



**BUFFALO CITY
METROPOLITAN MUNICIPALITY**

Supply Chain Management and Preferential Procurement Policy

2024/2025

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TITLE

1.1. Buffalo City Metropolitan Municipality Supply Chain Management Policy.

1. DEFINITIONS

In this Policy, any word or expression to which a meaning has been assigned in the MFMA, PPPFA and the SCM Regulations has that meaning, unless the context indicates otherwise:

- 1.1. "Adjudication points": means the points referred to in the Preferential Procurement Regulations, 2022 and the Preferential Procurement Section of this policy also referred to as "evaluation points".
- 1.2. "Bidder": means any person submitting a bid.
- 1.3. "Broad-Based Black Economic Empowerment (BBBEE) Act": means the Broad-Based Black Economic Empowerment Act, 53 of 2003 and Code of Good Practice thereto.
- 1.4. "Accounting Officer": means the municipal manager as defined in Section 60 of the MFMA.
- 1.5. "Closure Date": means the time and day specified in the bid documents for the receipt of the bids.
- 1.6. "Competitive Bidding Process": means a competitive bidding process referred to in Regulation 12(1)(d) of the Supply Chain Management Regulations.
- 1.7. "Competitive Bid": means a bid in terms of a competitive bidding process also referred to as a tender.
- 1.8. "Construction Industry Development Board (CIDB) Act": means the Construction Industry Development Board Act, 38 of 2000, and includes the regulations pertaining thereto.
- 1.9. "Consultant": means a person or entity providing services requiring knowledge-based expertise and includes professional service providers.
- 1.10. "Contract": means the agreement, which is concluded when Buffalo City accepts, in writing, a bid or quote submitted by a provider.
- 1.11. "Long-term contract" means a contract with a duration period exceeding one year.
- 1.12. "Contractor": means any person or entity whose bid or quote has been accepted by Buffalo City.
- 1.13. "Day(s)": means calendar days unless the context indicates otherwise.

- 1.14. “Delegated Authority”: means any person or committee delegated with authority by Buffalo City in terms of the provisions of the MFMA.
- 1.15. “Disability”: means, in respect of a person, a permanent impairment of a physical, intellectual, or sensory function, which results in restricted, or lack of, ability to perform an activity in the manner or in the range considered normal for a human being.
- 1.16. “Final Award”: in relation to bids or quotations submitted for a contract, means the final decision on which bid or quote to accept.
- 1.17. “Quotation” or “Quote”: means a written or electronic offer to Buffalo City in response to an invitation to submit a quotation.
- 1.18. “In the service of the state”: means:
 - 1.18.1. A member of any municipal council, any provincial legislature or the National Assembly or the National Council of Provinces;
 - 1.18.2. An official of any municipality or municipal entity;
 - 1.18.3. An employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1 of 1999;
 - 1.18.4. A member of the board of directors of any municipal entity;
 - 1.18.5. A member of the accounting authority of any national or provincial public entity; or
 - 1.18.6. an employee of Parliament or a provincial legislature.
- 1.19. “List of accredited prospective providers”: means the list of accredited prospective providers which a municipality or municipal entity must keep in terms of Regulation 14 of the Supply Chain Management Regulations.
- 1.20. “Municipal Entity”: means an entity as defined in Section 1 of the Municipal System Act, 32 of 2000.
- 1.21. “MFMA”: means the Municipal Finance Management Act, 2003 (Act 56 of 2003).
- 1.22. “Person” includes a natural or juristic entity.
- 1.23. “Preferential Procurement Policy Framework Act” (PPPFA) means the Preferential Procurement Policy Framework Act, 5 of 2000.
- 1.24. “SARS” means the South African Revenue Services.
- 1.25. “Supply Chain Management (SCM) Regulations” means the Municipal Supply Chain Management Regulations published in Government Gazette 27636 of 30 May 2005.

- 1.26. “The Act” (MFMA): means the MFMA.
- 1.27. “Treasury Guidelines”: means any guidelines on supply chain management issued by the Minister in terms of Section 168 of the MFMA.
- 1.28. “Unsolicited Bid”: means an offer submitted by any person at their own initiative without having been invited by Buffalo City to do so.
- 1.29. Words importing the singular shall include the plural and vice versa and words importing the masculine gender shall include females and words importing persons shall include companies, closed corporations, and firms unless the context clearly indicates otherwise.

SUPPLY CHAIN MANAGEMENT FRAMEWORK AND PRINCIPLES

2. SUPPLY CHAIN MANAGEMENT POLICIES

- 2.1. Buffalo City shall in line with section 111 of the MFMA implement a supply chain management policy, that:
 - (a) Gives effect to:
 - (i) Section 217 of the Constitution.
 - (ii) Part 1 of Chapter 11 and other applicable provisions of the Act.
 - (b) Is fair, equitable, transparent, competitive, and cost-effective.
 - (c) Complies with:
 - (i) the regulatory framework prescribed in Chapter 2 of the Supply Chain Management Regulations; and
 - (ii) any minimum norms and standards that may be prescribed in terms of section 168 of the Act.
 - (d) Is consistent with other applicable legislation as listed below, but not limited to:
 - (i) The Preferential Procurement Policy Framework Act of 2000.
 - (ii) The Preferential Procurement Policy Framework Regulations of 2022.
 - (iii) The Broad-Based Black Economic Empowerment Act.
 - (iv) The Construction Industry Development Board Act.
 - (v) The Local Government: Municipal Systems Act.
 - (vi) The Municipal Finance Management Act.
 - (vii) The Supply Chain Management Regulations.
 - (viii) The Promotion of Administration Justice Act.
 - (ix) The Promotion of Access to Information Act.
 - (x) The Protection of Personal Information Act.
 - (e) Does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres.

- (f) Is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.
- 2.2. Buffalo City may not act otherwise than in accordance with its policy when:
- (a) Procuring goods or services in line with the provisions of the sourcing strategy and the procurement plans.
 - (b) Disposing of goods no longer needed.
 - (c) Selecting contractors to provide assistance in the provision of municipal services otherwise than in circumstances where chapter 8 of the Municipal Systems Act applies.
 - (d) Selecting external mechanisms referred to in section 83 of the Municipal Systems Act.
- 2.3. Unless stated otherwise, this policy does not apply where Buffalo City contracts with another organ of state for:
- (a) The provision of goods and services to Buffalo City.
 - (b) The provision of a municipal service, or assistance in provision of the municipal service.
 - (c) The procurement of goods and services under a contract secured by another organ of state, provided that the relevant supplier has agreed to such procurement.
- 2.4. The municipal manager shall approve the utilization of a contract secured by another organ of state in accordance with section 32 of the policy.

3. ADOPTION AND AMENDMENT OF SUPPLY CHAIN MANAGEMENT POLICIES

- 3.1. This policy shall be effective from the date on which it is adopted by the council and the municipal manager shall annually review the implementation of the policy and submit proposals for the amendment of the policy to the council if deems necessary.
- 3.2. This policy shall ensure that the objectives of uniformity in supply chain management processes are achieved, and the Supply Chain Management Regulations and any National Treasury circular or guidelines are complied with, where relevant and as adopted by the council in terms of section 168(3) of the Act.
- 3.3. No deviations from the guidelines will be allowed, in an unlikely case such deviations happen, the municipal manager shall report to Provincial Treasury and National Treasury.
- 3.4. The municipal manager shall take all reasonable steps to ensure that Buffalo City implements a supply chain management policy in accordance with Regulation 2 of the Municipal Supply Chain Management Regulations.

4. DELEGATION OF SUPPLY CHAIN MANAGEMENT POWERS AND DUTIES

- 4.1. The council hereby delegates the municipal manager to exercise all powers and duties to enable the municipal manager:
- (a) To discharge the supply chain management responsibilities conferred in terms of:
 - (i) Chapter 8 or 10 of the Act; and
 - (ii) the supply chain management policy of Buffalo City.
 - (b) To maximize administrative and operational efficiency in the implementation of the policy.
 - (c) To enforce reasonable cost-effective measures, prevention of fraud, corruption, favoritism, unfair and irregular practices in the implementation of supply chain management policy.
 - (d) To comply with his responsibilities in terms of section 115 and other applicable provisions of the Act.

