

THE COMMITTEE SYSTEM FOR COMPETITIVE BIDS IN LOCAL GOVERNMENT*

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Abstract

When a municipality contracts for goods or services, it must make use of competitive bidding / a public call for tenders for contracts over R200 000 as well as for long term contracts. A competitive bidding process generally consists of different stages, for example, compiling bid specifications, advertising the bid, the receipt and evaluation of bids, and the award and implementation of the contract. The Municipal Supply Chain Management Regulations require a municipality's Supply Chain Management Policy to provide for a committee system to oversee the different stages. Such committee system must, moreover, consist of at least a bid specification committee, a bid evaluation committee and a bid adjudication committee. Until recently, little attention has been given by the courts to the roles and composition of the different committees in the committee system. It is only after government, and in particular, municipalities have begun to implement the committee system in their procurement processes that it is evident that problems are arising. In recent months, the courts have increasingly had to deal with issues pertaining to the implementation of the committee system.

In this article, the relevant legislative provisions on the committee system for competitive bids in local government are discussed. The functions of each committee are explained and all the cases that have thus far involved the implementation of the committee system are critically analysed. Much attention is given to the cases since they serve as a warning to municipalities to uphold

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and comply with the rules relating to the roles and composition of the different committees. The cases illustrate how important it is for municipalities to ensure that the different committees are properly constituted and that decisions at meetings are properly taken. They also highlight the importance of the supervisory role of the municipal manager over the different committees. In light of the cases it is clear that failure to comply with all the legislative requirements results in very costly litigation.

Key words: Bid committees; Competitive bidding; Contracts; Government; Local government; Municipal manager; Municipalities; Procurement; Supply Chain Management; Tenders