



LIMPOPO
PROVINCIAL GOVERNMENT
REPUBLIC OF SOUTH AFRICA

**DEPARTMENT OF
ROADS AND TRANSPORT**

**PROCUREMENT POLICY
VERSION 2**

INTRODUCTION

1. SCOPE OF APPLICATION

This policy is applicable to the department of Roads and Transport Limpopo Province

The processes and directives contained in this document must be read in conjunction with the Public Finance Management Act and Supply Chain Management.

In terms of the constitution, procurement of goods and services must be done in accordance with a system that is fair, equitable, transparent, competitive and cost effective.

2. PURPOSE

The purpose of this policy is to provide a framework within which the principles of Supply Chain Management should be implemented within the department of Roads and Transport. The objectives of this policy are:

- (a) To promote uniformity in Supply Chain Management practices within the department of Roads and Transport.
- (b) To give effect to the provisions of the PFMA of 1999 and PPPFA, of 2000 and its regulations of 2001.
- (c) To promote consistency within the company's procurement and provisioning system.

This document sets out ethical and sound procurement practices to be followed by all staff involved in procuring goods and services, to ensure value for money outcomes for the Department of Roads and Transport within the following predetermined five procurement guidelines/pillars:

- i. Value for money
- ii. Open and effective competition
- iii. Ethics and accountability
- iv. Accountability and reporting
- v. Equity and transparency

The information in this document takes account of the role of the Supply Chain Management, which has been established to provide a centre of procurement

excellence, and to streamline procurement at all levels within the Department of Roads and transport in Limpopo.

This policy represents the minimum standards that the officials are expected to achieve in their procurement activities.

3. ACTS

- (a) The Constitution of the Republic of South Africa ACT 108 OF 1996. The Constitution regulates procurement in terms of Section 217, which determines that:
- (b) The Public Finance Management Act, Act 1 of 1999
- (c) The Preferential Procurement Policy Framework Act, 5 of 2000
- (d) The Preferential Procurement Policy Framework Act Regulations 2001
- (e) Supply Chain Management Regulations of 2003 issued in terms of Section 76(4) of the PFMA
- (f) Broad Based Black Economic Empowerment Act , Act 53 of 2003
- (g) State information technology Act, Act 88 of 1998
- (h) Private Security Industry Regulation Act 56 of 2001
- (i) Construction Industry Development Board Act, Act 38 of 2000

4. NATIONAL TREASURY STANDARDS

- (a) National Policy Strategy to guide uniformity in procurement reform processes in government of 2004.
- (b) SCM: a guide for Accounting Officer/ authorities of 2004.
- (c) National Treasury S.C.M Practice Notes.

5. PROVINCIAL TREASURY STANDARDS

- (a) Limpopo Preferential Procurement Policy of 2005
- (b) Provincial Treasury S.C.M Practice Note

6. GLOSSARY

- (a) Accounting Officer as define in Section 36 of the PFMA
- (b) Accounting authority as defined in section 49 of the PFMA

7. ACRONYMS AND ABBREVIATIONS

AO/AA : Accounting Officer

AA : Accounting Officer

PFMA : Public Finance Management Act 1999

PPPFA : Preferential Procurement Policy Framework Act 2000 (Act No 5
of 2000)

SARS : South African Revenue Services

SCM : Supply Chain Management

SLA : Service Level Agreement

HDI : As defined in the PPPFA

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1. AUTHORIZATION AND REGULATORY FRAMEWORK

1.1 Legal Requirements

1.1.1 Public Finance Management Act

Section 38 of the *Public Finance Management Act*, Act 1 of 1999 (as amended) (PFMA) sets out the general responsibilities of Accounting Officers, one of which is to ensure that the department has and maintains “an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective”.

The consequences of non-compliance with the PFMA results in unauthorized, irregular fruitless or wasteful expenditure, which is deemed to be a financial misconduct. The PFMA further provides that the Accounting Officer must ensure that disciplinary steps are taken against any employee who commits any such misconduct.

1.1.2 Broader legal compliance requirements

The Department of Roads and Transport’s procurement activities in Limpopo must also comply with requirements of the Preferential Procurement Policy Framework Act, Act. 5 of 2000 (PPPFA), the Employment Equity Act and other legislation, Limpopo Preferential Procurement Policy, SCM Framework, 2003.