5. SUB-DELEGATIONS

- 5.1. The municipal manager may sub-delegate in terms of section 79 of the Act powers and duties delegated in terms of section 4.1.
- 5.2. Subject to the Supply Chain Management Regulation 5(2), the municipal manager shall not delegate or sub-delegate any supply chain management powers or duties:
- (a) to a person who is not an official of Buffalo City; or
 - (b) to a committee that is not exclusively composed of officials of Buffalo City, unless in the event of a tender where other organs of state are participating.
- 5.3. A senior official or bid adjudication committee to which the power to make final awards has been sub-delegated in accordance with section 5.2 must within five (5) days of the end of each month submits a written report containing particulars of each final award made by such official or committee during that month, including:
- (a) The amount of the award.
 - (b) The name of the person to whom the award was made.
 - (c) The reason why the award was made to that person.
- 5.4. This section may not be interpreted as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in this policy.
- 5.5. The powers delegated to any official of Buffalo City shall be reviewed on an annual basis and such review will form part of the annual report of supply chain management.
- 5.6. The register of delegation of powers will be updated on an annual basis including the signature specimen.

- 5.7. All delegated powers of acting capacity must be in writing and approved by the relevant delegated official.
- 5.8. This section may not be interpreted as permitting an official to whom the power to make final awards has been subdelegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in section 26.
- 5.9. No decision-making in terms of any supply chain management powers and duties may be delegated to an advisor or consultant.

6. OVERSIGHT ROLE OF COUNCIL OF BUFFALO CITY

- 6.1. The council of Buffalo City shall maintain oversight over the implementation of this supply chain management policy.
- 6.2. For the purposes of such oversight the municipal manager shall:
 - (a) Within thirty (30) days of the end of each financial year, submit a report on the implementation of this policy and municipal entity under its sole or shared control, to the council of Buffalo City.
 - (b) Whenever there are serious and material problems in the implementation of the policy, immediately submit a report to the council.
- 6.3. The municipal manager shall, within ten (10) days of the end of each quarter, submit a report on the implementation of this policy to the Executive Mayor of Buffalo City.
- 6.4. Buffalo City shall publish and make public all the supply chain management reports of Buffalo City in accordance with section 21A of the Municipal Systems Act. To comply with this section, all supply chain management reports shall be published on the municipal website after the tabling and approval by the council.

7. SUPPLY CHAIN MANAGEMENT UNIT

- 7.1. The municipal manager shall establish a supply chain management unit to implement this policy.
- 7.2. The supply chain management unit shall operate under the direct supervision of the Chief Financial Officer.

8. TRAINING OF SUPPLY CHAIN MANAGEMENT OFFICIALS

- 8.1. The training of officials involved in implementing a supply chain management policy shall be in accordance with any treasury guidelines on supply chain management.

SUPPLY CHAIN MANAGEMENT POLICY FRAMEWORK

9. FORMAT OF SUPPLY CHAIN MANAGEMENT POLICY

- 9.1. The supply chain management system implemented shall ensure it effectively addresses:
- (a) Demand management.
 - (b) Acquisition management.
 - (c) Logistics management.
 - (d) Disposal management.
 - (e) Risk management.
 - (f) Performance management.

PART 1 – DEMAND MANAGEMENT

10. SYSTEM OF DEMAND MANAGEMENT

- 10.1. The municipal manager shall implement an effective system of demand management to ensure that the resources required to support the strategic and operational commitments of Buffalo City are delivered at the correct time, at the right price, and at the right location, and that the quantity and quality satisfy the needs of Buffalo City.
- 10.2. The following systems and procedures shall be implemented to achieve the demand management objectives:
- (a) Procurement plans (demand management plans) in line with the service delivery budget implementation plan (SDBIP) should be in place and approved by the municipal manager before the start of the new financial year or revised after the approval of the adjustment budget.
 - (b) A sourcing strategy for goods and services including construction and infrastructure must be implemented to ensure cost-effectiveness and value for money.

PART 2 – ACQUISITION MANAGEMENT

11. SYSTEM OF ACQUISITION MANAGEMENT

- 11.1. An effective system of acquisition management must ensure:
- (a) That goods and services are procured by Buffalo City in accordance with authorized processes only.
 - (b) That expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the Act.
 - (c) That the threshold values for the different procurement processes are complied with.
 - (d) That the bid documentation, evaluation and adjudication criteria, and the general conditions of a contract, are in accordance with any applicable legislation.

(e) That any Treasury guidelines on acquisition management are properly considered.

11.2. 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 municipal entity.

11.3. When procuring goods or services contemplated in section 110(2) of the Act, Buffalo City shall make public the fact that it procures such goods or services otherwise than through its supply chain management system, including:

- (a) The kind of goods or services.
- (b) The name of the supplier.

12. RANGE OF PROCUREMENT PROCESSES

12.1. This policy, subject to section 11.2, provides for the procurement of goods and services by way of:

- (a) Petty cash purchases, up to a transaction value of R 2000 (VAT included).
- (b)
- (c) Formal written price quotations for procurements of a transaction value over R2000 R to R750 000 (VAT included).
- (d) A competitive bidding process for:
 - (i) Procurement above a transaction value of R750 000(VAT included).
 - (ii) The procurement of long-term contracts.

12.2. The procurement of goods or services may not deliberately be split into parts or items of lesser value merely to avoid complying with the requirements of this policy.

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

13. GENERAL PRECONDITIONS FOR CONSIDERATION OF WRITTEN QUOTATIONS OR BIDS

13.1. Buffalo City shall not consider a written quotation or bid unless the service provider who submitted the quotation or bid:

- (a) Has furnished Buffalo City with the:
 - (i) Full name.
 - (ii) Identification number or company or other registration number.
 - (iii) Tax reference number and VAT registration number, if any.

- (b) Has authorized Buffalo City to obtain a tax clearance from the South African Revenue Services that the provider's tax matters are in order.
- (c) Has indicated:
 - (i) Whether the person is in the service of the state or has been in the service of the state in the previous twelve months.
 - (ii) If the provider is not a natural person, whether any of its directors, managers, principal shareholders, or stakeholders is in the service of the state, or has been in the services of the state in the previous twelve months.
 - (iii) Whether a spouse, child, or parent of the provider or of a director, manager, shareholder, or stakeholder referred to in sub-section (ii) is in the service of the state or has been in the service of the state in the previous twelve months.

14. LIST OF ACCREDITED PROSPECTIVE PROVIDERS

- 14.1. Buffalo City shall conduct business with suppliers that are registered on the National Treasury Central Suppliers Database.
- 14.2. Buffalo City may opt to maintain its own database of local suppliers, subject to compliance with Regulation 14.

15. PETTY CASH PURCHASES

- 15.1. This policy stipulates the conditions for the procurement of goods by means of petty cash purchases referred to in section 12.1(a), inclusive of the following conditions:
 - (a) The cash petty purchase should not exceed R 2 000 (VAT included) per transaction and each petty cash holder may not exceed a maximum of R 2 000 petty cash expenditure per month.
 - (b) The petty cash holders must when replenishing petty cash provide a reconciliation to the Chief Financial Officer, including:
 - (i) the total amount of petty cash purchases for the period; and
 - (ii) receipts and appropriate documents for each purchase.

16. WRITTEN QUOTATIONS

- 16.1. Written quotations shall be obtained by the supply chain management unit officials from at least three different providers registered on the Municipal Suppliers Database.

- 16.2. The function indicated in section 16.1 above is the sole responsibility of the supply chain management office and cannot be delegated to another department unless compelling reasons have been provided and duly authorized by the municipal manager.
- 16.3. The written quotations must meet the following criteria:
- (a) Where practical shall be signed by the suppliers, except for quotations received by electronic mail.
 - (b) Have both the physical and postal address of the supplier, company name and registration, VAT number, if applicable.
 - (c) Costs clearly broken down (itemized bill).
 - (d) The details of the information on the quotation must be similar to the details captured on the Municipal and the National Treasury Central Suppliers Database.
- 16.4. Where it is not possible to obtain at least three quotations, the reasons must be recorded and reported to the Chief Financial Officer on a quarterly basis.

17. FORMAL WRITTEN PRICE QUOTATIONS

- 17.1. Formal written price quotations must be obtained from at least three different providers whose names appear on the Municipal and the National Treasury Central Suppliers Database.
- 17.2. The written quotations must meet the following criteria:
- (a) Where practical it must be signed by the suppliers, except for quotations received by electronic mail.
 - (b) Have both the physical and postal address of the supplier, company name and registration, VAT number, if applicable.
 - (c) Costs clearly broken down (itemized bill).
 - (d) The details of the information on the quotation must be similar to the details captured on the Municipal and the National Treasury Central Suppliers Database.
- 17.3. Where it is not possible to obtain at least three quotations, the reasons must be recorded and reported to the Chief Financial Officer for prior approval.

