



ACCOUNTING OFFICERS/ CHIEF FINANCIAL OFFICERS/ SCM HEADS

GUIDELINE FOR BID COMMITTEE MEMBERS

Practice Note Number: SCM-03 of 2006

1 Introduction

1.1 The implementation of Supply Chain Management from 20 December 2005 brings about fundamental changes in the procurement process in government. This document is intended as a guide to all Bid Adjudication, Bid Evaluation and Bid Specification Committee members. It is intended to comprise a synopsis of the procurement process, in order that those members with limited procurement experience may fully appreciate the requirements of the bidding process, when evaluating and awarding contracts. In addition, members are advised to read this document together with the SCM Procedure Guideline, in order to ensure complete understanding of SCM processes.

1.2 Legislative Framework:

Procurement, as an element of Supply Chain Management (SCM), in the KwaZulu-Natal Province is guided by the provisions of the Constitution, PFMA, the KwaZulu-Natal SCM Policy Framework and each Department's Procurement Delegations.

1.2.1 Constitutional Framework

Section 217 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996) provides the basis for procurement and determines that:

- (a) "When an organ of state in the national, provincial or local sphere of Government, or any other institution identified in national legislation, contracts for goods or services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost effective."
- (b) Section 217(1) does not prevent organs of state or institutions referred to in that section from implementing a procurement policy providing for –
 - categories of preference in the allocation of contracts, and
 - the protection or advancement of persons or categories of persons, disadvantaged by unfair discrimination.

- (c) National Legislation must prescribe a framework within which the policy referred to in subparagraph (b) above may be implemented”
- (d) Section 215 – 219 of the Constitution further imposes a responsibility on National Treasury to introduce norms and standards within Government, thereby ensuring transparency and expenditure control measures.

1.2.2 Public Finance Management Act, 1999 (PFMA)

The PFMA was promulgated during 1999 and was intended to regulate financial management in National and Provincial government. In terms of Section 76(4)(c) of the Act, National Treasury may make regulations or make instructions applicable to all institutions to which this Act applies, concerning the determination of a framework for an appropriate supply chain management system which is fair, equitable, transparent, competitive and cost effective. The Act also specifically refers to the responsibility of the Accounting Officer of a Department to have and to maintain an appropriate procurement and supply system which is fair, equitable, transparent, competitive and cost effective. This being in line with the five pillars of procurement, namely value for money, open and effective competition, ethics and fair dealing, equity and accountability and transparency.

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

The Constitution provides that National Legislation must prescribe a framework within which the preferential procurement policy may be implemented. The objectives of the PPPFA are as follows:

- to address the inequalities of the past;
- to allow for more flexibility; and
- to eliminate fronting and corruption.

The PPPFA and its Regulations provide for a preferential procurement system which incorporates the 80/20 and 90/10 preference point systems.

1.2.4 Treasury Regulations 16A: Supply Chain Management

These Regulations serve as a formal requirement to Accounting Officers to ensure the implementation of the supply chain management process as an integral part of their financial management systems. It requires Accounting Officers to develop and implement an effective and efficient supply chain management system and to establish a separate supply chain management unit within the office of the Chief Financial Officer.

1.3 Provincial Legislation

1.3.1 KwaZulu-Natal SCM Policy Framework

The KwaZulu- Natal Procurement Act was repealed on 20 December 2005 and is being replaced by the abovementioned

Treasury Regulations 16A and the KwaZulu-Natal SCM Policy Framework, with effect from 20 December 2005. In order to ensure a smooth transition from the old semi-centralized dispensation to the new fully de-centralised, but integrated SCM system, SCM documents and procedures were to be used from 1 February 2006.

The KwaZulu-Natal SCM Policy Framework introduces a revised preference point system, envisaged to augment specific socio economic objectives identified by the PPPFA.

1.3.2 KwaZulu-Natal Departmental Procurement Delegations

The KwaZulu-Natal Procurement Delegations introduced a four level mechanism for the awarding of government contracts. It introduced maximum delegation ceilings to Departments for the awarding of contracts. Accounting Officers were previously obliged to refer all bids above R1 million to the Central Procurement Committee, which committee was administered by Provincial Treasury. However, in terms of SCM procedures, Departments themselves must finalise all of their own procurement, to an unlimited value.

