

**UGU DISTRICT MUNICIPALITY**

*"The Municipality"*



**SUPPLY CHAIN MANAGEMENT POLICY**

Council resolves in terms of section 111 of the Local Government Municipal Finance Management Act (No. 56 of 2003), to adopt the following proposal as the Supply Chain Management Policy of the Ugu District Municipality for the 2014/2015 Financial Year

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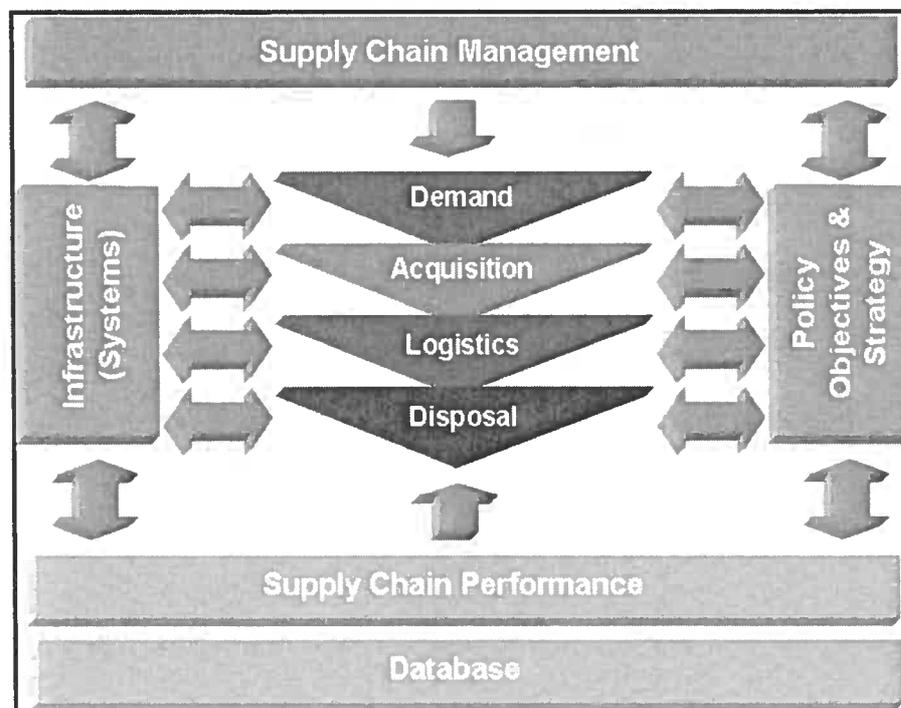


## 1. Introduction

(1) In terms of section 217 of the Constitution of the Republic of South Africa, 1996:

*“When an organ of state in the national, provincial or local sphere of government, or any other institution identified in national legislation, contracts for goods or services, it must do so in accordance with a system which is **fair, equitable, transparent, competitive and cost-effective.**”*

Supply Chain Management is a critical support function to ensure effective and efficient service delivery to achieve the mandates and objectives of the municipality. The diagram below graphically illustrates the various elements of the supply chain management system and how they interact with the overall SCM system.



Central to the SCM system are the four elements of Demand Management, Acquisitions Management, Logistics Management (Stores) and Disposals Management. Underpinning the entire SCM system are the two pillars of Supply Chain Performance and the Supplier Database. The SCM system has to be supported by effective and efficient SCM systems, policies and standard operating procedures that achieve the overall SCM strategy and objectives.

(2) Demand Management

Demand Management is the first phase of Supply Chain Management. It is the action of assessing 'what' good and/or service is needed, and then 'planning considering local content and product' when and how that good and/or service will be acquired.

Demand Management starts with the assessment of, and accepts input from:

- ✓ The Integrated Development Plan;
- ✓ Service Delivery Budget Implementation Plan;
- ✓ Approved Budget; and
- ✓ Existing Contract Register.