18. PROCEDURES FOR PROCURING GOODS OR SERVICES THROUGH FORMAL WRITTEN PRICE QUOTATIONS

- 18.1. Procurement of goods and services exceeding R30 000 (VAT included) that are to be procured by means of formal written price quotations must, in addition to the requirements of section 17, be advertised for at least seven (7) days on the municipal website and an official notice board of the of Buffalo City.

- 18.2. When using the list of accredited prospective providers the municipal manager must promote ongoing competition amongst providers, including by inviting providers to submit quotations on a rotation basis, unless differently specified during the procurement process.
- 18.3. The accounting officer shall take all reasonable steps to ensure that the procurement of goods and services through formal written price quotations is not abused.
- 18.4. The Chief Financial Officer must monthly be notified in writing of all formal written quotations accepted by an official acting in terms of a sub-delegation.
- 18.5. The supply chain management unit must keep a proper record.

19. COMPETITIVE BIDS

- 19.1. The procurement of goods or services above a transaction value of R750000 (VAT included) and long-term contracts shall be done by Buffalo City only through a competitive bidding process.
- 19.2. No requirement for goods or services above an estimated transaction value of R750 000 (VAT included), may deliberately be split into parts or items of lesser value merely to avoid complying with the requirements of the policy.

20. PROCESS FOR COMPETITIVE BIDDING

- 20.1. This policy and the system provide procedures for a competitive bidding process for each of the following stages:
- (a) The compilation of bidding documentation providing at least for:
 - (i) Standardized bid documents that will be utilized when procuring goods and services for Buffalo City. In the case of construction related projects, the CIDB standardized documents will be utilized.
 - (ii) Suppliers to, at their own costs, download the document from the National Treasury Central Suppliers Database tender e-portal system in the prescribed format determined by the Bid Specification Committee and approved by the municipal manager or delegated official.
 - (iii) The functionality evaluation criteria that will apply. Where functionality is used as criteria to evaluate bids, a minimum of two officials with a thorough knowledge of the subject matter will be required to do technical evaluations.
 - (b) Site meetings/briefing sessions will be held only if the project necessitates clarification and physical inspections of the site, and it shall be stated on the advertisement of the bid.
 - (c) Two officials from the supply chain management unit shall be responsible for collecting of the bids from the tender box and opening of the bids in public and where practical the prices of bids received will be

announced, including the name of the bidder. All bids will be opened at 11h00 on the prescribed date and the clock as demonstrated on the municipal wall will be utilized for that purpose.

- (d) Evaluation of bids
 - (i) Bids will be evaluated in accordance with the criteria as stipulated in the bid document.
 - (ii) Only bids download as per the prescribed format will be accepted.
- (e) Contracts or bids will only be awarded to bidders that comply in all material respects with the applicable evaluation criteria set out on the bid documents.
- (g) Administration of contracts will be stipulated in the tender documentation.
- (h) The supply chain management unit will maintain proper records.

21. BID DOCUMENTATION FOR COMPETITIVE BIDS

21.1. The bid documentation for competitive bidding must consider:

- (a) The general conditions of contract.
- (b) Any Treasury guidelines on bid documentation.
- (c) The requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure.
- (d) The Preferential Procurement Regulations of 2022.

21.2. The bid documentation must include the evaluation and adjudication criteria, including any criteria required by other applicable legislation.

21.3. Compelling bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted.

21.4. If the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish:

- (a) If the bidder is required by law to prepare annual financial statements, their annual financial statements:
 - (i) For the past three years.
 - (ii) Since their establishment if established during the past three-years.
- (b) A certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than thirty (30) days.
- (c) Particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract.
- (d) A statement indicating whether any portion of the goods or services is expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of the payment from Buffalo City is expected to be transferred out of the Republic.

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

22. PUBLIC INVITATION FOR COMPETITIVE BIDS

22.1. The public will be invited through the advertisement of the bids on the National Treasury tender e-portal, municipal website, notice boards and Construction Industry Development Board i-tender if the bid is relating to construction works.

22.2. The closing date for the submission of bids may not be less than thirty (30) days in the case of transactions over R10 million (VAT included), or which are of a long-term nature, or fourteen (14) days in any other case, from the date on which the advertisement was published.

22.3. The municipal manager may determine a closure date for the submission of bids which is less than the 30- or fourteen (14) days requirement, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional cases. Reasons for such motivation should be recorded for audit purposes and poor planning cannot be provided as a reason for the deviation.

22.4. Bids submitted to Buffalo City must be sealed in an envelope as no bids will be accepted if they are not properly sealed.

22.5. Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies.

22.6. The bids submitted by the service providers must be valid for a period of a hundred-and-twenty (120) days and the validity period may be extended once for a further period not exceeding sixty (60) days.

22.7. The following procedures and processes shall be followed in extension of the validity date:

- (a) Requests for the extension of validity dates must be extended to all service providers who submitted bids.
- (b) Service providers have consented to the extension.
- (c) Bids will be regarded as non-responsive, where price changes are offered due to the extension of the validity date.
- (d) Service providers shall have seven (7) working days to respond to a request for the extension of the validity date.
- (e) Every case will be treated on its own merit, however, no response from services providers does not render the tender process null and void.

23. PROCEDURE FOR HANDLING, OPENING AND RECORDING OF BIDS

23.1. This policy determines that for the handling, opening, and recording of bids, it is:

- (a) Stipulated that bids:
 - (i) May be opened only in public at 11h00 on the day of closing.
 - (ii) Must be opened at the same time and as soon as possible after the period for the submission of bids has expired.
- (b) Conferred on any bidder or member of the public 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) Required that the municipality:
 - (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 of Buffalo City.

24. NEGOTIATIONS WITH PREFERRED BIDDERS

24.1. The municipal manager may negotiate the final terms of a contract with bidders identified through a competitive bidding process as the preferred bidder(s), provided that such negotiation:

- (a) Does not allow any preferred bidder a second or unfair opportunity.
- (b) Is not to the detriment of any other bidder.
- (c) Does not lead to a higher price than the bid as submitted provided the rates have been adjusted by the municipal manager or delegated committee to comply with legislative requirements or to standardize prices/ rates for various service providers appointed for the very same scope of works.

24.2. Minutes of such negotiations must be kept for record purposes.

25. TWO-STAGE BIDDING PROCESS

25.1. This policy allows a two-stage bidding process for:

- (a) Large complex projects.
- (b) Projects where it may be undesirable to prepare complete detailed technical specifications.
- (c) Long-term projects with a duration period exceeding three years.

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

25.3. In the second stage final technical proposals and priced bids should be invited.

26. COMMITTEE SYSTEM FOR COMPETITIVE BIDS

- 26.1. The following bid committees shall be established by the municipal manager:
- (a) A bid specification committee.
 - (b) A bid evaluation committee.
 - (c) A bid adjudication committee.
- 26.2. The municipal manager shall appoint the members of each committee, considering section 117 of the Act.
- 26.3. The municipal manager may allow for the attendance or oversight process by a neutral or independent observer when this is appropriate for ensuring fairness and promoting transparency.
- 26.4. The committee system must be consistent with sections 27, 28, 29 and any other applicable legislation.
- 26.5. This policy may allow the municipal manager to apply the committee system to formal written price quotations.

27. BID SPECIFICATION COMMITTEES

- 27.1. A bid specification committee shall compile the specifications for competitive bids.
- 27.2. The specifications:
- (a) Shall be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services.
 - (b) Shall take account of any accepted standards such as those issued by Standards the South Africa, the International Standards Organization, or an authority accredited or recognized by the South African National Accreditation System with which the equipment or material or workmanship should comply.
 - (c) Where possible, be described in terms of performance required rather than in term of performance required rather than in terms of descriptive characteristics for design.
 - (d) May not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing, and test methods, packaging, marking, or labeling of conformity certification.
 - (e) May not make reference to any particular trademark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the words “equivalent”.
 - (f) Must indicate each specific goal for which points may be awarded in terms of the points system set out in the supply chain management policy of Buffalo City.
 - (g) Must be approved by the municipal manager or any delegated official prior to publication of the invitation for bids.

- 27.3. A bid specification committee must be composed of one or more officials of Buffalo City, preferably the manager responsible for the function involved, and may, when appropriate, include external specialist advisors.
- 27.4. No person, advisor or corporate entity involved with the bid specification committee, or director of such a corporate entity, may bid for any resulting contracts.