Directives of all control organizations exercising a function in terms of any legislation must be complied with and where any stipulation in this document is in conflict with the directives or stipulations of any other control organization, the directives or stipulations of that body apply.

In respect of cases where emergency is pleaded:

- (a) An outline of the circumstances which could not be foreseen:
- (b) An outline of the specific dangerous or perilous condition or misery or defect that occurred as a result thereof or the damage they could have brought about;

- (c) What was aimed at with the action in order to relieve, stem and or prevent the condition; and
- (d) Proof to the effect that seen in retrospect, what the result of the action was with regard to the appointed goal.

In respect of cases where best interest is pleaded:

- (a) The reason for urgent action must be furnished and motivated;
- (b) Reasoning of the negative result that could have occurred if authorized action was taken and a comparison of the result that was brought about by the action; and
- (c) Whether the unauthorized action yielded results different than would have been yielded if the normal procedure had been followed.

In respect of both emergency and best interest

- (a) The exact detail of time and timescales applicable at the time of action;
- (b) What attempts were made to obtain prior authorization from the Bid Adjudication Committee;
- (d) The manner of handling of invitation of price quotation and/or tender, placement or order and payment;
- (e) The conditions which were applicable; and
- (f) How the price analysis and comparison with the normal price was made.
- (g) When a power, directive and/or delegation has been exceeded and/or incorrectly exercised but no contractual commitment has resulted, circumstances must be furnished to the Bid Adjudication Committee for consideration of the results there from, all contributory causes or factors and circumstances must be furnished to the Bid Adjudication Committee for consideration the result of the action and the consequences or possible consequences and a decision to condone/ratify the

introduction of corrective measures and/or the creation or preventative measures.

2. POLICY FRAMEWORK

2.1 Risk management

The activities of the Supply Chain Management must also allow better risk management in procurement. The Department of Roads and Transport policy is to share risks and assign responsibility for each particular risk to the Department or the supplier/contractor, depending on who is best able to manage that risk.

2.2. Recording and reporting

In the interest of sound administration and responsible decision-making, and to give effect to section 217 (1) of the Constitution of the Republic of South Africa and the Access to information Act, the Supply Chain Management shall keep records of all communication regarding bid awarded or decision and give reasons when required.

2.3 Debriefing of Bidder

It is therefore of prime importance to promote the access to information act through the debriefing session. When a bidder applies to the Supply Chain Unit in writing for the reasons why his offer was not accepted, the full reasons and/or any relevant decisions included in the minutes should be supplied to the Bidder in writing.

3. PROCUREMENT PRINCIPLES

3.3.1 Availability of funds

All financial matters must be finalized before any procurement activity can be started. The Responsibility Manager must certify in writing the availability of funds and that the funds were actually budgeted for and are in line with the programme description and outputs of that programme. Where the Responsibility Manager is procuring goods and/or services the Programme Manager must provide such certification.

3.3.2 Samples

If the submission of samples is a material part of the Bid a clause that the submission of samples will be applicable, must be incorporated in the Bid advertisement and Bid specification.

3.3.3 Standards

Material, products and system standards complying with South African Bureau of Standards (SABS) will take precedence over any material, products or systems not complying with nationally recognized standard authorities.

3.3.4 Preferences

Department of Roads and Transport in Limpopo supports the principle of supporting local manufacturers and historically disadvantaged individuals, including women, disable people and youth to contribute to the achievement of national objectives. It is therefore an objective of the Department of Roads and Transport to give such preferences where practical and in the interest of the Department of Roads and Transport to do so within the ambit of legislation such as PPPFA.

3.3.5 Declaration of interest

- (a) Purchase of goods or services from suppliers who are staff members of the department shall not be allowed. Suppliers must be required to declare an interest when bidding or offering goods or services to the department, whereas staff members must declare their interest and if possible recues themselves in the following cases:
- (b) Where suppliers are relatives related to an official who is or was in any bid committee.
- (c) Where officials have an interest, either direct or indirect, and where officials are part of the directors or partners of the bidding company.
- (d) No supplier shall be prejudiced as a result of a declaration of interest.
- (e) Bid adjudication committee members must complete declaration of financial interest annually.

- (f) Bid adjudication committee members must declare conflict of interest in each bid adjudication committee meeting and recuses them when the item is discussed.

