



## human settlements

Department:  
Human Settlements  
**PROVINCE OF KWAZULU-NATAL**

# Policy Communiqué

**Circular No.1/2017**

**Date : 12 October 2017**



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# **DIRECTIVE ON WAY FORWARD WITH RESPECT TO SUPPLY CHAIN MANAGEMENT (SCM) COMPLIANCE ON HUMAN SETTLEMENTS PROJECTS**

The following directive is issued by the MEC for Human Settlements and Public Works on the way forward with respect to SCM compliance of Municipalities on Human Settlements Projects.

## **1. BACKGROUND**

The Auditor-General (AG) qualified the 2015/2016 Annual Financial Statements for the KZN Department of Human Settlements on irregular expenditure relating to housing projects stating among others that they were unable to obtain sufficient and appropriate audit evidence showing that the Department complied with supply chain management legislation.

The Department together with Municipalities are responsible to provide Human Settlements for the people of South Africa. The Department currently undertakes housing projects either as a bi-lateral or a tri-partite arrangement.

## **2. PROCESS TO BE FOLLOWED GOING FORWARD IN RESPECT OF IRREGULAR EXPENDITURE**

In view of the above, the MEC for Human Settlements and Public Works approved the following categories in an effort to provide direction to its staff and Municipalities on the way forward. Each Municipality will be provided with a spreadsheet of each of their projects that fall into the below categories with its associated action plan.

### **2.1 Appointment of Implementing Agents (new projects) (both bi-lateral and tri-partite)**

All Municipalities' shall obtain prior written approval from the Accounting Officer of the Department of Human settlements to advertise any Human Settlements funded project.

- 2.1.1 SCM processes must be concluded for stage 1 and stages 2 and 3;
- 2.1.2 The draft advert and terms of reference, bid documents and the specification must be included in the application for approval (**Annexure A** - minimum pro-forma requirements) (full document as on website: [www.kzndhs.gov.za](http://www.kzndhs.gov.za));
- 2.1.3 Advertise one bid per project and advertise at least in the tender bulletin;
- 2.1.4 The Accounting Officer of the Department of Human Settlements will nominate Department officials to participate in the SCM processes at a Municipal level;
- 2.1.5 The Municipalities must have a separate section in their SCM policy to address Human Settlements projects funded by the Department of Human Settlements;
- 2.1.6 The Municipalities SCM policies must incorporate the Departments right to nominate Departmental officials to participate (not observer) in the bid committees for Human Settlements projects funded by the Department of Human Settlements;

2.1.7 The participation of the Departmental officials does not constitute waiver of the Department's rights to take action against a Municipality in respect of irregular SCM processes. Such action includes but is not limited to removal of developer status.

## **2.2 Projects currently in Prefeasibility**

2.2.1 Municipalities must submit all SCM documentation (as per the attached checklist – **Annexure B**) to the Department for ratification;

2.2.2 If the Department ratifies that the SCM process is regular, then the project can proceed, if not;

2.2.3 The services of the implementing agent must be terminated and the process of the appointment of an implementing agent must be followed ([2.1 - appointment of a new implementing agent](#)).

## **2.3 Projects in Planning (Stage 1)**

### **2.3.1 No expenditure incurred**

2.3.1.1 Municipalities must submit all SCM documentation (**Annexure B**) to the Department for ratification;

2.3.1.2 If the Department ratifies that the SCM process to be regular, then the project can proceed, if not;

2.3.1.3 The services of the implementing agent must be terminated and the process of the appointment of a the implementing agent must be followed (as per the above process – appointment of the new implementing agent); and

2.3.1.4 If the project was blocked and the SCM processes are deemed to be irregular, upon unblocking of the said project, the process of the appointment of an implementing agent must be followed ([2.1 - appointment of a new implementing agent](#)).

### **2.3.2 Expenditure incurred (planning – in progress)**

2.3.2.1 Municipalities must submit all SCM documentation (**Annexure B**) to the Department for ratification

2.3.2.2 If the Department ratifies that the SCM process is regular, then the project can proceed, if not

2.3.2.3 The services of the implementing agent must be terminated and the process of the appointment of a implementing agent must be followed ([2.1 - appointment of a new implementing agent](#)); or

- 2.3.2.4 Allow, stage 1 to be completed, (after negotiation and assessment of the legal risks), the projects must not be allowed to proceed to stage 2 and 3, the process of the appointment of a implementing agent must be followed [\(2.1 - appointment of a new implementing agent\)](#) in respect of the stage 2 and 3 processes; and
- 2.3.2.5 If the project was blocked and the SCM processes are deemed to be irregular, upon unblocking of the said project, the process of the appointment of an implementing agent must be followed [\(2.1 - appointment of a new implementing agent\)](#).