28. BID EVALUATION COMMITTEES

- 28.1. A bid evaluation committee shall:
- (a) Evaluate bids in accordance with:
 - (i) The specifications for a specific procurement.
 - (ii) The points system as prescribed in terms of the Preferential Procurement Act and its Regulations.
 - (b) Evaluate each bidder's ability to execute the contract.
 - (c) Check in respect of the recommended whether municipal rates and taxes and service charges are not in arrears.
 - (d) Submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.
- 28.2. A bid evaluation committee must as far as possible be composed of:
- (a) Officials from departments requiring the goods or services.
 - (b) At least one supply chain management practitioner.
- 28.3. In relation to section 28.2 above, any matter deferred by an evaluation committee must be concluded by that particular committee. In exceptional cases whereby the project must be concluded by a different committee, the committee members must take into consideration matters raised by the previous committee prior to making a determination.

29. BID ADJUDICATION COMMITTEE

- 29.1. A bid adjudication committee shall:
- (a) Consider the report and recommendations of the bid evaluation committee.
 - (b) Either:
 - (i) Depending on its delegations, make a final award or a recommendation to the municipal manager to make the final award.
 - (ii) Make another recommendation to the municipal manager on how to proceed with the relevant procurement.

- 29.2. A bid adjudication committee shall comprise of a minimum of four (4) senior managers of Buffalo City which must include:
- (a) The chief financial officer or, if the chief financial officer is not available, another manager in the budget and treasury office and designated by the chief financial officer and designated by the chief financial officer.
 - (b) At least one senior supply chain management practitioner who is an official of Buffalo City.
 - (c) A technical expert in the relevant field who is an official of Buffalo City if it has such an expert.
- 29.3. The municipal manager must appoint the chairperson of the committee. If the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside over the meeting.
- 29.4. The quorum of the meeting will be formed by 50% + 1 member.
- 29.5. Neither a member of a bid evaluation committee, nor an advisor or person assisting the evaluation committee, may be a member of a bid adjudication committee.
- 29.6. If a bid adjudication committee considers awarding a bid other than the one recommended by the bid evaluation committee, the bid adjudication committee must firstly refer the matter back to the evaluation committee for re-consideration and should it still wish to make a different award, prior to award:
- (a) Check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in areas.
 - (b) Notify the municipal manager in writing.
- 29.7. The municipal manager may:
- (a) After due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee; and
 - (b) If the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.
- 29.8. The municipal manager may at any stage of a bidding process, refer any recommendation made by the evaluation committee or the adjudication committee back to that committee for reconsideration of the recommendation.
- 29.9. The municipal manager must comply with section 114 of the Act within ten (10) working days.

30. PROCUREMENT OF BANKING SERVICES

- 30.1. A contract for the provision of banking services to the municipality:
- (a) Must be procured through competitive bids.
 - (b) Must be consistent with section 7 of the Act.

(c) May not be for a period of more than five years at a time.

30.2. The process of procuring a contract for banking services must commence at least nine months before the end of an existing contract.

30.3. The closure date for the submission of bids may not be less than sixty (60) days from the date on which the advertisement is placed. Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

31. PROCUREMENT OF IT RELATED GOODS OR SERVICES

31.1. The municipal manager is authorised to request the State Information Technology Agency (SITA) to assist Buffalo City with the acquisition of IT related goods or services through a competitive bidding process.

31.2. The parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to, SITA.

31.3. The municipal must notify SITA together with a motivation of the IT needs of Buffalo City if:

- (a) The transaction value of IT related goods or services required by Buffalo City in any financial year will exceed R50 million (VAT included).
- (b) The transaction value of a contract to be procured by Buffalo City entity whether for one or more years exceeds R50 million (VAT included).

31.4. If SITA comments on the submission and Buffalo City disagrees with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the council, the National Treasury, the relevant provincial treasury, and the Auditor General.

32. PROCUREMENT OF GOODS AND SERVICES UNDER CONTRACTS SECURED BY OTHER ORGANS OF STATE

32.1. The municipal manager may procure goods or services for Buffalo City 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) Buffalo City has no reason to believe that such contract was not validly procured.
- (c) There are demonstrable discounts or benefits for Buffalo City to do so.
- (d) That other organ of state and the provider have consented to such procurement in writing.

- 32.2. Buffalo City may only participate in contracts that are still valid and the term of the appointment will not exceed the original contract period or the scope of work.
- 32.3. Buffalo City will only give approval for participation to other organs of state for contracts that are still valid, and the approval period will not exceed the original contract period or the scope of work.
- 32.4. Request for participation in a specific contract will be acceptable only if it is addressed to the municipal manager. No request from the service providers will be accepted by Buffalo City.
- 32.5. Participation in National Treasury transversal tenders is governed by this section.

33. PROCUREMENT OF GOODS NECESSITATING SPECIAL SAFETY ARRANGEMENTS

- 33.1. The policy restricts the acquisition and storage of goods in bulk (other than water) which necessitate special safety arrangements, including gasses and fuel.
- 33.2. Where the storage of goods in bulk is justified, such justification must be based on sound reasons, including the total cost of ownership and cost advantages for Buffalo City.

34. PROUDLY SA CAMPAIGN AND LOCAL PRODUCTION AND CONTENT

- 34.1. The municipal manager must ensure compliance with the Proudly South African campaign on the procurement of goods or services.

35. APPOINTMENT OF CONSULTANTS

- 35.1. The municipal manager may procure consulting services provided that any Treasury guidelines in respect of consulting services are considered when such procurements are made.
- 35.2. A contract for the provision of consultancy services to a municipality 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.
- 35.3. In addition to any requirements prescribed by the Supply Chain Management Regulations for competitive bids, bidders must furnish Buffalo City with particulars of:
- (a) All consultancy services provided to an organ of state in the last five years.
 - (b) Any similar consultancy services provided to an organ of state in the last five years.

- 35.4. The municipal manager may establish a database of professional consultants following a competitive bidding process and the use of those professional consultants on a rotational basis.
- 35.5. Buffalo City must ensure that copyright in any documents and systems 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 Buffalo City.

36. DEVIATION FROM AND RATIFICATION OF MINOR BREACHES OF, PROCUREMENT PROCESSES

- 36.1. The municipal manager is allowed:
- (a) To dispense with the official procurement processes established by the policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only:
 - (i) In an emergency.
 - (ii) If such goods or services are produced or available from a single provider only.
 - (iii) For the acquisition of special works of art or historical objects where specifications are difficult to compile.
 - (iv) Acquisition of animals for zoos.
 - (v) In any other exceptional case where it is impractical or impossible to follow the official procurement processes.
 - (b) To ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature.
- 36.2. The municipal manager must record the reasons for any deviations or ratification in terms of section 36.1(a) and (b) and report them to the next meeting of the council and include as a note the annual financial statements.
- 36.3. Section 36.2 does not apply to the procurement of goods and services contemplated in section 11.2 of this policy.

37. UNSOLICITED BIDS

- 37.1. Subject to section 113 of the Act, the municipal manager is not obliged to consider unsolicited bids received outside a normal bidding process.
- 37.2. If the municipal manager decides in terms of section 113(2) of the Act to consider an unsolicited bid, it may do so only if:
- (a) The product or service offered in terms of the bid is a demonstrably or proven unique innovative concept.
 - (b) The product or service will be exceptionally beneficial to, or have exceptional cost advantages for, Buffalo City.

- (c) The person who made the bid is the sole provider of the product or service.
 - (d) The reasons for not going through the normal bidding processes are found to be sound.
- 37.3. If the municipal manager decides to consider an unsolicited bid that complies with section 37.2, the municipality must make its decision public in accordance with section 21A of the Municipal System Act, together with:
- (a) Its reasons as to why the bid should not be open to other competitors.
 - (b) An explanation of the potential benefits for Buffalo City were it to accept the unsolicited bid.
 - (c) An invitation to the public or other potential suppliers to submit their comments within thirty (30) days of the notice.
- 37.4. Once Buffalo City has received written comments pursuant to section 37.3, it must submit such comments, including any responses from the unsolicited bidder to the National Treasury and the relevant provincial treasury for comment.
- 37.5. The bid adjudication committee must consider the unsolicited bid and may award the bid or make a recommendation to the municipal manager, depending on its delegation.
- 37.6. A meeting of the bid adjudication committee to consider an unsolicited bid must be open to the public.
- 37.7. When considering the matter, the adjudication committee must consider:
- (a) Any comments submitted by the public.
 - (b) Any written comments and recommendations of the National Treasury or the relevant provincial treasury.
- 37.8. If any recommendations of the National Treasury or provincial treasury are rejected or not followed, the municipal manager must submit to the Auditor General, the relevant provincial treasury and those recommendations.
- 37.9. Such submissions must be made within seven (7) days after the decisions on the award of the unsolicited bid are taken, but no contract committing Buffalo City to the bid may be entered into or signed within thirty (30) days of submission.