4. PROCUREMENT METHODS

4.4.1 Awards of Contracts

- (a) Awards to contracts must be made on the basis of the lowest acceptable offer which is in accordance with specification, and is commercially, technically and financially acceptable and in the best interest of the Department of Roads and Transport. Further, it must be subject to the Department of Roads and Transport preferential points' adjudication.
- (b) For purchases below R500-000 awards must be made on the basis of the lowest priced quotation/ offer.
- (c) For purchases from R30 000-01 to R500 000-00 awards must be made on the basis of the highest points scored in terms of the PPPFA.
- (d) Bids for procurement of goods and services exceeding R500 000-00 in value must be advertised on the Provincial Tender Bulletin and other news papers or print media.

NOTE: Procurement shall not be split into components, or succession of orders for the same goods or services in order to enable procurement under certain financial thresholds for quotations referred to herein.

4.4.2 Exemption or deviation from normal Bid procedures

When certain circumstances necessitate deviation from the normal bid procedures, a motivation to that effect must be presented for recommendation to the Bid Adjudication Committee, who must recommend for approval to the Head of Department. Applications must be fully motivated and reasoned, and acceptable reasons advanced why the normal bid procedures cannot be followed. The required service/task/project to be carried out must still be defined fully in terms of time and cost so as to enable the Head of Department to make an informed decision. The deviation or exemption applies to quotations as well.

4.4.3 Condonation of Action or Exemption in case of emergency

Condonation in the context of the Bid Adjudication Committee's activities means the same as ex post facto approval and may not be used as an alternative. Where an action has not irrevocably committed the department to a contract, the Bid Adjudication Committee may on the basis of the merits of the case, condone or ratify such action.

4.4.3.1 However, the possibility exists that in the case of law suit, regarding a contract arising from an unauthorized action it may be pleaded that the contract is not legal. The Bid Adjudication Committee holds the stand point that this cannot be a reason why it should grant ex post facto approval and that this will not prejudice the obligation of the Department to pay the contractor for the delivered goods or services in accordance with the agreed price.

4.4.3.2 In order to facilitate meaningful evaluation of cases, to promote uniform action and to act consistently, the following guidelines with regard to interpretation, transparency of information and evaluation criteria shall apply:

- (a) There are only two circumstances, namely emergency or best interest of Department, for which condonation can be pleaded and which will primarily be considered in cases where the Department is or was contractually committed.
- (b) When unauthorized action that has resulted in the conclusion of a contract is submitted for consideration, the following must be indicated:

4.4.3.3 In order to expedite the process of consideration of applications for approval in cases of emergency or in the best interest of the department an application form (obtainable from the Supply Chain Management Bid Adjudication Committee).

4.4.4 Sole suppliers

Where the market is highly specialized it may be appropriate to confine invitations to bid to known suppliers or to negotiate directly with a sole supplier. Where this is the procedure to be followed, the head of the business unit must document the reasons for SCM unit and how the process is going to meet the requirements for open and effective competition.

However in respect of quotations such cases must be referred to the Sub-Tender Committee for approval.

5. THRESHOLD VALUES FOR THE PROCUREMENT OF GOODS AND SERVICES BY MEANS OF PETTY CASH, VERBAL/WRITTEN PRICE QUOTATIONS AND COMPETITIVE BIDS AS PER PROCUREMENT DELEGATION

Officials should apply the following threshold values when procuring goods or Services, hiring or letting anything, acquiring or granting any right or disposing of movable state property.

5.5.1 Procurement from 0 to R 2000-00 (petty cash)

Officials may procure requirements without inviting competitive bids or price quotations by means of petty cash.

5.5.2 Above the value of R2000 but not exceeding R10 000(VAT included)

Officials may procure requirements by obtaining at least three (3) written quotations from, where applicable, a list of prospective suppliers. The order should, however, be placed against written confirmation from the selected supplier if the quotation was submitted verbally.

5.5.3 Above the value of R10 000 but not exceeding R500.000 (VAT included)

5.5.3.1. Officials should invite and accept written price quotations for requirements up to an estimated value of R500.000 from as many supplier as possible that are registered on the list of prospective supplier.

5.5.3.2. Where no suitable suppliers are available from the list of prospective supplier, quotations may be obtained from other possible suppliers.

