

on the website www.treasury.gov.za/mfma located under "legislation". This code of conduct must be adopted by council or board of directors to become binding.

48.2. An official or other role player involved in the implementation of this Policy -

- 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) notwithstanding subparagraph (2) (c), 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 of, 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 be scrupulous in his or her use of property belonging to municipality;
- h) must assist the accounting officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system; and
- i) 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 paragraph 47(1) of this Policy; or
- (iii) any alleged breach of this code of ethical standards.

48.3. Declarations in terms of subparagraphs (2)(d) and (e) -

- a) must be recorded in a register which the accounting officer must keep for this purpose;
- b) by the accounting officer must be made to the council of the municipality who must ensure that such declarations are recorded in the register.

48.4. The National Treasury's code of conduct must also be taken into account by supply chain management practitioners and other role players involved in supply chain management.

48.5. A breach of the code of ethics must be dealt with as follows -

- a) in the case of an employee, in terms of the disciplinary procedures of the municipality envisaged in section 67(1)(h) of the Municipal Systems Act;
- b) in the case a role player who is not an employee, through other appropriate means in recognition of the severity of the breach.
- c) In all cases, financial misconduct must be dealt with in terms of chapter 15 of the Act.

49. Inducements, rewards, gifts and favours to municipalities, officials and other role players

49.1. No person who is a provider or prospective provider of goods or services, or a recipient or prospective recipient of goods disposed or to be disposed of may

either directly or through a representative or intermediary promise, offer or grant -

- a) any inducement or reward to the municipality for or in connection with the award-of a contract; or
- b) any reward, gift, favour or hospitality to -
 - i) any official; or
 - ii) any other role player involved in the implementation of this Policy.

49.2. The accounting officer must promptly report any alleged contravention of subparagraph (1) to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the public sector.

49.3. Subparagraph (1) does not apply to gifts less than R350 in value.

50. Sponsorships

51.1. The accounting officer must promptly disclose to the National Treasury and the relevant provincial treasury any sponsorship promised, offered or granted, whether directly or through a representative or intermediary, by any person who is -

- (a) a provider or prospective provider of goods or services; or
- (b) a recipient or prospective recipient of goods disposed or to be disposed.

51. Objections and complaints

51.1. 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.

52. Resolution of disputes, objections, complaints and queries

- 52.1. The accounting officer must 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 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
 - b) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.
- 52.2 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.
- 52.3. The person appointed must ~
- 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.
- 52.4. 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.
- 52.5. 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.

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

53. Contracts providing for compensation based on turnover-

53.1. If a service provider acts on behalf of municipality to provide any service or act as a collector of fees, service charges or taxes and the compensation payable to the service provider is fixed as an agreed percentage of turnover for the service or the amount collected, the contract between the service provider and the municipality must stipulate -

- a) a cap on the compensation payable to the service provider; and
- b) that such compensation must be performance based.

54. PROCUREMENT CONTROL MEASURES UNDER COVID

54.1. During the national state of disaster accounting officers must consider the impact any supply chain disruptions may have on finance management operations and develop control measures to address such.

54.2. When accounting officers consider invoking provisions in contracts related to "force majeure" for suppliers, legal advice must be sought on a case-by-case basis and accounting officers must guard against the risk of possible fruitless and wasteful expenditure due to payments made for services not rendered or goods not supplied.

- 54.3. Internal controls within the supply chain management (SCM) environment must be reviewed in terms of administrative controls and delegations to ensure required authorisations are done by relevant officials.
- 54.4. Internal control measures must be established to consider and approve any COVID-19 related procurement in the municipality or municipal entity. Prior to generating an order in relation to COVID-19 related procurement, the document must be referred to any other relevant function within the municipality or municipal entity to conduct checks to prevent any possible irregular expenditure.
- 54.5. Emergency requirements may be addressed through the emergency procurement provisions as stipulated in SCM Regulations and MFMA Circulars — Preventing and Combatting Abuse in the SCM System and reiterated further in the National Treasury Circulars.
- 54.6. MFMA Circulars on Preventing and Combating Abuse in the Supply Chain Management System states that accounting officers must only deviate from inviting competitive bids in cases of emergency and sole supplier status. These deviations do not require the approval of the relevant treasuries. It is understood that emergency procurement may occur when there is a serious and unexpected situation that poses an immediate risk to health, life, property or environment which calls on a municipality or municipal entity to action and there is insufficient time to invite competitive bids.
- 54.7. The emergency procurement provisions provide for accounting officers to procure the required goods or services by other means, such as price quotations or negotiations, in terms of SCM Regulations. The reasons must be recorded and approved by the accounting officer or his/her delegate.
- 54.8. Section 114 of the MFMA and council policies require accounting officers to report within 10 working days to the relevant treasury and the Auditor-General all

cases

where goods and services were procured from bidders other than the one recommended. The report must include the description of the goods or services, the name/s of the supplier/s, the amount/s involved and the reasons for dispensing with the prescribed competitive bidding process.

- 54.9 The principles of fairness, equity, transparency, competitiveness and cost-effectiveness must be maintained. Emergency procurement must be limited to goods, services and works that addresses the programme of preventing the spread of the COVID-19 virus.

55. CIRCULARS AND GUIDELINES

EFFECTIVE YEAR	DESCRIPTION	CIRCULAR NO
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01 July 2021	Local Government Framework for Infrastructure Delivery and Procurement Management	106
18 July 2016	E-Tender Portal	83
November 2016	Cost Containment Measures	82
18 March 2016	Central Supplier Database	81
26 Oct 2015	Model SCM Policy for infrastructure Procurement and Delivery Management	77
13 May 2014	Systems of Delegations	73
22 May 2013	SCM on Local Production and Content	69
10 May 2013	Unauthorised, Irregular, Fruitless and Wasteful Expenditure	68
20 Aug 2012	SCM Enhancing Compliance and Accountability	62
03 Sep 2010	Supply Chain Management – Amended Guidelines on Functionality for Evaluation of Bids	53
30 July 2010	Supply Chain Management – Prohibition of Restrictive Practices	52
17 March 2008	Supply Chain Management – Checking the prohibition status of recommended bidders	46
25 May 2007	Supply Chain Management – Restriction of Suppliers	43
20 Oct 2006	Supply Chain Management Implementation Checklist	40
28 June 2006	Supply Chain Management Issues	34
27 March 2006	Supply Chain Management Issues	33
31 Jan 2006	Supply Chain Management Issues	29
03 Oct 2005	Supply Chain Management Guide and Bid Documents	25

20 April 2005	Supply Chain Management Training	16
25 Aug 2005	Model Policy Supply Chain Management	22

56. GUIDELINES

1.	Supply Chain Management: A Guide for Accounting Officers of Municipalities and Municipal Entities
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57. Commencement

57.1. This Policy takes effect on 01 July 2021