38. COMBATING OF ABUSE OF SUPPLY CHAIN MANAGEMENT SYSTEM

- 38.1. Measures to combat abuse of the supply chain management system must be put in place and the municipal manager must:
- (a) Take all reasonable steps to prevent such abuse.
 - (b) Investigate any allegations against an official or other role player of fraud, corruption, favouritism, unfair or irregular practices, or failure to comply with the supply chain management policy, and when justified:
 - (i) Take appropriate steps against such official or other role player.
 - (ii) Report any alleged criminal conduct to the South African Police Service.

- (c) Check the National Treasury's database prior to awarding any contract to ensure that no recommended bidder, or any of its directors, is listed as a person prohibited from doing business with the public sector.
- (d) Reject any bid from a bidder:
 - (i) If any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to Buffalo City, or to any other municipality or municipal entity, are in areas for more than three months.
 - (ii) Who during the last five years has failed to perform satisfactorily on a previous contract with Buffalo City or any other organ of state after written notice was given to that bidder that performance was unsatisfactory.
- (e) Reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract.
- (f) Cancel a contract awarded to a person if:
 - (i) The person committed any corrupt or fraudulent act during the bidding process or the execution of the contract.
 - (ii) An official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person.
- (g) To reject the bid of any bidder if that bidder or any of its directors:
 - (i) Has abused the supply chain management system of Buffalo City or has committed any improper conduct in relation to such system.
 - (ii) Has been convicted for fraud or corruption during the past five (5) years.
 - (iii) Has willfully neglected, reneged on, or failed to comply with any government, municipal other public sector contract during the past five years.
 - (iv) Has been listed in the Register for Tender Defaulters in terms section 29 of the Prevention and Combating of Corrupt Activities Act (No12 of 2004).

38.2. The municipal manager must inform the National Treasury and relevant provincial treasury in writing of any actions taken in terms of this section.

PART 3 – LOGISTICS, DISPOSAL, RISK, AND PERFORMANCE MANAGEMENT

39. LOGISTICS MANAGEMENT

- 39.1. The municipal processes must allow for an effective system of logistics management to provide for the setting of inventory levels, placing of orders, receiving and distribution of goods, stores, and warehouse management, expediting orders, transport management, vendor performance, and maintenance and contract administration.

40. DISPOSAL MANAGEMENT

- 40.1. The municipal system must provide for an effective system of disposal management for the disposal or letting of assets, including unserviceable, redundant, or obsolete assets, subject to section 14 of the Act.
- 40.2. The municipal disposal management system must:
- (a) Specify the ways in which assets may be disposed of, including by:
 - (i) Transferring the assets to another organ of state in terms of a provision of the Act enabling the transfer of assets.
 - (ii) Transferring the asset to another organ of state at market-related value or, when appropriate, free of charge.
 - (iii) Selling the asset.
 - (v) Destroying the asset.
 - (b) Stipulate that:
 - (i) Immovable property may be sold only at market related prices except when the public interest or the plight of the poor demands otherwise.
 - (ii) Movable assets may be sold either by way of written price quotations, a competitive bidding process, auction, or at market-related prices, whichever is the most advantageous to Buffalo City.
 - (iii) In the case of the disposal, free or otherwise, of computer equipment, the provincial department of education must first be approached to indicate within thirty (30) days whether any of the local schools are interested in the equipment.
 - (iii) In the case of the disposal of firearms, the National Conventional Arms Control Committee has approved any sale or donation of firearms to any person or institution within or outside the Republic.
 - (d) Provide that:
 - (i) Immovable property is let at market-related rates except when the public interest or the plight of the poor demands otherwise.
 - (ii) All fees, charges, rates, tariffs, scales of fees, or other charges relating to the letting of immovable property are annually reviewed.
 - (e) Ensure that where assets are traded in for other assets, the highest possible trade-in price is negotiated.

41. RISK MANAGEMENT

- 41.1. The municipal processes must provide for an effective system of risk management for the identification, consideration, and avoidance of potential risks in the supply chain management system.

41.2. Risk management must include:

- (a) The identification of risks on a case-by-case basis.
- (b) The allocation of risks to the party best suited to managing such risks.
- (c) Acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it.
- (d) The management of risks in a pro-active manner and the provision of adequate for residual risks.
- (e) The assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.

42. PERFORMANCE MANAGEMENT

42.1. The municipal processes must provide for an effective internal monitoring system to determine, on the basis of a retrospective analysis, whether the authorized supply chain management processes are being followed and whether the desired objectives are being achieved.

PART 4 - OTHER MATTERS

43. PROHIBITION ON AWARDS TO PERSONS WHOSE TAX MATTERS ARE NOT IN ORDER

43.1. This policy, irrespective of the procurement process followed, provides that Buffalo City may not make any award above R15 000 to a person whose tax matters have not been declared by the South African Revenue Service (SARS) to be in order.

43.2. Before making an award to a person, a municipality will first check with SARS portal whether that person's tax matters are in order.

43.3. Buffalo City has an obligation of paying all the services providers who tax matters become non-compliant on the CSD after an official purchase order has been issued by Buffalo City and the services has been rendered.

44. PROHIBITION ON AWARDS TO PERSONS IN THE SERVICE OF THE STATE

44.1. This policy, irrespective of the procurement process followed, provides that Buffalo City may not make any award to a person:

- (a) Who is in the service of the state.
- (b) If that person is not a natural person, of which any director, manager, principal shareholder, or stakeholder is a person in the service of the state.
- (c) Who is an advisor or consultant contracted with Buffalo City through another mechanism than the supply chain management system.

- 44.2. Buffalo City will utilise the National Treasury Central Supplier Database as its sole available resource to check if directors, managers, principal shareholders are in the employment of the state.

45. AWARDS TO CLOSE FAMILY MEMBERS OF PERSONS IN THE SERVICE OF THE STATE

- 45.1. The notes to the annual financial statements of Buffalo City must disclose particulars of any award of more than R2 000 to a person who is a spouse, child, or parent of a person in the service of the state, or has been in the service of a state in the previous twelve months, including:
- (a) The name of that person.
 - (b) The capacity in which that person is in the service of the state.
 - (c) The amount of the award.

46. ETHICAL STANDARDS

- 46.1. This policy establishes a code of ethical standards at section 46.2 for officials and other role players in the supply chain management system to promote:
- (a) Mutual trust and respect.
 - (b) An environment where business can be conducted with integrity and in a fair and reasonable manner.
- 46.2. A municipal code of ethical standards stipulates that an official or other role player involved in the implementation of the supply chain management policy of Buffalo City:
- (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, favor, hospitality, or other benefit directly or indirectly, including to any close family member, partner, or associate of that person.
 - (d) Notwithstanding section 46.2(c), must declare to the municipal manager details of any reward, gift, favor, 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 municipal manager 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, Buffalo City.
 - (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 other 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 Buffalo City.
 - (h) Must assist the municipal manager in combating fraud, corruption, favoritism, and unfair and irregular practices in supply chain management.

- (i) Must report to the municipal manager any alleged irregular conduct in the supply chain management system of which that person may become aware, including:
 - (i) Any alleged fraud, corruption, favoritism, or unfair conduct.
 - (ii) Any alleged contravention of section 46.
 - (iii) Any alleged breach of the code of ethical standards.

46.3. This policy provides that:

- (a) All declarations in terms of section 46.2(d) and (e) must be recorded in a register which the municipal manager must keep for this purpose.
- (b) Determine that all declarations by the municipal manager must be made to the mayor of Buffalo City who must ensure that such declarations are recorded in the register.
- (c) Contain measures to ensure that appropriate action is taken against any official or other role player who commits a breach of the code of ethical standards.

46.4. This policy considered the National Treasury's code of conduct for supply chain management practitioners and other role players involved in supply chain management.

46.5. Section 46.2(c) does not apply to gifts less than R350 in value.

47. INDUCEMENTS, REWARDS, GIFTS AND FAVOURS TO MUNICIPALITIES, MUNICIPAL ENTITIES, OFFICIALS AND OTHER ROLE PLAYERS

47.1. No person who is a provider or prospective provider of goods or services to Buffalo City, or recipient or prospective recipient of goods disposed of by a representative or intermediary, promise, offer or grant:

- (a) Any inducement or reward to Buffalo City; or for or in connection with the award of a contract.
- (b) Any reward, gift, favor, or hospitality to:
 - (i) Any official of Buffalo City.
 - (ii) Any other role player involved in the implementation of the supply chain management policy of Buffalo City.

47.2. The municipal manager must promptly report any alleged contravention of section 47.1 to the National Treasury for considering whether the offending person, and any representative or intermediary through which such 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.

