid must be cancelled and published in the same media in which the original bid invitation appeared.
  - vii) All bidders must be notified in writing of the cancellation of a bid in terms of subparagraph (vi) above.
- f) g) The Theewaterskloof Municipality should after the closure of bids above the threshold value of R 30,000 (Vat incl.) publish on the website:-
- i) the reference number of the bid;
  - ii) the description of the goods, services or infrastructure  
(1) project;
  - iii) names of all bidders;
  - iv) the B-BBEE Status Level of Contribution of all bidders;
  - v) the Local Content Percentages of the goods offered  
(1) (if practical);
  - vi) the total price of bids (if practical);
- g) h) Copies of the results must be made available at municipal offices and libraries. The information must be published within 10 working days after closure of the bid and it must remain on the website for at least 30 days.



***Read Currently as:***

**32. Procurement of Goods and Services under Contracts Secured By Other**

**Organs of State**

(1) The Accounting Officer may procure goods or services under a contract secured by another organ of state, but only if –

- (a) the contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;
- (b) there is no reason to believe that such contract was not validly procured;
- (c) there are demonstrable discounts or benefits to do so; and
- (d) that other organ of state and the provider have consented to such procurement in writing.

(2) Subparagraphs 32(1)(c) and (d) do not apply if –

- (a) a municipal entity procures goods or services through a contract secured by its parent municipality; or
- (b) a municipality procures goods or services through a contract secured by a municipal entity of which it is the parent municipality.

***Recommended:***

(3) If paragraph (1) is complied with, Theewaterskloof Municipality must request at least the following documents from the relevant organ of state and service provider as referred to under subparagraph (1)(d) –

- a) A written declaration confirming –
  - i. That the organ of state followed a competitive bidding process applicable to it;
  - ii. That the organ of state has no reason to believe that the contract was not validly procured by itself;
  - iii. That the organ of state evaluated the bid in terms of price and preference and if applicable, in terms of functionality or quality,

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and concluded that the bid(s) that were accepted were in all aspects the best compliant and respective bid(s); and

- iv. That the organ of state gives formal written permission to Theewaterskloof Municipality to procure goods and / or services from the approved bid(s) as accepted by the organ of state;
- b) Agenda and minutes of the organ of state's Bid Evaluation Committee at which the specific bid was evaluated;
- c) Agenda and minutes of the organ of state's Bid Adjudication Committee at which the bid was awarded or the approval of the Accounting Officer of that organ of state who approved the bid;
- d) A copy of the successful bidder(s) bid submissions; and
- e) Written consent from the service provider.

(4) If Theewaterskloof Municipality should enter into a contract secured by other organs of state, it shall enter into a contract with the successful bidder(s) on the same terms and conditions as accepted by the relevant organ of state.

***Read Currently as:***

**35. Appointment of Consultants**

- (1) The Accounting Officer may procure consulting services provided that any Treasury guidelines in respect of consulting services are taken into account when such procurements are made.
- (2) Consultancy services must be procured through competitive bids if –
  - a) the value of the contract exceeds R200 000 (VAT included); or
  - b) the duration period of the contract exceeds one year.

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- (3) In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish particulars of –
- (a) all consultancy services provided to an organ of state in the last five years;
  - and
  - (b) any similar consultancy services provided to an organ of state in the last five years.
- (4) The Accounting Officer must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, thing, system or process designed or devised, by a consultant in the course of the consultancy service is vested in the Theewaterskloof Municipality.

***Recommended:***

- (5) The procurement of Consultants will be done in accordance with the prescripts contained in the Policy on the use of Consultants. Should a difference of interpretation arise between this policy and the Policy on the use of Consultants, the interpretation as ascribed to in this policy will prevail.

***Read Currently as:***

**43. Prohibition on Awards to Persons Whose Tax Matters are not in Order**

- (1) No award above R 30 000 may be made in terms of this Policy to a person whose tax matters have not been declared by the South African Revenue Service to be in order.
- (2) Before making an award to a person the accounting person must first check with SARS whether that person's tax matters are in order.
- (3) If SARS does not respond within 7 days such person's tax matters may for purposes of subparagraph 43(1) be presumed to be in order.

**Recommended:**

- (4) Theewaterskloof Municipality will process transactions per supplier on the proviso that the accumulative amounts per supplier does not exceed R30,000 (including VAT) per financial year, without the required tax clearance certificate as per clause 43(1) above.