A critical output of demand management is the generation of annual procurement plans by the end-user Departments at the beginning of the financial year that are approved by the Accounting Officer. Procurement during the year will be guided by these procurement plans, with any deviations thereto approved by the Accounting Officer. The primary intention of these procurement plans are to identify goods and services required well in advance, to identify the appropriate procurement method to be deployed and to implement the necessary procurement processes timeously to ensure compliance and that goods and services are procured on time and when needed.

(3) Acquisitions Management

The word 'acquire' means to obtain or attain something which, in the Government context, may be a good, works and/or service that is required to fulfil a need. Acquisitions Management thus refers to the management of the entire process of acquiring that particular good, works and/or service which satisfies the need. This process covers the acquiring of the good, works and/or service by implementing the sourcing strategy determined by Demand Management and the administration thereof.

The primary objective of Acquisitions Management is to fulfil the demand determined by the Demand Management phase of Supply Chain Management. Acquisitions Management is thus driven by the Municipality's Procurement Plan and refers to a process of establishing: what will be acquired, when, how and from where it will be acquired, how much is required and at what price, as well as contracting with the vendor. The desired outcome is a well-managed process of acquisition that results in the satisfaction of the need that arose.

(4) Logistics Management

Logistics Management is the third element of Supply Chain Management and deals with the ordering and provisioning of goods, works and/or services within the Municipality. It is the process of determining when goods, works and/or services are procured, received, stored and distributed.



Typically this involves the processes of ordering, receiving, payment, provisioning and managing inventory.

(5) Disposal Management

Disposal is the final process when the institution needs to do away with unserviceable, redundant or obsolete movable assets done jointly by SCM& Asset Management. The Accounting Officer appoints a specific committee to deal with disposals, to make recommendations with regard to the disposal of any inventory item. It is the responsibility of the Accounting Officer or his/ her delegate to consider the recommendation of the appointed committee.

(6) Supply Chain Management Performance

Supply chain management performance is a critical component underpinning the entire SCM system. It is twofold in that, firstly, there should be effective monitoring of the SCM system. This requires effective and efficient monitoring of the implementation of and adherence to the SCM policy and standard operating procedures, as well as rigorous and robust monitoring of vendor performance.

Secondly, it entails monthly reporting to relevant structures within the Municipality, as well as external structures, as a key component of the Supply Chain Management framework. It interacts with each of the main functional areas represented in the framework and provides an overall look at the performance of the Municipality's Supply Chain Management. The Municipal Finance Management Act, Act No. 56 of 2003, and the Supply Chain Management Regulations, Practice Notes, Instruction Notes and Circulars, specify a number of reporting requirements that are required by National Treasury and Provincial Treasury.

(7) Supplier Database

Underpinning the entire SCM system is the legislative requirement in terms of the SCM regulations that prescribes that the Accounting Officer shall maintain a list of accredited service providers with whom the Municipality shall procure from, and the rules and regulations governing the maintenance of the supplier database.

## 2. Definitions and abbreviations

(1) Definitions

In this Policy, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the Act has the same meaning as in the Act.



**“municipality”** means the Ugu District Municipality

**“competitive bidding process”** means a competitive bidding process referred to in paragraph 12 (1) (d) of this Policy;

**“competitive bid”** means a bid in terms of a competitive bidding process;

**“days”** means calendar days, including weekends and public holidays;

**“award”**, in relation to bids or quotations submitted for a contract, means the final decision on which bid or quote to accept;

**“formal written price quotation”** means quotations referred to in paragraph 12 (1) (c) of this Policy;

**“in the service of the state”** means to be –

- (a) a member of –
  - (i) any municipal council;
  - (ii) any provincial legislature; or
  - (iii) the National Assembly or the National Council of Provinces;
- (b) a member of the board of directors of any municipal entity;
- (c) an official of any municipality or municipal entity;
- (d) 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, 1999 (Act No.1 of 1999);
- (e) a member of the accounting authority of any national or provincial public entity; or
- (f) an employee of Parliament or a provincial legislature;

**“long term contract”** means a contract with a duration period exceeding one year;

**“list of accredited prospective providers”** means the list of accredited prospective providers which the municipality must keep in terms of paragraph 14 of this policy;