## **2.4 Projects in construction (stages 1 or 2 and 3) (contracts concluded prior to 01 July 2007)**

- 2.4.1 Where a contract was concluded in prior to 1 July 2007 the contract will fall outside of the scope of the audit processes and shall be allowed to continue;
- 2.4.2 If the project is in stage 1 (allow stage 1 to be completed) or if stage 1 has been completed and approval is being sought for stage 2 and 3, approval should not be given and the process of the appointment of an implementing agent must be followed [\(2.1 - appointment of a new implementing agent\)](#), and
- 2.4.3 If the project was blocked, upon unblocking of the said project, the process of the appointment of an implementing agent must be followed [\(2.1 – appointment of a new implementing agent\)](#).

## **2.5 Projects in construction (stage 2 and 3) (contracts concluded on or after 01 July 2007)**

- 2.5.1 Where contracts were concluded on or after 1 July 2007 to date on a turnkey basis, and SCM process were irregular, these projects will be allowed to continue, the department will convert the tri-partite agreement to a bi-lateral agreement between the Department and the Municipality. This is being done to avoid the risk of litigation and the risk of service delivery protests;
- 2.5.2 The Municipality shall ensure that it provides detailed reasons for non-compliance and irregular SCM processes as per the documentation attached (assist in the condonation process) (**Annexure C**); and
- 2.5.3 If the project was blocked and the SCM processes are deemed to be irregular, upon unblocking of the said project, the process of the appointment of an implementing agent must be followed [\(2.1 - appointment of a new implementing agent\)](#).

## **2.6 Projects with no SCM documentation**

- 2.6.1 These projects will be deemed to be irregular;
- 2.6.2 A council resolution must be sought to advise the department that the Municipality cannot locate any documentation in relation to the said project;

- 2.6.3 The Municipality shall ensure that it provides detailed reasons for non-compliance and irregular SCM processes as per the documentation attached (assist in the condonation process) (**Annexure C**); and
- 2.6.4 The Department will convert the tri-partite agreement to a bi-lateral agreement between the Department and the Municipality. This is being done to avoid the risk of litigation and the risk of service delivery protests.

**2.7 General – (other points to note when making the above decisions)**

- 2.7.1 The department will not consider any unsolicited bids;
- 2.7.2 All contracts will be converted from tri-partite agreement into a bi-lateral agreement where there is evidence of non-compliance with SCM processes;
- 2.7.3 In the event of a Municipality being placed under administration or declared insolvent the Department shall take over developer status until such time as the administration is removed or the insolvency is rehabilitated;
- 2.7.4 All the policies relating to human settlements must be provided to the Department for ratification and concurrence; and
- 2.7.5 The Department will workshop these procurement issues with relevant Municipalities.

**-----END-----**



**KZN HUMAN SETTLEMENTS  
INVITATION FOR PROPOSALS**

**DESCRIPTION OF SERVICE:** \_\_\_\_\_

**STAGE 1: PLANNING PHASE**

**BID NUMBER** \_\_\_\_\_

**CLOSING DATE** \_\_\_\_\_

**BID BOX NO.** \_\_\_\_\_

**COMPULSORY BRIEFING SESSION DATE** \_\_\_\_\_

**BRIEFING SESSION TIME** \_\_\_\_\_

**BRIEFING SESSION VENUE** \_\_\_\_\_

**TECHNICAL ENQUIRIES** \_\_\_\_\_

**BID ENQUIRIES** \_\_\_\_\_

Sealed tenders, clearly endorsed “**BID NO.** \_\_\_\_\_: **SERVICE:** \_\_\_\_\_” must be placed in the Tender box at \_\_\_\_\_ before **11:00 AM** \_\_\_\_\_.