5.5.3.3. If it is not possible to obtain at least three (3) written price quotations, the reasons should be recorded and approved by the Bid Adjudication Committee.

5.5.3.4. Officials should apply the prescripts of the Preferential Procurement Policy Framework Act, Act 5 of 2000 and its associated Regulations for all procurement equal to or above R30 000 (VAT Included)

5.5.4 Above the value of R500.000 (VAT included)

5.5.4.1. Officials should invite competitive bids for all procurement above R 500 000.

5.5.4.2. Goods, works or services may not deliberately be split into parts or item is lesser value merely to avoid complying with the requirements of the prescribed thresholds. When determining transaction values, requirements for goods works or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction.

5.5.3.3. Competitive bids shall be advertised in Provincial Tender Bulletin and in other appropriate media should be accounting officer deem it necessary to ensure greater exposure to potential bidders.

5.5.4 Compilation of the list of prospective suppliers per commodity

5.5.4.1 The Department of Roads and Transport shall maintain a list of prospective suppliers on the database to be utilised in procuring goods/services via quotations.

5.5.4.2 Panel of consultants for procuring of consulting services in compliance with the Supply Chain Management.

5.5.4.3 The Supply Chain Management Unit should compile a list of prospective suppliers to be used to procure requirements. This list should also be used effectively to promote Black Economic Empowerment through participation of black owned enterprises, owned enterprises (as defined in the strategy for Broad-Based Black Economic Empowerment issued by the Department of Trade and Industry) as well as the promotion of Businesses owned by other Historically Disadvantaged Individuals (HDI'S)

5.5.4.4 The Supply Chain Management Unit Provincial Tender Bulletin

should, through local representative newspapers or by any other means, invite prospective suppliers to apply for evaluation and listing as prospective suppliers. The list should be updated at least regularly in order to accommodate especially newly established black empowered businesses and other newly established HDI suppliers.

5.5.4.5 Once the list has been compiled per commodity, price quotations should be invited from there. The invitation of price quotations from the compiled list of prospective suppliers per commodity should be done on a rotation basis in such a manner that ongoing competition amongst suppliers is promoted. Panel of consultants for procuring of consultancy services in compliance with the Supply Chain Framework.

5.5.5 Reporting on Supply Chain Management Information

5.5.5.1 The Supply Chain Management Unit shall continue to report on their progress in the implementation of Supply Chain Management and on a monthly basis on the award of all bids above the value of R30 000 (VAT included), as prescribed in Practice Note Number SCM 2 of 2008/2009.

6. REQUEST FOR BIDS

Bids for procurement of goods and services exceeding R 500 000-00 in value must be sought and awarded in accordance with the Bidding process which is as follows:

6.6.1 Invitation of Bids

6.6.1.1 Advertisement of Bids:

The S.C.M section shall ensure that all bids are advertised in at least the Provincial *Tender Bulletin* for a minimum period of twenty one days before closure, except in urgent cases when bids may be advertised for such shorter period as the Head of Department may determine.

6.6.1.2 Validity period of Bids:

The validity period must be as short as 120 days. The norm is validity period of not longer than 90 days. The Department of Roads and transport must

approve any period longer than this. The Departmental Bid adjudication committee shall be responsible for the extension of validity periods prior to lapsing.

6.6.1.3 Receiving Bids:

Where Bids may require special handling, for example where there is large volume of documentation, the Supply Chain Management Unit will make appropriate arrangements to keep them secure.

Bids received by facsimile, telegram, telex or similar apparatus shall be not acceptable and shall be rejected summarily. Only ORIGINAL BID documents where all the relevant forms are signed in ink before submission will be accepted as valid Bids.

6.6.1.4 Late Bids:

Bids are late if they are received at the address provided in the Bid documents after the closing date and time. The Department of Roads and Transport shall not accept late bids.

6.6.1.5 Signing of Bids:

Suppliers should be asked to quote prices inclusive of VAT and all other relevant taxes and duties (*where applicable*). All suppliers should be requested to submit original valid Tax Clearance Certificates obtainable from the Receiver of Revenue. Failure to submit an original valid tax clearance certificate may invalidate a quotation or Bid.

All Bid forms, which require signatures, must be duly signed in ink to qualify the Bid as valid.