**Read Currently as:**

**49. Disputes, Complaints, Enquiries and Objections Mechanism**

- ~~(1) Bidders are allowed the opportunity to lodge an objection or complaint against the decisions or actions of the Municipality within a period of 14 (*working*) days of the Municipal decision or action.~~
- ~~(2) This process does not constitute an APPEAL and the provisions of the SCM TR 50 must be adhered to in order to respond to objections or complaints received in this regard.~~
- ~~(3) The AO may appoint an independent and impartial person, not directly involved in the SCM processes:~~
- ~~➤ To assist in the resolution of disputes between the Municipality and other persons regarding—~~
    - ~~(i) any decisions or actions taken in the implementation of the supply chain management system; or~~
    - ~~(ii) any matter arising from a contract awarded in the course of the supply chain management system; or~~
  - ~~➤ To deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.~~
  - ~~➤ Suppliers must provide details of the reasons for their appeal including any non-compliance with this Policy, the MFMA and related legislation. The Accounting Officer shall provide written acknowledgement of the receipt of appeals to the appellant and endeavour to finalise appeals within 10 working days of their receipt. Where this is not possible, the Accounting Officer shall advise the appellant in writing of the reasons for the delay.~~
  - ~~➤ If the appeal is based on a technically complex matter, the Accounting~~

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~~Officer may engage an impartial external advisor, provided that their engagement is compliant with this Policy and sufficient budgetary provision exists. The Accounting Officer is not bound by any opinion provided.~~

~~➤ The Accounting Officer will decide if an appeal constitutes sufficient grounds for delay of procurement from the approved supplier, and if a delay is practical. If the Accounting Officer determines there are grounds for delay, the approved supplier will be advised in writing of the reasons for the delay.~~

~~(4) When a ruling on an appeal has been made, the Accounting Officer will advise the appellant in writing of the outcome.~~

~~(5) The Accounting Officer, or another official designated by the Accounting Officer, is responsible for assisting the appointed person to perform his or her functions effectively.~~

~~(6) The person appointed must —~~

~~➤ strive to resolve promptly all disputes, objections, complaints or queries received; and~~

~~➤ submit monthly reports to the Accounting Officer on all disputes, objections, complaints or queries received, attended to or resolved.~~

~~(7) A dispute, objection, complaint or query may be referred to the relevant Provincial Treasury if —~~

~~➤ the dispute, objection, complaint or query is not resolved within 60 days; or~~

~~➤ no response is forthcoming within 60 days.~~

~~(8) If the Provincial Treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.~~

~~(9) This paragraph must not be read as affecting a person's rights to approach a court at any time.~~

**Recommended:**

**49. Objections and Complaints**

- (1) Persons aggrieved by decisions or actions taken in the implementation of this supply chain management system, may lodge within 14 days of the decision or action, a written objection or complaint against the decision or action.

**Read Currently as:**

**50. SCM-Related Appeals**

- ~~(1) Bidders are allowed to appeal against a decision or action of the Municipality, but only after exhausting the provisions of SCM TR 21(e), 49 and 50.~~
- ~~(2) In strict legal terms the nature of an appeal has a specific meaning in relation to administrative actions, only allowing for a review of the processes followed by the administrator but not the merit of the discretionary decision taken by them. If the decision of the Municipality is taken on appeal, it means that the Municipality should show cause that it followed due process in awarding the tender.~~
- ~~(3) The administrator will not have to defend the merits of any discretionary decisions taken subject to such decisions being reached following due process. In practical terms, it means that the Municipality will have to confirm that:
  - Due process was followed in awarding the tender, i.e. all relevant legal prescripts were complied with; and
  - The discretionary decision made to award the tender was reached having followed such due process.~~
- ~~(4) If an application for appeal is upheld, the only sanction could be that the tender evaluation and/or adjudication process must be re-constituted following due process. An administrative appeal does not allow the making of an alternative decision, but only to refer a matter back to follow due process.~~

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~~(5) Bid documents must state that any appeal must be submitted to the Accounting Officer at the address stated, and must contain the following:~~

- ~~a. reasons and/or grounds for the appeal;~~
- ~~b. the way in which the appellants rights have been affected; and~~
- ~~c. the remedy sought by the appellant.~~

~~(6) No bid shall be formally accepted until either the expiry of the 21 day appeal period, or confirmation in writing before the expiry of the 21 day appeal period that none of the affected parties intend to appeal, or confirmation of the satisfactory resolution of any appeals.~~

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<sup>1</sup> MSA 62 stipulates that:

- ~~“(1) A person whose rights are affected by a decision taken by a political structure, political office bearer, councilor or staff member of a Municipality in terms of a power or duty delegated or sub-delegated by a delegating authority to the political structure, political office bearer, councilor or staff member, may appeal against that decision by giving written notice of the appeal and reasons to the Municipal manager within 21 days of the date of the notification of the decision.~~
- ~~(2) The Municipal manager must promptly submit the appeal to the appropriate appeal authority mentioned in subsection (4).~~
- ~~(3) The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.~~
- ~~(4) When the appeal is against a decision taken by (a) a staff member other than the Municipal manager, the Municipal manager is the appeal authority”~~

<sup>2</sup> *CC Groenewald v M5 Developments* (283/09) [2010] ZASCA 47 [31 March 2010]; *Loghdey v Advanced Parking Solutions CC* Unreported, Case No. 20766/2008 (W) [25 February 2009]; *Lohan Civil Tebogo Joint Venture v Mangaung Plaaslike Munisipaliteit* Unreported, Case No. 508/2009 (O) [27 February 2009]