**Pre-qualification for the tender is 51% Woman, Youth or Veteran owned service providers. No bidder will be considered if not in compliance with the pre-qualification criteria. (Any prequalifying criteria can be used.)**

**Please note that in order to obtain a Tender Document a non-refundable deposit of (subject to change as per Council’s tariff of charges), is payable in advance at the following \_\_\_\_\_ venue:**

**Reference: TENDER NO.** \_\_\_\_\_

**Note: Documents will be stamped during the site meeting. Tender documents that are returned un-stamped will not be accepted.**

**All tender documents must be bought a day before the site meeting.**

**This request for Tenders will be evaluated in terms of the 80:20 method as per PPPFA Regulations.**

**STAGE 2 – CONSTRUCTION DRAFT ADVERT**

Bidders are hereby invited for the following:

**TENDER NO:**

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**DESCRIPTION OF SERVICE:** \_\_\_\_\_

**NB: Regulation 44 of the Supply Chain Management Regulations states that the Municipality may not make any award to a person who is in the service of the State, and 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, or who is an advisor or consultant contracted with the Municipality or Municipal entity.**

Pre-qualification for the tender is 51% Woman or Youth owned companies. No bidder will be considered if not complying with the pre-qualification criteria.

Tender documents will be available at \_\_\_\_\_.

**Date:** \_\_\_\_\_

**Time:** \_\_\_\_\_

**Contractors will be required to have a CIDB grading of or above and NHBRC.**

**Please note that in order to obtain a Tender Document a non-refundable deposit of (subject to change as per Council's tariff of charges), is payable in advance at the following venue:**

\_\_\_\_\_ Payment may also be made directly into Council's bank account:

**Reference: TENDER NO.** \_\_\_\_\_

**Note: Documents will be stamped during the site meeting. Tender documents that are returned un-stamped will not be accepted.**

**All tender documents must be bought a day before the site meeting.**

**No documents will be handed out unless the tenderer or his/ her representative produces a receipt for the deposit. It should be noted that the office closes at 16:00 on weekdays for receipt of payments. Only cash will be accepted as payment method.**

**Should use be made of a Courier Company to collect tender documents on behalf of your company, proof of payment and arrangement for the collection of the tender documents must be submitted to**

\_\_\_\_\_ A representative of the Municipality will meet prospective tenderers for a **compulsory** site inspection on \_\_\_\_\_.



A person who is directly employed by the Tenderer and is suitably qualified and experienced to comprehend the implications of the work involved must represent the Tenderer at the tender meeting. **Failure to attend the inspection/meeting will render the tender invalid.**

**Technical enquiries can be directed to**  
\_\_\_\_\_  
\_\_\_\_\_ **or**

**This request for Tenders will be evaluated in terms of the 80:20 method as per PPPFA Regulations.**

It is solely the responsibility of vendors, who want to make use of the preferences available under this policy to familiarise themselves with its contents, and to comply with its conditions, to be able to make a claim for preference.

Sealed tenders, clearly endorsed "**TENDER NO.** \_\_\_\_\_: **SERVICE:** \_\_\_\_\_" must be placed in the Tender box at \_\_\_\_\_ before **11:00 AM** \_\_\_\_\_.



<b>Project name:</b>	<b>Project number:</b>
<b>Project monitor:</b>	<b>Contact number:</b>
<b>Email address:</b>	<b>Region:</b>
<b>Municipality:</b>	<b>District:</b>

**CHECKLIST**

The following information is requested for appointment of professional teams / contractors / implementing agents:

1	Tender advertisements		
2	Tender register		
3	Tender bid documentation for all the shortlisted professional teams / contractors / implementing agents.		
4	Scorecard sheets for shortlisted professional teams / contractors / implementing agents.		
5	Appointment letters of the following committees.		
	• Tender adjudication committee		
	• Tender evaluation committee		
6	Minutes of meetings and members declaration of interest for the following committees.		
	• Tender adjudication committee		
	• Tender evaluation committee		
6	• Tender specification committee		
	7	Instruction to appoint a professional team / contractor / implementing agent.	
	8	Letter of acceptance by the professional teams / contractors / implementing agents.	