**“other applicable legislation”** means any other legislation applicable to municipal supply chain management, including –

- (a) the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);
- (b) the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003); and
- (c) the Construction Industry Development Board Act, 2000 (Act No.38 of 2000);

**“Treasury guidelines”** means any guidelines on supply chain management issued by the Minister in terms of section 168 of the Act;

**“the Act”** means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);

**“the Regulations”** means the Local Government: Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations published by Government Notice 868 of 2005;

**“written quotations”** means quotations referred to in paragraph 12(1)(b) of this Policy;

**“specific bid”** means bid under consideration;

**“end user”** means the unit requiring service or goods to be procured;

**“sole supplier”** means the instance where there is only one supplier on the municipalities supply database for the provision of particular goods or services ; and

**“preferred supplier”** means the status awarded to a supplier by the municipality subsequent to due procurement process, awaiting the fourteen day appeal process and resolution of any appeals received.

**Black Designated Groups Means:**

- a) Unemployed not attending and not required by law to attend an educational institution and not awaiting admission to an educational institution.
- b) Black people who are youth as defined in the National Youth Commission Act of 1996.
- c) Black people who are persons with disabilities as defined in the Code of Goods Practice on employment of people with disabilities issued under the Employment Equity Act
- d) Black people living in rural areas and under-developed areas.

**Black People Means: Only natural persons who are citizens of the Republic of South Africa by birth.**

(2) Abbreviations

|                 |  |
|-----------------|--|
| <b>“AO”</b>     | Accounting Officer                             |
| <b>“BAC”</b>    | Bid Adjudication Committee                     |
| <b>“BBBEEA”</b> | Broad-Based Black Economic Empowerment Act     |
| <b>“BEC”</b>    | Bid Evaluation Committee                       |
| <b>“BSC”</b>    | Bid Specification Committee                    |
| <b>“CFO”</b>    | Chief Financial Officer                        |
| <b>“CIPC”</b>   | Companies and Intellectual Property Commission |
| <b>“HDI”</b>    | Historically Disadvantaged Individuals         |
| <b>“KZN”</b>    | KwaZulu-Natal                                  |



|                |   |
|----------------|---|
| <b>"MBD"</b>   | Municipal Bid Documents   |
| <b>"MFMA"</b>  | Municipal Finance Management Act, 2003 (Act 56 of 2003)             |
| <b>"PPPFA"</b> | Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000) |
| <b>"SCM"</b>   | Supply Chain Management   |
| <b>"SCMU"</b>  | Supply Chain Management Unit  |

### 3. Policy goal and objectives

- (1) The goal of the SCM policy is to ensure that there are effective and efficient SCM processes and systems in place to create an enabling environment towards the Municipality's service delivery objectives, whilst ensuring compliance with SCM legislation and regulations.
- (2) The above goal shall be achieved through the following objectives:
  - ✓ SCM practice and procedures shall comply with the SCM policy at all times, unless authorised otherwise by the Accounting Officer; and
  - ✓ Appropriate and sufficient resources shall be made available to ensure compliance with the SCM policy.

### 4. Overview of key SCM legislation

- (1) The figure below provides a simplified graphic overview of the legislative building blocks for SCM in the Ugu District Municipality.

**LEGISLATIVE MANDATES**



|   |  |
|---|--|
| <b>The Constitution of the Republic of South Africa (Act No. 108 of 2006)</b> |  |
| <b>Municipal Finance Management Act (No. 56 of 2003)</b>                      | <b>Preferential Procurement Policy Framework Act (No. 5 of 2000)</b> |
| <b>Broad Based Black Economic Empowerment Act 53 of 2003</b>                  | <b>The Promotion of Access to Information Act (No. 2 of 2000)</b>    |
| <b>Construction Industry Development Board Act (No. 38 of 2000)</b>           | <b>The Promotion of Administrative Justice Act (No. 3 of 2000)</b>   |
| <b>The Protected Disclosures Act (No. 26 of 2000)</b>                         | <b>State Information Technology Agency Act, (Act No. 88 of 1998)</b> |
| <b>National Treasury Supply Chain Management Regulations</b>                  | <b>National Treasury Supply Chain Practice Notes and Circulars</b>   |