47.3. Section 47.1 does not apply to gifts less than R350 in value.

48. SPONSORSHIP

- 48.1. The municipal manager must promptly disclose to the National Treasury and the relevant provincial treasury any sponsorship promised, offered, or granted to Buffalo City, whether directly or through a representative or intermediary, by any person who is:
- (a) A provider or prospective of goods or services to Buffalo City.
 - (b) A recipient or prospective recipient of goods disposed or to be disposed of by Buffalo City.

49. OBJECTIONS AND COMPLAINTS

- 49.1. This policy allows persons aggrieved by decisions or actions taken by Buffalo City in the implementation of its supply chain management system, to lodge within fourteen (14) days of the decision or action a written objection or complaint to Buffalo City against the decision or action.

50. RESOLUTION OF DISPUTES, OBJECTIONS, COMPLAINTS, AND QUERIES

- 50.1. The municipal manager may establish a dispute resolution mechanism, which may include a committee or a person, that did not participate or is not directly involved in the supply chain management processes of Buffalo City:
- (a) To assist in the resolution of disputes between Buffalo City and other persons regarding:
 - (i) Any decisions or actions taken by Buffalo City in the implementation of its supply chain management system.
 - (ii) Any matter arising from a contract awarded during its supply chain management system.
 - (b) To deal with objections, complaints, or queries regarding any such decisions or actions or any matters arising from such contract.
- 50.2. The municipal manager, or another official designated by the municipal manager, is responsible for assisting the appointed person or committee to perform his or her functions effectively.
- 50.3. The person or committee appointed must:
- (a) Strive to resolve promptly all disputes, objections, complaints, or queries received.
 - (b) Submit monthly reports to the municipal manager on all disputes, objections, complaints, or queries received, attended to, or resolved.
- 50.4. 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 sixty (60) days.
 - (b) No response is received from Buffalo City within sixty (60) days.

- 50.5. 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.

51. CONTRACTS PROVIDING FOR COMPENSATION BASED ON TURNOVER

- 51.1. If a service provider acts on behalf of a municipality to provide any service or acts 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 or the amount collected, the contract between the service provider and Buffalo City must stipulate:
- (a) A cap on the compensation payable to the service provider.
 - (b) That such compensation must be performance-based.

52. CONTRACT MANAGEMENT

- 52.1. A contract amendment may be required due to necessary additional and unforeseen work that needs to be carried out under an existing contract and it is impractical and/or not cost effective for such work to be separated from the main contract.
- 52.2. The municipal manager may approve amendments for contracts by not more than 20% for construction related goods, services and/or infrastructure projects and 15% for all other goods and/or services of the original value of the contract.
- 52.3. A request for an amendment in such instances must be addressed on a case-by-case basis and must be dealt with in accordance with the General or Special Conditions of Contract governing the contract concerned or alternatively be accompanied by a convincing argument as to why it is impractical and/or non-cost effective for such work to be separated from the main contract.
- 52.4. Any amendment more than the specified thresholds must be dealt with in terms of the provisions of Section 116(3) of the MFMA which will be regarded as an amendment to the contract, provided that:
- (a) The reasons for the proposed amendment must be tabled at Council prior to any contract or agreement being amended.
 - (b) In addition, the local community must be given at least seven (7) days' notice of the intention to amend the contract or agreement and be invited to submit representations to the municipality.
- 52.5. The contents of the above sections are not applicable to specific term contracts (annual contracts) which refer to orders placed as and when commodities are required and at the time of awarding contracts, the required quantities were unknown.

53. PREFERENTIAL PROCUREMENT

- 53.1. Where this policy does not provide for a matter regulated by the Preferential Procurement Regulations, 2022, the provisions of the regulations will prevail in respect of a “tender” as defined in the regulations.
- 53.2. The following procurement strategies are addressed in this section:
- (a) The application of a preference point system for the specified goals envisaged in section 2(1)(d) and (e) of the PPPFA, through B-BBEE Contributors and locality.
 - (b) The unbundling of large projects, where appropriate, into smaller contracts to ensure that a spread of opportunities is made available to suppliers of various sizes.
 - (c) The use of functionality/quality, where appropriate, in procurement processes to ensure that goods supplied are fit for purpose, or that a minimum level of experience and competence in respect of suppliers is attained.
 - (d) The increase of employment opportunities by encouraging the use of labour-intensive technologies.
 - (e) Continue to redress the skewed employment and ownership patterns in the greater municipal area.
 - (f) Achieve the above by providing procurement and employment opportunities to B-BBEE- and SMME- enterprises and disadvantaged individuals and communities.
 - (g) Enable local- and socio-economic transformation objectives to be linked to fair, transparent, equitable, competitive, and cost-effective procurement practices that will encourage the entry of emerging business into the municipal area.
 - (h) The targeting of labour and/or enterprises from specific areas within the boundaries of the municipal area.
- 53.3. Preferential procurement is further enhanced by provisions aimed at improved access to information, simplification of documentation, reduced performance guarantee requirements, reduced retention, reduced payment cycles in accordance with this Policy, and good governance.

Aim

- 53.4. The aim of this section is to give effect to and to ensure compliance with all applicable legislation and national directives in respect of preferential procurement and B-BBEE.

Performance Management

- 53.5. The level of B-BBEE contribution and localisation achieved by Buffalo City through the application of this policy will be monitored in terms of the supply chain management performance management system.

Preferential Procurement System - Key Principles

- 53.6. The key principles of this system are:
- (a) The application of an 80/20 preference point system for procurement (competitive bids or quotations) with a Rand value of greater than R30 000 but less than or equal to R50 000 000.
 - (b) The application of a 90/10 preference point system for procurement (competitive bids) with a Rand value greater than R50 000 000.
 - (c) If it is unclear which preference point system will be applicable, either the 80/20 or 90/10 preference point system will apply, and the lowest acceptable tender will be used to determine the applicable preference point system. For income-generating contracts, the highest acceptable tender will be used to determine the applicable preference point system.
 - (d) That bids may be declared non-responsive if:
 - (i) They fail to meet any special condition of tender if stipulated in the bid documents.
 - (ii) They fail to meet objective criteria as prescribed by section 2(1)(f) of the PPPFA.
 - (iii) They fail to achieve a minimum qualifying score for functionality (quality) if indicated in the bid documents.
- 53.7. The preference point system shall be used in the evaluation of responsive bids for the purposes of determining preferred/recommended bidders, and for the adjudication thereof.
- 53.8. The preference point system may be applied to procurement transactions less than R30 000 (VAT inclusive) on an ad hoc basis to promote local enterprises within the municipal boundaries at the discretion of the municipal manager or delegated authority.

Planning and Stipulation of Preference Point System

- 53.9. Prior to embarking on any procurement process, the responsible end user must properly plan for, and, as far as possible, accurately estimate the cost of the goods, services, or construction works for which bids are to be invited.
- 53.10. The Bid Specification Committee shall, immediately prior to advertising, determine the appropriate preference point system to be used in the evaluation and adjudication of bids, and shall ensure that such is clearly stipulated in the bid documentation.

Evaluation of Bids on Functionality (Quality)

- 53.11. Functionality (otherwise known as quality) may be included in the bid evaluation process as a qualifying (eligibility) criterion.

- 53.12. If a bid is to be evaluated on functionality, this must be clearly stated in the bid documentation.
- 53.13. The evaluation criteria for measuring functionality must be objective.
- 53.14. The following must be clearly stipulated in the bid document when evaluating bids on functionality the:
- (a) Evaluation criteria for measuring functionality.
 - (b) The points for each criteria and, if any, each sub-criterion.
 - (c) The minimum qualifying score for functionality rounded off to the nearest two decimal places (if applicable).
- 53.15. The minimum qualifying score for functionality for a tender to be responsive must be determined separately for each tender.
- 53.16. If a bid fails to achieve the minimum qualifying score for functionality as indicated in the bid document, it must be regarded as non-responsive, and be rejected (not considered any further in the evaluation process).
- 53.17. Bids that have achieved the minimum score for functionality, and passed any other responsiveness tests, must be evaluated further in terms of the preference point system prescribed below.