**REPORT OF DEPARTMENT OF HUMAN SETTLEMENTS  
FUNDED PROJECTS**

<b>District</b>	
<b>Municipality</b>	
<b>Project Name</b>	
<b>Project Code</b>	
<b>Implementing Agent/ Service Provider</b>	
<b>Deliverables as per the contracts</b>	
<b>Prepared by Technical Manager/Infrastructure Manager</b>	
<b>Reviewed by CFO</b>	
<b>Approved by MM</b>	
<b>Council Resolution</b>	
<b>Documents attached</b>	<ul style="list-style-type: none"><li>• Contracts with the implementing agent</li><li>• Approvals by Department of Human Settlements</li><li>• Tax clearance</li><li>• Declaration of interest</li><li>• NHBRC Certificate</li><li>• CIDB Grading</li><li>• Municipal accounts</li><li>• Professional Indemnity</li><li>• CSD registration</li><li>• National Treasury Defaulters</li></ul>

<b>Verified by DoHS</b>	

## 1. PURPOSE

- 1.1 This report seeks Authority from the Executive Council of the Municipality to provide the relevant information and documentation to the Department of Human Settlements for the regularising and condonement of irregular processes followed by the municipality in the appointment of the implementing agent for the \_\_\_\_\_ Housing Project with the project code \_\_\_\_\_ .

## 2. BACKGROUND TO THE PROJECT

- 2.1 From the Municipal Integrated Development Planning (IDP) sessions and results which identified the human settlements needs as a priority for the \_\_\_\_\_ Municipality the process of identifying land and Implementing Agents to undertake the relevant studies commenced.
- 2.2 The need for this project was identified in \_\_\_\_\_.  
*(Municipality must provide details on why this housing project was selected.)*
- 2.3 Approval from the MEC for Department of Human Settlements was obtained on \_\_\_\_\_.
- 2.4 The SCM processes for the appointment of an implementing agent commenced. The SCM processes were completed and an appointment letter was issued to the implementing agent on \_\_\_\_\_.
- 2.4 The original contract was signed on \_\_\_\_\_ for \_\_\_\_\_ units.
- 2.5 The contract was divided into phases for the construction of the units.

### 3. SCM PROCESS FOLLOWED BY THE MUNICIPALITY

3.1 The following documents were provided to the Department of Human Settlements on \_\_\_\_\_ or the following documents are attached,

- Letter of appointment to the Implementing Agent
- Tender advertisement
- Tender register
- Tender Bid documentation of all shortlisted Contractors/IA
- Scorecard sheets for shortlisted Contractor/IA
- Appointment letters of Adjudication, evaluation and specification committee
- Minutes of Adjudication, evaluation and specification meetings
- Tender adjudication meeting.
- Letter of acceptance by Contractor/IA
- Contract between DOHS and successful bidders

3.2 The following documents are not available due to the following reasons:

*(Municipality to provide detailed reasons why the documents are not available.)*

3.3 The municipality undertook the following SCM processes

*(Municipality to document in detail the SCM processes which were followed using the headings provided.)*

Bid Specification

Bid Advertisement/Invitation to Bid

Compulsory briefing session/Site visit

Bid Opening

Bid Evaluation Committee

Submission of Compulsory Documents

Terms of Reference

Functionality

PPPFA

Bid Evaluation

Bid Adjudication

Award of Bid/Contract

#### 4. PERFORMANCE OF THE IMPLEMENTING AGENT

*(Municipality must provide comments on the performance of the IA in relation to the following:-*

- *Adhering to the quality*
- *Timeframes –Delays*
- *No. of units built*
- *Any challenges with the IA)*

#### 5. REASONS WHY THE EXPENDITURE SHOULD BE CONDONED

*(Municipality must discuss the following:-*

- *Did the state suffer any financial loss*
- *Were quality house built*
- *Were there delays which resulted in a loss)*

#### 6. MOTIVATION FOR THE RETENTION OF THE IMPLEMENTING AGENT

*(Municipality must provide sound reasons why the IA must be retained.)*

#### 7. FINANCIAL IMPLICATIONS

*(Provide a summary of:-*

- *funding approved as per contract*
- *spent to date against a simple table*
- *costs to be incurred to complete*
- *escalations in subsidy quantum)*

#### 8. RECOMMENDATIONS

It is recommended that the Executive Council of the \_\_\_\_\_ Municipality;

8.1 Authorises the Municipal Manager to submit this report to the Department of Human Settlements.

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**PREPARED BY: TECHNICAL MANAGER**

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**REVIEWED BY: CHIEF FINANCIAL OFFICER**

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**APPROVED BY: MUNICIPAL MANAGER**

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**AUTHORISED BY: EXECUTIVE COUNCIL**