**Recommended:**

## **50. Resolution of Disputes, Objections, Complaints and Queries**

- (1) The Accounting Officer may, if deem so, appoint an independent and impartial person, not directly involved in the supply chain management processes –
  - a) To assist in the resolution of disputes between the Theewaterskloof Municipality and other persons regarding –

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- i. Any decisions or actions taken in the implementation of the supply chain management system; or
    - ii. Any matter arising from a contract awarded in the course of the supply chain management system; or
  - b) To deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.
- (2) The Accounting Officer, or another official designated by the Accounting Officer, is responsible for assisting the appointed person to perform his or her functions effectively.
- (3) The person appointed should, if appointed –
- a) Strive to resolve promptly all disputes, objections, complaints or queries received; and
  - b) Submit monthly reports to the Accounting Officer on all disputes, objections, complaints or queries received, attended to or resolved.
- (4) A dispute, objection, complaint or query may be referred to the relevant provincial treasury if –
- a) The dispute, objection, complaint or query is not resolved within 60 days; or
  - b) No response is forthcoming within 60 days.
- (5) If the Provincial Treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.



- (6) This paragraph must not be read as affecting a person's rights to approach a court at any time.

***Read Currently as:***

**53. Contracts having Budgetary Implications beyond Three Financial Years**

Theewaterskloof Municipality may not enter into any contract that will impose financial obligations beyond the three years covered in the annual budget for that financial year, unless the requirements of Section 33 of the Municipal Finance Management Act have been fully complied with.

***Recommended:***

~~**53. Contracts having Budgetary Implications beyond Three Financial Years**~~

~~Theewaterskloof Municipality may not enter into any contract that will impose financial obligations beyond the three years covered in the annual budget for that financial year, unless the requirements of Section 33 of the Municipal Finance Management Act have been fully complied with.~~

***Additional Clause Recommended:***

**53. Right of Appeal**

- (1) In terms of Section 62 of the Municipal Systems Act (Act 32 of 2000 as amended), a person whose rights are affected by a decision taken by the Municipality, in terms of a delegated authority, in the implementation of its supply chain management system, may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of receipt of the notification of the decision.
- (2) Notification of the decision must state that any appeal must be submitted in writing to the Municipal Manager and must at least contain the following information:
- a) The reasons and / or grounds for the appeal;
  - b) The way in which the appellants rights have been affected; and

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c) The remedy sought by the appellant.

- (3) No bid, where a competitive bidding process was followed, shall be formally accepted until a ruling has been made on any appeal/s received.
- (4) The appeal authority must consider the appeal and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.

Commencement:

This Policy took effect on 29 June 2006.

**Recommended:**

<b>Approved / Amended</b>	<b>Meeting</b>	<b>Date</b>	<b>Council Resolution</b>
<i>Approved</i>	<i>Council</i>	<i>2006/11/01</i>	<i>C69/2006</i>
<i>Approved Amended Policy</i>	<i>Council</i>	<i>2010/11/23</i>	<i>C105/2010</i>
<i>Review Date</i>	<i>Mgt.</i>	<i>2013/01/17</i>	<i>N/A</i>
<i>Approved Amended Policy</i>	<i>Council</i>	<i>2013/01/24</i>	<i>C10/2013</i>
<i>Review Date</i>	<i>SCM</i>	<i>2013/03/05</i>	<i>N/A</i>
<i>Approved Amended Policy</i>	<i>Council</i>	<i>2013/05/28</i>	<i>C51/2013</i>
<i>Review Date</i>	<i>SCM</i>	<i>2013/09/16</i>	<i>N/A</i>
<i>Review Date</i>	<i>SCM</i>	<i>2013/09/26</i>	<i>N/A</i>
<i>Review Date</i>	<i>CFO</i>	<i>2014/03/18</i>	<i>N/A</i>
<i>Approved Amended Policy</i>	<i>Council</i>	<i>2014/03/27</i>	<i>C27/2014</i>
<i>Review Date</i>	<i>SCM &amp; Legal</i>	<i>2015/03/13</i>	<i>N/A</i>
<i>Review Date</i>	<i>CFO, Legal &amp; SCM</i>	<i>2015/03/17</i>	<i>N/A</i>
<i>Approved Amended Policy</i>	<i>Council</i>	<i>2015/05/28</i>	<i>C53/2015</i>
<i>Review Date</i>	<i>SCM</i>	<i>2015/10/19</i>	<i>N/A</i>
<i>Approved Amended Policy</i>	<i>Council</i>	<i>2015/10/29</i>	<i>C184/2015</i>
<i>Review Date</i>	<i>Dep. CFO, SCM &amp; Legal</i>	<i>2016/03/07</i>	<i>N/A</i>
<i>Review Date</i>	<i>CFO &amp; SCM</i>	<i>2016/03/08</i>	<i>N/A</i>