The new thresholds are as follows:

- R1 to R2000 – Procurement effected by means of petty cash,
- Above R2000 up to R 10 000 – Procurement effected by way of at least three (3) verbal or written quotations. Written confirmation for verbal quotations must be obtained prior to awarding of the contract.
- Above R10 000 up to R200 000 – Procurement is effected by way of written quotations. In this instance Departments are required to obtain at least three (3) competitive quotations, and to select the supplier scoring the highest points (if the preference point system is being applied), which is to specification.
- Above R200 000 to an unlimited monetary value – Departments are required to follow a process of publicly inviting bids by means of newspaper advertisements. Bids received are to be evaluated and awarded by Departmental bid committees.

2 Implementation of Supply Chain Management

In terms of section 36 and 49 of the PFMA, accountability concerning departmental SCM now vests entirely with the Accounting Officer/Authority. Only the Accounting Officer may determine departmental powers of awarding of contracts with financial implications for that Department, in accordance with SCM and other relevant legislation, practice notes and applicable guidelines. It should thus be noted that the procurement of land must therefore comply with the prescripts of the KwaZulu-Natal Land Administration Act, 2003 (Act No. 3 of 2003). The Accounting Officer/Authority is empowered to delegate decision making to other Departmental officials; however accountability in respect of such delegations cannot be delegated also.

3 Appointment of Bid Committees

The Accounting Officer/Authority should appoint bid committees as indicated below:

3.1 Bid Specification Committee

This is the committee responsible for compiling of bid specifications. The specifications committee must also consider whether all the required quality assurance standards have been met with regard to the type of goods that is requested. The specifications should be compiled in an unbiased manner to allow all potential bidders to offer their goods and/or services without favour or prejudice. The specification committee may be comprised of:-

- Appropriately skilled officials of a Department (i.e. the procurement section of the Department requiring the goods or services),
- One or more suitably qualified specialist officials,
- Or an external consultant under the direction of the official or component concerned.

It is recommended that specifications should be approved by the Accounting Officer or his/her delegate/s, prior to invitation/advertisement. This is done in order to ensure that the evaluation criteria are consistent with criteria stipulated in the bid documentation, which must be in harmony with Departmental service delivery and other strategic objectives.

3.2 Bid Evaluation Committee

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

- The capability/ability of the bidder to execute the contract, from a technical, managerial and financial perspective
- Whether the bid is to specification in respect of quality, functionality, dimensions, design, customer support, guarantee, etc.
- Whether a bid offers value for money
- Number of contracts awarded to bidder/s in contention during the preceding twelve months
- Allocation of preference points
- Representivity in the composition of the bidder and the possibility of fronting
- Success/failure in executing contracts awarded to a bidder previously
- Tax Clearance certificate issued by the SARS
- Compulsory registration on Provincial Treasury's Suppliers Database.
- National Industrial Participation programme requirements (only applicable to contracts in excess of US \$ 10 million)

Bids are evaluated in accordance with the criteria specified in the bid documentation. According to the prescripts of section 2 of the PPPFA, bids must be evaluated in accordance with the prescribed preference point system. Goals for which points may be awarded must be clearly specified in the invitation to submit a bid or quotation, in accordance with the KZN SCM Policy Framework.

The evaluation committee should be cross-functional and should be comprised of supply chain practitioners and suitably skilled officials from

other relevant disciplines. A bid evaluation committee should consist of a **minimum of five** members.

The evaluation committee should evaluate all bids received and submit a report with recommendations regarding the award of the bids to the adjudication committee.

3.3 Bid Adjudication Committee

The adjudication committee must be cross-functional, of whom at least one member must be a supply chain practitioner. The chairperson of the committee should be the chief financial officer of the institution, or his/her delegate. The committee should be composed of at **least four members**, at appropriately senior level. The committee should consider the reports and recommendations made by the evaluation committee. The former committee must consider whether the recommendation made by the latter, sufficiently indicates that all relevant factors have been taken into account, and that the recommendation made represents a logical, justifiable conclusion, based on all relevant information at the evaluation committee's disposal. Each recommendation must be supported by clear, concise motivation of salient points. The Accounting Officer will determine the delegated powers exercised by the adjudication committee, which may include making a recommendation for award of contract to the Accounting Officer, for final approval/ratification.