(2) The Municipality will comply with the following legislative requirements that the SCM unit of the Municipality is bound and guided by:

**(a) The Constitution of the Republic of South Africa (Act No. 108 of 2006)**

Section 217(1) provides the basis for procurement and determines that:

**“When an organ of state in the national, provincial or local sphere of government, or any other institution identified in national legislation, contracts for goods or services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost-effective”.**

Subsection 217 (2) indicates that Section 217 (1) does not prevent the organs of state or institutions referred to in that subsection from implementing a procurement policy providing for:

- ✓ Categories of preference in the allocation of contracts; and
- ✓ The protection or advancement of persons, or categories of persons, disadvantaged by unfair discrimination.

Section 217(3) of The Constitution, 1996, further confers an obligation for National Legislation to prescribe a framework providing for preferential procurement to address the social and economic imbalances of the past.

**(b) Municipal Finance Management Act (No. 56 of 2003)**

The Municipal Finance Management Act 56 of 2003) was promulgated to regulate financial management in the Municipal spheres of government. Considerable powers are assigned to Accounting Officers and Accounting Authorities to enable them to manage their financial affairs within the parameters outlined by the prescribed Norms and Standards.

The onus of responsibility for Supply Chain Management is placed on the Accounting Officers/Authorities.

**(c) Preferential Procurement Policy Framework Act (No. 5 of 2000) and its Regulations**

The Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000) (PPPFA) and its accompanying Regulations were promulgated to prescribe a framework for a preferential procurement system to give effect to section 217(3) of The Constitution. The PPPFA and its Regulations provides for the implementation of a preference point system in the allocation of contracts for



categories of service providers and the promotion of goals, including socio-economic goals, to advance the interest of persons disadvantaged by unfair discrimination on the basis of race, gender or disability and implementing the programmes of the Reconstruction and Development Programme (RDP).

**(d) Broad Based Black Economic Empowerment Act (BBBEE) (No. 53 of 2003)**

The BBBEE Act allows the Minister of Trade and Industry to issue codes of practice that could include 'qualification criteria for preferential purposes for procurement and other economic activities'. Where BEE should at all times be included as a priority, at least until certain prescribed targets have been achieved, allowance should also be made for pursuing other policy priorities through PPPFA (such as job creation and SMME development).

**(e) Construction Industry Development Board Act (No. 38 of 2000)**

The Act is applicable to all organs of state involved in procurement relating to the construction industry. It establishes a means by which the Board can promote and implement policies, programmes, and projects aimed at procurement reform, standardization, and uniformity in procurement documentation, practices and procedures within the framework of the procurement policy of government. It establishes a national register of contractors to manage public sector procurement risk.

**(f) The Promotion of Access to Information Act (No. 2 of 2000)**

This Act gives effect to Section 32 of the Constitution (Access to Information) by setting out how anyone can get access to information held by the state. By so doing, it promotes transparency and prevents government from operating in secret.

**(g) The Promotion of Administrative Justice Act (No. 3 of 2000)**

This Act gives effect to Section 33 of the Constitution (Just Administrative Action). It ensures that decisions that affect the public are taken in a way that is procedurally fair and it gives people the right to request written reasons for decisions they disagree with. In this way, it creates greater transparency - people may be less tempted to act corruptly if they know they will have to explain themselves to the public.

**(h) The Protected Disclosures Act (No. 26 of 2000)**

The Act (often called the 'Whistleblowers Act') was passed to encourage employees to disclose information about unlawful and irregular behavior in the workplace. It offers protection from



victimisation for 'whistleblowers', as long as they meet the requirements and follow the procedure set out in the Act.

**(i) National Treasury Supply Chain Management Regulations**

The Municipality shall apply the Treasury Regulations issued in terms of the MFMA as it pertains to SCM. It serves as a formal requirement for the Municipality, to ensure the establishment and implementation of an effective and efficient Supply Chain Management Unit (SCMU).