7. **CONSIDERATION OF BIDS**

7.7.1 Appointment of Bid Committees:

The accounting officer / authority shall appoint bid committees as indicated below:

(a) Bid specification committee

This is the committee responsible for the compiling of bid specifications. The specifications should be written in an unbiased manner to allow all potential bidders to offer their goods or services. The specification committee may be composed of officials of a department (i.e. the procurement department or the department requiring the goods or services), a committee appointed by the accounting officer or his / her delegate, one or more qualified officials or an external consultant under direction of the officials concerned. Specifications shall be approved by the accounting officer or his / her delegate(s), e.g. the adjudication committee, prior to advertisement of bid(s) as bids may only be evaluated according to the criteria stipulated in the bid documentation

(b) Bid evaluation committee

This committee is responsible for the evaluation of bids received, which include verification of:

- (i) The capability / ability of the bidder to execute the contract
- (ii) Tax clearance certificate issued by SARS
- (iii) National industrial participation programme requirements (only applicable for contracts in excess of R 10 million).

Bids may only be evaluated in accordance with the criteria specified in the bid documentation. According to the prescripts of Section 2 of the Preferential Procurement Policy Framework Act, No 5 of 2000 (PPPFA) bids must be evaluated in accordance with a preference point system. Any specific goal for which a point may be awarded must be clearly specified in the invitation to submit a bid.

The evaluation committee shall be cross-functional and should be composed of supply chain practitioners and officials from the user business units requiring the goods and / or services. The evaluation committee should evaluate all the bids received and submit a report and recommendation(s) regarding the award of the bid(s) to the adjudication committee.

c) Bid adjudication committee

The adjudication committee should be cross functional of whom at least one member should be a supply chain practitioner. When possible, the chairperson of the committee shall be the institution, chief financial officer. The committee shall be composed of at least four senior officials and should consider the report(s) and recommendation(s) made by the evaluation committee. Depending on the delegations granted by the accounting officer, the adjudication committee could make the final award of the bid, or make recommendation to the accounting officer to make the final award.

The evaluation and adjudication committees shall be composed of different members to ensure that transparent review of the evaluation is undertaken. Members of the evaluation committee may present their reports to the bid adjudication committee and clarify any uncertainties. Such members shall not have any voting power on the adjudication committee.

The bid specification, evaluation and adjudication processes must be within the ambit of section 217 of the Constitution as well as the prescripts contained in the PPPFA and the Broad-Based Black Economic Empowerment Act, No. 53 of 2003 (BBBEE Act), and their associated regulations.

Bidders may not be afforded a second opportunity to change any condition or price or submit further information, unless all other bidders are afforded the same opportunity regarding a particular aspect of the bid where all of them omitted to do the same.

The financial standing and the ability of bidders to manufacture or supply goods and/or services must be examined before their bids are considered for acceptance. The Bid adjudication committee must adjudicate each Bid in accordance with the adjudication criteria published in the request documentation.

7.7.2 Declaration of interest:

Each member of the Departmental Bid adjudication committee must complete a conflict of interest declaration out of secrecy form/ confidentiality form, confidentiality agreement before the start of the adjudication process. No official who has an interest (or whose relative has an interest) in a

particular offer will be allowed to participate in the evaluation, consideration and adjudication of the relevant Bid. The Heads of Business Units must:

- (i) Evaluate each Bid by:
 - a. Applying only the adjudication criteria notified in the request documentation, including the operation of the *Preferential Procurement Policy Framework Act*.
 - b. Assessing compliance with the terms of reference and the terms and conditions set out in the request documentation.
 - c. Assessing the technical viability of the proposed solution.
 - d. Assessing the capability of the bidder to provide the goods or services, including technical and management competence and financial resources.
 - e. Contacting referees.
 - f. Taking account of the benefits and costs involved on a whole-of-life basis (not just the cheapest price).
 - g. Documenting any potential constraints or risks and the way the risks are allocated, and assessing the cost to the Department of Roads and Transport of that risk allocation.
- (ii) Compile a comparative schedule of all bids received.
- (iii) Identify the bidder that represents the best available value for money.
- (iv) Document the reasons for that decision and explain why other bidders were unsuccessful
- (v) Prepare a recommendation for acceptance of a bid.

7.7.3 Negotiation with the Bidders:

Negotiators must manage the significant risks involved in the negotiation process and ensure they do not put any Bidders at a disadvantage.