3.4 Co-Opted Members

An Accounting Officer may appoint any official (subject to there being no conflict of interest in doing so) to participate in bid committee evaluations/deliberations on an ad-hoc basis, due to his/her expertise on a relevant topic, related to a bid to be considered by the committee. A co-opted member has the same rights/powers/duties as bid committee members, excluding the right to vote on any matter under discussion. In addition, co-opted members are subject to the same rules of conduct as permanent committee members.

Members of the evaluation committee may present their reports/recommendations to the bid adjudication committee and clarify any uncertainties. Such members may not have any voting power on the adjudication committee.

An Accounting Officer may, by agreement with another Accounting Officer/Authority, utilize the services of any other Department's bid committees, if and when required.

An Accounting Officer may, where necessary, approve the formation of regional bid evaluation committees; however, such committees will be subject to the same rules and procedures applicable to head office committees. An Accounting Officer will determine the level of delegation to be granted to the regional committees.

3.5 Quorum

A quorum is equal to 50% of the number of permanent (as opposed to co-opted) committee members, plus 1 member.

4 Delegations

Section 44 and 56 of the PFMA empower the Accounting Officer/Authority of a Department to delegate procurement/decision making powers to other departmental officials. The following should apply to the acquisition of goods and/or services and the disposal and letting of assets:

- All delegations must be in writing to the individual officials concerned;
- The Accounting Officer should decide whether he/she delegates decision making powers regarding the final award of bids to the adjudication committee and what the threshold values in this regard should be;
- Should the Accounting Officer resolve that the adjudication committee award bids only up to a specified threshold value, bids above the threshold value should be referred to the Accounting Officer for finalisation;
- Should the Accounting Officer or the adjudication committee decide to award a bid to a bidder other than the one recommended by the evaluation or adjudication committee respectively, the Accounting Officer should, within seven days, in writing, notify the Auditor General and Provincial Treasury of the reasons for deviating from the recommendations.

The Accounting Officer may, where necessary, procure the services of advisors to assist in the drafting of appropriate tender specifications. These services should be obtained through a competitive procurement process. No advisor may, however, form part of the final decision-making process regarding the award of bids, as this will counter the principle of vesting accountability with the Accounting Officer. The Accounting Officer cannot delegate decision making authority to a person other than an official.

It is the responsibility of the Accounting Officer to ensure that all committee members receive suitable training with respect to the procedural requirements for the successful execution of their functions.

5 Rules of Conduct for Members

Two factors determine the success of a meeting:

- Knowledge and application of the correct procedure; and
- Courteous behaviour of all members.

A member is obliged to observe the following:

- A member should promote the common goal of the committee;
- Outside of official meetings, no lobbying of votes is allowed;
- Information and documentation related to the bid/s to be compiled/evaluated/adjudicated are confidential;
- A decision is final and not open for variation, unless material additional information is presented to a committee, which was not at the disposal of the committee at the time the original decision was taken;
- A register must be maintained of members' attendance at meetings; and
- A member shall declare his/her interest before a meeting vis-à-vis a matter serving before the committee and, where necessary, recuse him/herself before

discussion of the submission, which process should be duly noted in the minutes.

6 Procedural Requirements

- A meeting of the Committee is called by the Chairperson of the Committee, or his/her delegate.
- It must be ensured that a quorum of members (50% + 1) is present, before proceedings commence, in order to ensure that valid decisions are taken.
- The agenda of a committee meeting is determined by the Chairperson and once determined, no deviation will be allowed without the consent of the Committee.
- The Chairperson must ensure that every meeting is minuted and that the minutes are an accurate reflection of the proceedings. Awards contrary to the information contained in the minutes, will require detailed written explanations.
- The Chairperson must, with the approval of the Committee, confirm all past unconfirmed minutes and attach his/her signature thereto.
- Minutes must be kept in a secure place, to facilitate future reference and auditing thereof.

7 Conclusion

Members of Committees should consider this document as a guide for the efficient execution of their functions. It is imperative that members, in addition to this document, ensure that additional knowledge is acquired with respect to other aspects of SCM, relevant to their function as bid committee members.

9 Effective Date

This practice note takes effect from 1st February 2006.



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