It also stipulates the establishment of an effective and efficient SCMU within the office of the Chief Financial Officer (CFO), as an integral part of their financial systems.

A Supply Chain Management system must be utilised and provide at least for the following:

- ✓ Demand Management;
- ✓ Acquisitions Management;
- ✓ Logistics Management;
- ✓ Disposal Management;
- ✓ Risk Management; and
- ✓ Supply Chain Performance and Reporting.

**(j) State Information Technology Agency Act, (Act No. 88 of 1998)**

The State Information Technology Agency (SITA) Act, Act No 88 of 1998, as amended by Act 38 of 2002, requires that SITA must act as the procurement agency for the Municipality's information technology requirements.

**(k) Other Legislative Requirements**

In addition to the above mentioned legislative framework the Ugu District Municipality will also comply with the provisions of the following legislation that will impact on the supply chain environment:

- ✓ The Supply Chain Management Guide for Accounting Officers;
- ✓ The Prevention and Combating of Corrupt Activities Act, Act 12 of 2004;
- ✓ The National Small Business Act, Act 102 of 1996;
- ✓ Provincial Growth and Development Strategy;
- ✓ Public Service Act, Act No 23 of 1994;
- ✓ The Competition Act, Act No 89 of 1998; and



- ✓ The King Report on Corporate Governance for South Africa.

**CHAPTER 1**  
**IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY**

**5. Supply chain management policy**

- (1) All officials and other role players in the supply chain management system of the municipality must implement this Policy in a way that –
- (a) gives effect to –
    - (i) section 217 of the Constitution; and
    - (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 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;
  - (e) does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and
  - (f) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.
- (2) This Policy applies when the municipality–
- (a) procures goods or services;
  - (b) disposes goods no longer needed;
  - (c) selects contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies; or
- (3) 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; and
  - (b) electricity from Eskom or another public entity, another municipality or a municipal entity.



**6. Delegation of supply chain management powers and duties**

- (1) The council hereby delegates all powers and duties to the accounting officer which are necessary to enable the accounting officer –
  - (a) to discharge the supply chain management responsibilities conferred on accounting officers in terms of –
    - (i) Chapter 8 or 10 of the Act; and
    - (ii) this Policy;
  - (b) to maximise administrative and operational efficiency in the implementation of this Policy;
  - (c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favoritism and unfair and irregular practices in the implementation of this Policy; and
  - (d) to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.
- (2) Sections 79 and 106 of the Act apply to the subdelegation of powers and duties delegated to an accounting officer in terms of subparagraph (1).
- (3) The accounting officer may not subdelegate any supply chain management powers or duties to a person who is not an official of the municipality or to a committee which is not exclusively composed of officials of the municipality.
- (4) This paragraph may not be read 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 paragraph 26 of this Policy.



## 7. Sub delegations

- (1) The accounting officer may in terms of section 79 or 106 of the Act sub delegate any supply chain management powers and duties, including those delegated to the accounting officer in terms of this Policy, but any such sub-delegation must be consistent with subparagraph (2) of this paragraph and paragraph 4 of this Policy.

**Table 1: Specific Procurement Delegations**

| No | Scope  | Delegated Authority | Threshold Value | Conditions Applicable To Delegation  |
|----|--|---------------------|-----------------|--|
| 1. | Obtain Council Resolution for the approval of SCM Policy, SCM Delegations, Procedure Manual and Standard Operating Procedures for End Users. | AO                  | N/A             | <ul style="list-style-type: none"> <li>✓ Annual reviews of the SCM Policy, SCM Delegations, Procedure Manual and Standard Operating Procedures for End Users.</li> </ul>   |
| 2. | Appointment of BSC, BEC and BAC members.   | AO                  | N/A             | <ul style="list-style-type: none"> <li>✓ Members of the BSC, BEC and BAC must be appointed annually.</li> <li>✓ At least five (5) members must be appointed to each Bid Committee.</li> <li>✓ The Bid Committees must comprise suitably qualified and experienced members at least at <b>middle management level</b>.</li> <li>✓ Members with specialist expertise may be co-opted onto these Bid Committees.</li> <li>✓ No member may serve on both the BEC and the BAC.</li> </ul> |
| 3. | <b>Deviations from this delegated authority.</b>   | AO                  | Unlimited       | <ul style="list-style-type: none"> <li>✓ Any deviation from these delegations <b>MUST</b> be approved by the AO in writing.</li> </ul>   |