The following actions should be avoided/are illegal:

- (a) Giving a competitor who is clearly not in the lead a chance to improve the bid without giving the same opportunity to other short listed competitors.
- (b) Committing the Department of Roads and Transport by entering into a binding contract with a Bidder during negotiation by creating the

impression that a Bid has been accepted before negotiations are finalized and a contract is signed, for example by:

- i. Giving a Bidder the impression that they are certain to win a contract (this can give rise to a claim for damages if the Bidder ultimately does not get the contract).
- li Advising that a Bid has been accepted before final approval is given.

There should be no material alteration to the scope of goods or services for which the Bid was called. If substantial change does occur it effectively creates a new offer and, in the interests of procedural fairness, it may be necessary to give all Bidders the opportunity to revise their offers.

Confidential records of all negotiations must be kept by the Supply Chain Management Unit, and points of agreement separately documented and confirmed with the other party.

8. AWARDING OF BIDS

A Service Level Agreement will be concluded on the issuance of a letter of acceptance. However formal contracts may be entered into only if provided for in the Bid invitation or the letter of conditional acceptance.

The Service Level Agreement should specify the results to be achieved (including intermediate deliverables), the methods to be used, the time frame required (including milestones), performance criteria, how performance will be monitored and reported, and the total cost of the service/supply.

All contracts entered into by the Department must be reviewed/ prepared by the legal department of the Department and Roads Transport. In cases where a formal contract is used, two originals are to be signed by both parties. The Supply Chain Management and the supplier will retain one original each. A working copy will also be supplied to the Project Manager.

8.8.1 The Supply Chain Management will maintain a record of all contracts awarded by the Bid Adjudication Committee including details of:

- (a) The scope of work undertaken.
- (b) The expected and the actual duration of the service.
- (c) Substantive variations to the service during its life, e.g. alterations to the Statement of Requirement/Terms of Reference or extensions to the duration of the contract.
- (d) The performance evaluation report.
- (e) Bided cost and total actual cost.

The terms and conditions for the supply of the goods or services must be included in contract documents and be agreed to by both parties. In most cases the contract will be a simple offer and acceptance, consisting of the request for Bid, the Bidder's offer and a letter of acceptance from the Department of Roads and Transport.

It may also be necessary to cover other requirements such as intellectual property, liability for loss or damage, confidentiality, privacy and compliance.

8.8.2 Orders:

No arrangements must be made for the rendering/delivering of services/goods until an official order has been placed by the Department Roads and Transport with the supplier.

8.8.3 Notifying successful and unsuccessful Bidders:

The responsible section/Business Unit must notify both successful and unsuccessful Bidders in writing. Unsuccessful Bidders must be advised in writing after the Bid has been awarded and be provided with an opportunity for individual private debriefings with the relevant Business Unit (when requested to do so). However results must be published in the provincial Tender Bulletin.

Information on other unsuccessful Bidders' confidential information, such as Bid price, proposed solution, or technical or other data that may be their intellectual property, may not be disclosed.

9. PROJECT MANAGEMENT/ CONTRACT ADMINISTRATION AND MONITORING

9.9.1 Central processes

The person nominated to be Project Manager must forward a performance report to the relevant General Manager at each milestone, deliverable or other significant review point of the project and on completion of the project.

The provision of a satisfactory performance report is a prerequisite for approval to pay to the contractor either progress payments or a final payment.

The Project Manager must consult with the Bid adjudication committee where any difficulties are being experienced with the contractor or where remedial action is required in relation to poor performance. These processes form part of the Bid adjudication committee's responsibilities to ensure that the Such Chain Management's obligations in respect of due processes are met and that the Department of Roads and Transport risk exposure is managed effectively.

9.9.2 Contract variations

All proposed contract variations must be referred to the Bid adjudication committee. The Bid adjudication committee will recommend to the Head of Department whether the contract variations should be agreed to or not.

Variation orders shall not exceed 20% of the original contract amount, in case the 20 % is exceeded Head of Department's approval is required after Bid Adjudication Committee's recommendation.

9.9.3 Performance evaluation

Performance targets are identified as part of the initial planning for a contract, and set out in the business case and request for Bid documentation. Targets are generally associated with cost, timeliness and the quality of products and services to be purchased as the outputs of the contract.