Evaluation and Adjudication of Bids

- 53.18. An 80/20 preference point system is stipulated for bids with a Rand value of greater than R30 000, but less than or equal to R50 000 000, and a 90/10 preference point system of procurement with a Rand value of greater than R50 000 000.
- 53.19. This means that either 80 or 90 points, depending on the Rand value of the bid, will be awarded to the person who offers the lowest price, and proportionately fewer points are awarded to those with higher prices. Either 20 or 10 points are then available as preference points for goals envisaged in section 2(1)(d) and (e) of the PPPFA.
- 53.20. Irrespective of the preference point system used, the following will be applicable:
- (a) Points for preference may be awarded to bidders having attained a B-BBEE status level of contributor and/or for goals envisaged in section 2(1)(d) and (e) of the PPPFA.
 - (b) A tenderer failing to submit proof of B-BBEE status level of contributor or is a non-compliant contributor to B-BBEE may not be disqualified but may only score points for price and must be awarded zero points for preference.
 - (c) The points for preference scored by a bidder must be added to the points for price scored, to obtain the total number of adjudication points scored for each responsive bid. The points scored must be rounded off to the nearest two decimal places (if applicable).
 - (d) Subject to section 2(1)(f) of the PPPFA, the contract must be awarded to (and/or order placed with) the bidder that scores the highest total number of adjudication points.

- (e) If the price offered by a tenderer scoring the highest points is not market-related, Buffalo City may not award the contract to that tenderer, prior to:
 - (i) Negotiating a market-related price with the tenderer scoring the highest points.
 - (ii) If the tenderer does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the second highest points.
 - (iii) If the tenderer scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the third highest points.
 - (iv) Apply the foregoing principles to all written and formal written price quotations subject to the approval of the municipal manager or his delegated official.

53.21. If a market-related price is not agreed upon as envisaged in section 53.20, Buffalo City must cancel the tender.

53.22. The criteria applicable to break any deadlock where tenderers score an equal number of points will be as follows:

- (a) The contract must be awarded to the tenderer that scored the highest points for B-BBEE.
- (b) If functionality is part of the evaluation process and two or more tenderers score equal total points and equal preference points for B-BBEE, the contract must be awarded to the tenderer that scored the highest points for functionality.
- (c) If two or more tenderers score equal total points in all respects, the award must be decided by the drawing of lots.

53.23. The remedies for any breach detected for the submission of any false information by a bidder are as follows:

- (a) Inform the tenderer accordingly and give the tenderer an opportunity to make representations within fourteen (14) days as to why the tender may not be disqualified or, if the tender has already been awarded to the tenderer, the contract should not be terminated in whole or in part.
- (b) After considering the representations, Buffalo City may, if it concludes that such information is false disqualify the tenderer or terminate the contract in whole or in part; and if applicable, claim damages from the tenderer.

Cancellation of Bids

53.24. Buffalo City may cancel bids before the award of a bid as follows:

- (a) Due to changed circumstances, there is no longer a need for the goods or services specified in the invitation.
- (b) Funds are no longer available to cover the total envisaged expenditure.
- (c) No acceptable tender is received.
- (d) There is a material irregularity in the tender process.
- (e) The validity period of the tender has lapsed.

53.25. The decision to cancel a tender invitation must be published in the same way the original tender invitation was advertised.

The Preference Point System for the Procurement (Acquisition) of Goods, Services or Construction Works

53.26. The following formula must be used to calculate the points out of 80 for price in respect of bids (including price quotations) with a Rand value of greater than R30 000 and up to a Rand value of R50 000 000 (all applicable taxes included):

$$P_s = 80 [1 - (P_t - P_{min})]$$

P_{min}

Where :

P_s = Points scored for price of the bid under consideration;

P_t = Price (corrected, if applicable, inclusive of VAT) of the bid under consideration; and

P_{min} = Price (corrected, if applicable, inclusive of VAT) of lowest responsive bid.

53.27. The 90/10 Preference Point System for the Procurement (Acquisition) of Goods, Services or Construction Works with a Rand Value above R50 000 000. The following formula must be used to calculate the points for price in respect of bids with a Rand value above R50 000 000 (all applicable taxes included):

$$P_s = 90 [1 - (P_t - P_{min})]$$

P_{min}

Where :

P_s = Points scored for price of the bid under consideration;

P_t = Price (corrected, if applicable, inclusive of VAT) of the bid under consideration; and

P_{min} = Price (corrected, if applicable, inclusive of VAT) of lowest responsive bid.

53.28. 80/20 preference points system for tenders for income-generating contracts with Rand value equal to or below R50 million 1) The following formula must be used to calculate the points for price in respect of an invitation for tender for income-generating contracts, with a Rand value equal to or below R50 million, inclusive of all applicable taxes:

$$P_s = 80 [1 + (P_t - P_{max})]$$

P_{max}

a)

Where

P_s = Points scored for price of tender under consideration.

P_t = Price of tender under consideration; and

P_{max} = Price of highest acceptable tender

53.29. A maximum of 20 points may be awarded to a tenderer for the specific goal specified for the tender.

53.30. The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.

53.31. Subject to section 2(1)(f) of the PPPFA, the contract must be awarded to the tenderer scoring the highest points.

53.32. 90/10 preference point system for tenders for income-generating contracts with Rand value above R50 million.

The following formula must be used to calculate the points for price in respect of a tender for in-come-generating contracts, with a Rand value above R50 million, inclusive of all applicable taxes:

$$Ps = 90 [1 + (Pt - Pmax)]$$

Pmax

Where :

Ps = Points scored for price of the bid under consideration;

Pt = Price (corrected, if applicable, inclusive of VAT) of the bid under consideration; and

Pmax = Price (corrected, if applicable, inclusive of VAT) of lowest responsive bid.

53.33. A maximum of 10 points may be awarded to a tenderer for the specific goal specified for the tender.

53.34. The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.

53.35. Subject to section 2(1)(f) of the PPPFA, the contract must be awarded to the tenderer scoring the highest points.

53.36. The tendering conditions will stipulate the specific goals, as contemplated in section 2(1)(d)(ii) of the PPPFA, to be attained.

53.37. A maximum of 20 points (80/20 preference points system) or 10 (90/10) preference points system), will be allocated for specific goals. These goals are:

- (a) Contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender, or disability.
- (b) The promotion of enterprises located in the local area (phased-in approach to be applied for other RDP goals).

53.38. In respect of section 53.37(a), 50% of the 20/10 points will be allocated to promote B-BBEE, and points will be allocated in terms of the B-BBEE scorecard as follows:

B-BBEE Status Level of Contributor	Number of Points for Preference (80/20)	Number of Points for Preference (90/10)
1	10	5
2	8	4
3	6	3
4	4	2
5	2	1
6	2	1
7	2	1
8	2	1
Non-compliant contributor	0	0

53.39. A tenderer must submit proof of its BBBEE status level contributor.

- 53.40. A tenderer failing to submit proof of B-BBEE status level of contributor or is a non-compliant contributor to B-BBEE may not be disqualified, but:
- (a) May only score points for price.
 - (b) Scores 0 points for B-BBEE status level of contributor, which is in line with section 2(1)(d)(i) of the Act, where the supplier or service provider did not provide proof thereof.

53.41. In respect of section 53.37(b), 50% of the 20/10 points will be allocated to promote locality, and points will be allocated as follows:

Local area of supplier	Number of Points for Preference	
	80/20	90/10
Within the boundaries of Buffalo City	10	5
Within the boundaries of the Eastern Cape	2	1
Outside of the boundaries of the Eastern Cape	0	0

- 53.42. Preferential Procurement may be applied up to R30 000 on an ad hoc basis but will be limited to the application of goals as per section 53.37(a) and (b).
- 53.43. A tenderer failing to submit proof of required evidence to claim preferences for other specified goals, which is in line with section 2(1)(d)(ii) of the PPPFA:
- (a) May not be disqualified.
 - (b) Scores 0 points out of 10/5 of the relevant specific goals where the supplier or service provider did not stipulate.
- 53.44. The preference points scored by a tenderer must be added to the points scored for price.
- 53.45. The points scored must be rounded off to the nearest two decimal places.
- 53.46. The contract must be awarded to the tenderer scoring the highest points, subject to section 2(1)(f) of the PPPFA.

Evidence of B-BBEE Status Level

- 53.47. To qualify for preference points in terms of this policy, bidders must submit documentary proof of their B-BBEE level of contribution in accordance with the applicable codes of good practice as specified in the tender documents.
- 53.48. The submission of such documentary proof must comply with the requirements of instructions and circulars/guidelines issued by the National Treasury and be in accordance with notices published by the Department of Trade and Industry in the Government Gazette.

- 53.49. Bidders who fail to submit the required documentary proof or certified copies thereof will be deemed to be non-compliant contributors.
- 53.50. Where specific sector charters have been gazetted in terms of the B-BBEE Act, bid documentation for procurement from within such sectors, may specify that only bidders verified, or who are Exempted Micro Enterprises or Qualifying Small Enterprises, in terms of the particular sector charter (or Code of Good Practice), will qualify for a preference. A status level of contributor in respect of generic Codes of Good Practice will not, in such circumstances, qualify for any preference.
- 53.51. Where no specific sector charter has been gazetted, the gazetted generic Codes of Good Practice will be applicable to all bidders to qualify for a preference.
- 53.52. For the purposes of transparency, bidders shall be required to indicate, in their bid submission, their B-BBEE status level of contribution.
- 53.53. Notwithstanding what is contained in the bid submission, preference points may be allocated during the bid evaluation process in accordance with the verified B-BBEE status level (or deemed status level) of the contributor as of the closing date of the bid.