| No | Scope   | Delegated Authority | Threshold Value | Conditions Applicable To Delegation   |
|----|---|---------------------|-----------------|---|
|    | Detailed contract price adjustment. ie deviations and variations. |                     |                 | ✓ Any request for deviation <b>MUST</b> be accompanied by detailed motivation in terms of the legal prescripts. |

Table 2: Specific Procurement Threshold Values

| No | Scope   | Responsible Official  | Threshold Value | Conditions Applicable To Delegation   |
|----|---|---|-----------------|---|
| 1. | <b>Level 1:</b><br>Procurement for an estimated value up to R2 000 (including VAT) per case | Manager, subject to condition regarding Petty Cash funded purchases | R2 000          | <ul style="list-style-type: none"> <li>✓ PPPFA does not apply.</li> <li>✓ Authority to procure by means of petty cash vests with the Accounting Officer.</li> <li>✓ Re-imbursment of expenditure must be supported by actual invoice/ receipt/ cash sale slip from supplier up to R2 000.</li> <li>✓ For petty cash procurement between R501 and R2 000, 1 written quotations must be obtained and awarded to the cheapest supplier.</li> <li>✓ The total monetary value of petty cash purchases per month, per General Manager may not exceed R8000.</li> <li>✓ Suppliers not registered on the Institution's Suppliers Database may be considered.</li> <li>✓ Records and appropriate documents for each purchase must be submitted to the relevant General Manager with 48 hours of purchase.</li> </ul> |

| No | Scope   | Responsible Official | Threshold Value | Conditions Applicable To Delegation  |
|----|---|----------------------|-----------------|--|
| 2. | <p><b>Level 2</b><br/>Procurement for an estimated value of more than R2 000 up to R10 000 (including VAT) per case.</p>    | Manager              | R10 000         | <ul style="list-style-type: none"> <li>✓ Submission of monthly Petty Cash reconciliation reports to BTO from each General Manager must contain the total number and total value of petty cash purchases for that month.</li> <li>✓ Authority to procure may not be delegated to an official lower than a Manager.</li> <li>✓ At least three (3) written quotations must be obtained from suppliers registered on the Institution's Suppliers Database.</li> <li>✓ If only one or two suppliers are available, Preapproval by CFO must be obtained prior to the purchase order. Operations to ascertain that all suppliers on the Database has been invited to quote.</li> <li>✓ Awarded to the lowest acceptable quote.</li> </ul> |
| 3. | <p><b>Level 3:</b><br/>Procurement for an estimated value of more than R10 000 up to R30 000 (including VAT) per case.</p>  | General Manager      | R30 000         | <ul style="list-style-type: none"> <li>✓ Authority to procure may not be delegated to an official lower than a General Manager.</li> <li>✓ At least three (3) written quotations must be obtained from suppliers registered on the Institution's Suppliers Database.</li> <li>✓ Where there is less than (3) quotations the CFO must pre approve.</li> <li>✓ Awarded to the lowest acceptable quote.</li> <li>✓ PPPFA does not apply.</li> </ul>   |
| 4. | <p><b>Level 4:</b><br/>Procurement for an estimated value of more than R30 000 up to R200 000 (including VAT) per case.</p> | General Manager      | R200 000        | <ul style="list-style-type: none"> <li>✓ Authority to procure from R30 001 up to R200 000 may not be delegated to an official lower than a General Manager.</li> </ul>   |