Officials are expected to monitor and evaluate the contractor's performance. This is essential in determining whether the requirements are being met and to avoid any future conflicts over unsatisfactory performance.

Contractors should be required to report to the project manager on progress in accordance with the agreed timeframes and review schedules. The project manager must inform the contractor in writing where there is evidence that the contractor's performance is inadequate or behind schedule. If there is continuing concern that obligations are not being met, advice should be sought immediately from the Bid adjudication committee.

Disputes must be resolved promptly and not be allowed to escalate into costly legal battles.

A copy of all performance reports and reports on contract outcomes should be forwarded to the Supply Chain Management Unit. The Supply Chain Management must ensure that these reports are available for reference purposes to staff inquiring about a contractor's performance.

9.9.4 Payment of accounts

The Financial Management section shall endeavor to pay accounts timorously and avoid penalties for late payments in the form of interest. In normal circumstances payment for supplies and services is made in accordance with contract conditions only after they have been delivered and installed in good working order. A person who has requested the service shall sign for the delivery of goods and services and must certify on the invoice or delivery note that the services have been rendered or goods delivered satisfactorily. Under no circumstances may the procurement officials certify invoices unless they have requested such services. Although accounts should normally be settled within thirty days, this should not be used as an excuse to delay payment.

Progress payments may be made only in accordance with contract conditions. Advance payments must be avoided and considered only in extreme circumstances with the relevant guarantees made available by the supplier. Request for advance payment must be recommended by the Chief Financial Officer and approved by the Head of Department.

9.9.5 Price adjustments

Price adjustments are considered in terms of the contract conditions, which state the circumstances in which contractors may claim a price increase.

In case of exchange rate fluctuations, contractors are compensated for actual expenses proven as additional expenses, provided that the relevant exchange rate used for the calculation of the Bid price, as well as the amount, which must be remitted abroad, are indicated in the Bid. Where applicable, any advantage due to favorable exchange rates must be passed on to the Department of Roads and Transport.

Documented proof must be submitted together with the request for price adjustment.

9.9.6 Unsatisfactory Performance

Unsatisfactory performance occurs when performance is not in accordance with the contract conditions. Before action is taken, the contractor must be warned in writing (with a registered letter) that action will be taken against him/her unless he/she complies with the contract conditions and delivers satisfactorily within a specified reasonable period. If the contractor still does not perform satisfactorily despite the warning, a recommendation may be made to the Bid adjudication committee to cancel the contract.

If during the guarantee period, a supply does not comply with the requirements due to faulty material or otherwise, the contractor must be requested to repair or replace the faulty material at his cost without delay, and that it must be guaranteed for the same period as the original supplies.

Record must be kept by Business Unit of details of all cases of non-performance by contractors. If rejected supplies are in the possession of the Department of Roads and Transport, the contractor must be requested to collect the supplies at his/her own expense, failing which the goods will be sent back and the cost will be for the contractor's account.

9.9.7 Cancellation of contract (breach of contracts in terms of the service Level agreement

If acceptable reason exists, the Head of Department may give approval for cancellation of a contract, after recommendations by Bid adjudication committee. The cancellation of contracts may be considered for a variety of reasons, such as:

- 9.9.7.1 Wrong preferences claimed
- 9.9.7.2 Non-compliance with contract conditions
- 9.9.7.3 Delayed deliveries
- 9.9.7.4 Bribery
- 9.9.7.5 Death
- 9.9.7.6 Sequestration/liquidation of the contractor

Serious thought must be given when cancellation is considered. Clarity must be reached beforehand on the question of whether the contractor will have a claim against the Department of Roads and Transport, and if so, whether cancellation can be justified. The following must also be addressed beforehand

1. What further arrangements will be made for completing the contract?
2. Whether additional costs will be recovered from the contractor?

There may be other avenues of action, which might result in lower additional costs. Consequently thought must be given to the possibility of considering the next acceptable Bid received in response to the particular Bid invitation. Alternatively, a new Bid may be invited. However, account must be taken of the effect of cancellation on the department's part.