Conditions Relating to the Granting of Preferences

- 53.54. Bidders must, in the manner stipulated in the bid documentation, declare that:
- (a) The information provided is true and correct.
 - (b) The signatory to the bid document is duly authorised.
 - (c) Documentary proof regarding any bidding issue will, when required, be submitted to the satisfaction of Buffalo City.
- 53.55. Only bidders who have completed and signed the necessary declarations may be considered for the granting of preference points.
- 53.56. The Bid Evaluation Committee must, when calculating prices, consider any discounts which have been offered unconditionally.
- 53.57. A discount that has been offered conditionally must, despite not being considered for evaluation purposes, be implemented when payment is affected.
- 53.58. A trust, joint venture or co-operative will qualify for preference points for their B-BBEE status level of contributor as a legal entity, provided that the entity has submitted its verified B-BBEE status level certificate (or certified copy thereof) to Buffalo City.

- 53.59. A trust or joint venture will qualify for preference points for their B-BBEE status level as an unincorporated entity, provided that the entity has submitted its consolidated B-BBEE scorecard as if it is a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid. The consolidated B-BBEE scorecard must be submitted in the form of a certificate issued by an accredited verification agency (or a certified copy thereof).
- 53.60. A bidder may not be awarded points for B-BBEE status level of contributor if the bid documents indicate that such a bidder intends sub-contracting more than 25% of the value of the contract to any other person not qualifying for at least the points that the bidder qualifies for, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.
- 53.61. A person awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level of contributor than the person concerned, unless the contract is sub-contracted to an EME that has the capability and ability to execute the sub-contract. Compliance with this requirement must be monitored by the end user during the execution of the contract.
- 53.62. A person awarded a contract may only enter into a subcontracting arrangement with the approval of Buffalo City.
- 53.63. If a service is required that can only be provided by tertiary institutions, such services may be procured through a bidding process from the identified tertiary institutions. The tertiary institutions must submit their B-BBEE status in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.
- 53.64. If a service is required that can be provided by one or more public entities and enterprises from the private sector, the appointment of a supplier must be done by means of a competitive bidding process. Public entities must submit their B-BBEE status in terms of the specialized scorecard contained in the gazetted B-BBEE Codes of Good Practice.

Other Specific Goals

Unbundling Strategies

- 53.65. To encourage increased participation and the sustainable growth of the small business sector, the unbundling of larger projects into their relevant cost drivers, and where feasible specific tender conditions be set per cost river, are encouraged.
- 53.66. Unbundling must however be considered in the context of:
- (a) Economies of scale are lost.
 - (b) Abortive work becoming necessary.
 - (c) Additional demands (not only financial) being placed on Buffalo City's resources.

(d) The risk of later phases not being completed because of budget cuts becoming necessary in the future.

53.67. Unbundling, and all its associated implications, must therefore be carefully considered at the planning stage of any project, and the budgets for, and design thereof, should be structured accordingly.

53.68. It is important to note that while it is Buffalo City's policy to procure goods, services or construction works in the smallest practicable quantities, the practice of parcelling such procurement to avoid complying with the requirements of the different range of procurement processes described in this policy is not permitted.

53.69. Unbundling strategies can be afforded to the full spectrum of businesses, from those operating as labour-only contractors to those operating as prime contractors. Some of these strategies can be summarised as follows:

- (a) Providing third-party management support to enterprises that are not capable of operating as prime contractors.
- (b) Providing training to new entrants.
- (c) Promoting learner-ships, internships, pupil-ships, etc.
- (d) Obligating main contractors or service providers to engage targeted enterprises in the performance of their contracts incorporating resource specifications.
- (e) Foster joint ventures that are formed between large businesses and targeted enterprises (*termed Structured Joint Ventures*).
- (f) Encourage and involve funding institutions to assist small businesses with access to finance and negotiate for credit lines.
- (g) Encourage local manufacturing and procurement from small businesses within the municipal area.
- (h) Unbundling of big projects and identifying opportunities and areas/scope of works that can be carried out by emerging contractors bar those from the main assignment shall be pursued vigorously.

Increasing Employment Opportunities

53.70. One of Buffalo City's key socio-economic objectives is to facilitate the creation of employment for the people within the municipal area.

53.71. Increasing employment opportunities through procurement may be achieved by specifying labour intensive technologies and/or methods of construction in the bid documents.

53.72. It is up to end users to thoroughly investigate the options available in the above regard, to evaluate the positive versus negative impact of any proposals, and to specify labour intensive technologies and/or methods where appropriate.

53.73. All labour earning less than a threshold wage, determined in accordance with National Guidelines, that is employed for the provision of services or construction works for Buffalo City, shall be reported in the prescribed format, monthly, to the Municipal EPWP Unit.

Targeted Labour and/or Targeted Enterprises

53.74. The targeting of labour and/or enterprises from specific areas within the boundaries of the Municipal area may be achieved, where appropriate, by specifying in the bid documents, a minimum level of participation (a contract participation goal) that must be achieved in respect of targeted labour and/or targeted enterprises in the performance of the contract.

53.75. Specified contract participation goals must be measurable and achievable, and the performance in respect of which must be monitored by the end users during the execution of the contract.

53.76. Where a minimum contract participation goal has been specified in respect of targeted labour and/or enterprises, the supplier is obliged to meet that goal, and must be penalised if he or she does not.

53.77. Contract participation goals in respect of targeted labour and/or enterprises may not be introduced into the preference point system used for the evaluation of bids.

CSI – Corporate Social Investment

53.78. Corporate social investment (CSI) is defined as contributions (either employee time and/or resources) that bring benefits over and above those directly associated with the municipal core business activities.

53.79. Depending on the principles of fairness and cost-effectiveness, the relevant commodity required, and the profile of the supply industry, Buffalo City may require that specific CSI contributions are made in line with the Municipal strategic objectives or programmes.

53.80. The suppliers shall be expected to indicate or provide an outline of socio-economic projects to be implemented through its CSI in the Buffalo City Municipal area. Proposed projects must be measurable with a specific focus on vulnerable groups. Bidders can suggest or explore the following socio-economic project practices for consideration:

- (a) On-the-job training and development of staff (learnerships), particularly for the unemployed or young people including the recruitment of long-term job seekers and handicapped people.
- (b) Young women/mothers' upliftment/leadership program.
- (c) Skills development initiatives (technical and soft skills) must be accredited by recognised institutions.
- (d) Youth leadership and empowerment projects.
- (e) Early childhood development.

- (f) Projects can be in collaboration with local CBO’s, NGO’s and relevant institutions.
- (g) Business skills and enterprise support including mentoring of local enterprises.
- (h) Development of Parks and open spaces.

53.81. It is specifically recorded that NO CSI financial contributions will be required or accepted.

53.82. Buffalo City will adopt a uniform standard in acknowledging, monitoring, and reporting CSI contributions.

Remedies

Actions in Respect of Fraud

53.83. The municipal manager will act against a bidder or person awarded the contract upon detecting that the B-BBEE status level of contribution has been indicated or obtained on a fraudulent basis in terms of section 38 relating to the Abuse of this Supply Chain Management System.

Actions about Non-performance

53.84. Contractual penalties will be applicable to breaches of the contractual conditions relating to preferential procurement that were found to be committed.

53.85. If a successful bidder sub-contracts a portion of the tender to another person without making such disclosure and obtaining approval from Buffalo City, a penalty of up to 10% of the value of the contract will be imposed.

54. REVIEW

The Supply Chain Management Policy shall be reviewed annually in accordance with section 21(1)(b)(ii) of MFMA.

DOCUMENT DEFINITION

Effective Date	1st February 2024
Related Legislation	<ol style="list-style-type: none"> 1. Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003). 2. Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000). 3. Construction Industry Development Board Act, 2000 (Act 38 of 2000). 4. Broad-Based Black Economic Empowerment Act, 2003 (Act 53 of 2003).
Replaces/ Repeals	Repeal the Supply Chain Management Policy of 2023
Department responsible	Budget and Treasury Office (BTO)
Unit responsible	SCM unit

Applies to	Buffalo City Metropolitan Municipality service providers
Key Words	Supply Chain Management Policy
Status	Draft
Approval Date	26 January 2024
Version	1