| No | Scope  | Responsible Official | Threshold Value   | Conditions Applicable To Delegation   |
|----|--|----------------------|-------------------|---|
| 5. | Level 5:<br>Procurement for an estimated value of more than R200 000 (Including VAT) per case. | AO                   | Above R200 000.00 | <ul style="list-style-type: none"> <li>✓ Procurement above R30 000 must be advertised for a period of seven (7) days on the Municipal Notice Board and Website.</li> <li>✓ The successful Supplier/Service Provider is the one that scores the highest points for Price (80) and Preference Points (20) in terms of the PPPFA, provided that all minimum and functionality criteria have been met in terms of the approved specification.</li> <li>✓ PPPFA shall apply.</li> </ul>  |
|    |  |                      |                   | <ul style="list-style-type: none"> <li>✓ The Competitive Bidding process must be used for <b>ALL</b> bids.</li> <li>✓ Public Invitation of the Bid for 14 days, or 30 days if transaction value exceeds R10m.</li> <li>✗ Bids must be invited publicly in at least one local newspaper .</li> <li>✓ Bid Specifications must be approved by the BSC prior to advertising.</li> <li>✓ All bids are evaluated by the BEC and a report is submitted to the BAC recommending the successful bidder.</li> <li>✓ All bids are adjudicated by the BAC and a recommended award is submitted to the AO or his delegate for approval and award.</li> </ul> |

| No | Scope   | Responsible Official | Threshold Value | Conditions Applicable To Delegation   |
|----|---|----------------------|-----------------|---|
| 6. | <b>Exceptional And Emergency Cases</b><br>(in terms of section 34 of this policy) | AO                   | Unlimited       | <ul style="list-style-type: none"> <li>✓ Goods and/or services may be procured, by making use of suppliers registered on the Institution's Suppliers Database.</li> <li>✓ In these cases it is permissible to invite at least three verbal or written quotations (where practical). The relevant suppliers must confirm their offers in writing within 2 days of verbal quotations.</li> <li>✓ Where only one quotation is received and accepted, and taking the circumstances into account, all reasonable steps must be taken to ensure that a fair (market related) price is obtained.</li> <li>✓ The conditions contained in the General Conditions of Contract must be made applicable to the purchase.</li> <li>✓ The reasons for the urgency or emergency and the losses or consequences that will follow if action was not taken must be recorded and must serve as the basis for a written motivation as to why it is impractical to invite competitive bids.</li> <li>✓ Such written motivation must be approved by the Accounting Officer or his/her delegate.</li> <li>✓ The standard deviation form must be completed and approved by the AO or his delegate.</li> </ul> |

| No | Scope         | Responsible Official | Threshold Value | Conditions Applicable To Delegation   |
|----|---------------|----------------------|-----------------|---|
| 7. | Sole Supplier | AO                   | Unlimited       | <ul style="list-style-type: none"> <li>✓ Where a bid is invited from a sole agent or supplier, provision must be made in the bid documents for the inclusion of particulars in order to determine the reasonableness of the price(s).</li> <li>✓ All sole supplier bids shall be approved in writing by the Supply Chain Manager, or the Chief Financial Officer if the transaction value exceeds R100 000.</li> <li>✓ Original tax clearance certificates should be a pre-requisite for award.</li> <li>✓ Sole supplier bids may be accepted; provided it complies with the specification and that the prices are proved to be and are certified as fair and reasonable. Proof of reasonableness must be determined in the following sequence: <ul style="list-style-type: none"> <li>(i) Comparison with prices, after discounts, to other clients and the relative discount that the Municipality enjoys.</li> <li>(ii) Where this is not possible, profit before tax, based on a full statement of relevant costs.</li> <li>(iii) In all cases, comparison with previous bid prices where these are available.</li> <li>(iv) Proof of reasonableness of prices where only one bid is received, must be available for audit purposes.</li> </ul> </li> </ul> |