9.9.8 Restrictions:

Where the Department of Roads and Transport is of the opinion that a contractor has acted improperly, the contractor may be restricted from doing business with the Department of Roads and Transport in Limpopo for a particular period. It is important that before such a decision is made the Bid adjudication committee has all the facts and is fully informed of the contractor's reactions to warnings that must have been issued. Furthermore, care must be taken that the prescribed procedures have been followed as the court may find that an administrative action, such as the imposition of a

restriction is not valid in cases where the person has not been given a reasonable time to state/his/her side of the case, or has not been fully informed of the results of his failure to react.

10. PROFESSIONAL AND SPECIAL SERVICES

In contracting professional or consultancy services, business units are required to motivate and certify to the satisfaction of the Departmental Bid adjudication committee that the Department is not capable of rendering the required service from its own ranks owing to a lack of expertise, etc., before the invitation of bids.

11. FACILITIES OR VENUES FOR CONFERENCES, WORKSHOPS, SEMINARS AND EXHIBITIONS HELD BY THE DEPARTMENT OF ROADS AND TRANSPORT

Where the Department of Roads and Transport or business units are required to host any of the above, such activities, do not, in principle, differ from the procurement of goods and other services. The exception is that quotations instead of bids will be obtained from all prospective suppliers or service providers (for venues or facilities) according to the department's requirements/ specifications e.g. capacity, geographical area, etc.

12. PARTICIPATION BY THE DEPARTMENT OF ROADS AND TRANSPORT IN OTHER CONFERENCES, WORKSHOPS, SEMINARS AND EXHIBITIONS

When the Department is required, requested or invited to participate in any of the above and payment is required e.g. for floor space, registration, etc no procurement procedures have to be followed. Instead such requirements or requests must be referred to the Finance section directly for payment of such fees.

Note: Should additional goods or services be required, e.g. exhibition stands, publications, etc, these must be obtained through normal procurement procedures. However if certain limitations or restrictions are placed by the host (e.g. utilization of own database, etc), business units must motivate, provide proof and give substantial reasons for deviation from normal procurement procedures. Prior approval of the Department of Roads and Transport must be obtained before proceeding.

**13. SEMINARS, COURSES, CONFERENCES TO BE ATTENDED BY OFFICIALS
(ON AN INDIVIDUAL CAPACITY AS OFFICIALS)**

Seminars, courses, conferences, etc that are attended by officials on an individual capacity as officials of the Department should be referred to the Chief Financial Officer in accordance with the Public Service Delegations, 2005.

14. SPONSORSHIPS AND GIFTS

Approval of gifts, donations and sponsorships by the state should be referred to the Chief Financial Officer for approval. Where these exceed R50, 000 they should be referred to the Head of Department for approval.

Acceptance of any gifts, donations or sponsorship to the state whether such gifts, donations or sponsorships are in cash or in kind should be authorized by the Chief Financial Officer.

**15. IRREGULAR EXPENDITURE, UNAUTHORISED EXPENDITURE AND
FRUITLESS WASTFUL EXPENDITURE**

(This section must be read in conjunction with the requirements of the PFMA Treasury Instructions)

Irregular expenditure means expenditure other than unauthorized expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation including:

The Public Finance Management Act, 1999 (Act 1 of 1999 amended by Act 29 of 1999).

Where no procurement procedures have been followed, including the obtaining of approval from the relevant authorities (Bid adjudication committee, etc) and where goods or services have been obtained without following normal procurement/ Bid procedures and/or no order has been issued before receipt of goods or services, this action/expenditure shall be regarded as irregular expenditure.

Unauthorized expenditure means the overspending of a vote or main division within a vote, expenditure not in accordance with the purpose of a vote or in the case of a main division, not in accordance with the purpose of the main division.

Fruitless and wasteful expenditure means expenditure which was in vain and Would have been avoided and reasonable care been exercised.

16. POLICY REVIEW

The policy will be reviewed annually or when necessary.

RECOMMENDED/NOT RECOMMENDED

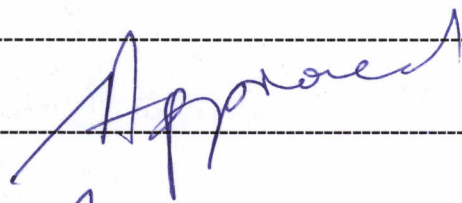
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20/10/08

ACCOUNTING OFFICER

DATE

APPROVED/NOT APPROVED

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21/10/08

EXECUTING AUTHORITY

DATE