| No  | Scope  | Responsible Official | Threshold Value | Conditions Applicable To Delegation  |
|-----|--|----------------------|-----------------|--|
| 8.  | Variation Orders/ Contingencies/ Extensions to Contracts | AO                   | R20 Million     | <ul style="list-style-type: none"> <li>✓ Contracts may be expanded or varied by not more than 20% or R20 million (including all applicable taxes) for construction related goods, works and/or services and 15% or R15 million (including all applicable taxes) for all other goods and/or services of the original value of the contract, whichever is the lower amount.</li> <li>✓ All variations must be recommended by the relevant management prior to seeking the approval of the AO.</li> <li>✓ Extensions to any contracts on a month to month basis must not exceed a period of 6 months.</li> <li>✓ All variations must be reported to Council.</li> </ul> |
| 10. | Negotiations   | AO                   | Unlimited       | <ul style="list-style-type: none"> <li>✓ The AO may delegate a Negotiating Team as in when negotiating is required.</li> <li>✓ The negotiation in terms of price quotations must be conducted in a formal sitting with all nominated Suppliers/ Service Providers that have been invited for purposes of fairness and equality.</li> <li>✓ The Accounting Officer may</li> <li>✓ Where a bid is invited from a sole agent or supplier, negotiation may take place so as to obtain the best possible price and quality for the required goods and/or services.</li> </ul>   |

| No | Scope | Responsible Official | Threshold Value | Conditions Applicable To Delegation   |
|----|-------|----------------------|-----------------|---|
|    |       |                      |                 | <ul style="list-style-type: none"> <li>✓ Any discounts received conditionally as a result of negotiations must adhere to Regulation 11 of the Preferential Procurement Regulations.</li> <li>✓ Other acceptable means of negotiations with Suppliers/ Service Providers will include confirmation of specifications, deliverables, scope of work, implementation plans, project charters, catalogues, performance standards, packaging, delivery, warranties, guarantees, payment terms and milestones, penalties, responsibilities of the Institution and vendor, monitoring mechanisms, etc.</li> </ul> |

- (2) The power to make a final award:
- (a) above R10 million (VAT included) may not be sub delegated by the accounting officer;
  - (b) above R2 million (VAT included), but not exceeding R10 million (VAT included), may be sub delegated but only to –
    - (i) the chief financial officer;
    - (ii) a general manager; or
    - (iii) a bid adjudication committee of which the chief financial officer or a general manager is a member; or
  - (c) not exceeding R2 million (VAT included) may be sub delegated but only to:
    - (i) the chief financial officer;
    - (ii) a general manager;
    - (iii) a manager directly accountable to the chief financial officer or a general manager; or
    - (iv) a bid adjudication committee.
- (3) An official or bid adjudication committee to which the power to make final awards has been sub delegated in accordance with subparagraph (2) must within five days of the end of each month submit to the official referred to in subparagraph (4) 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; and
  - (c) the reason why the award was made to that person.
- (4) A written report referred to in subparagraph (3) must be submitted –
- (a) to the accounting officer, in the case of an award by –
    - (i) the chief financial officer;
    - (ii) a senior manager; or
    - (iii) a bid adjudication committee of which the chief financial officer or a senior manager is a member; or
  - (b) to the chief financial officer or the senior manager responsible for the relevant bid, in the case of an award by –
    - (i) a manager referred to in subparagraph (2)(c)(iii); or
    - (ii) a bid adjudication committee of which the chief financial officer or a senior manager is not a member.



- (5) Subparagraphs (3) and (4) of this policy do not apply to procurements out of petty cash.
- (6) This paragraph may not be interpreted as permitting an official to whom the power to make final awards has been sub delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 25 of this Policy.
- (7) No supply chain management decision-making powers may be delegated to an advisor or consultant.

#### **8. Oversight role of council**

- (1) The council reserves its right to maintain oversight over the implementation of this Policy.
- (2) For the purposes of such oversight the accounting officer must –
  - (i) within 30 days of the end of each financial year, submit a report on the implementation of this Policy and the supply chain management policy of any municipal entity under the sole or shared control of the municipality, to the council of the municipality; and
  - (ii) whenever there are serious and material problems in the implementation of this Policy, immediately submit a report to the council, who must then submit the report to the accounting officer of the parent municipality for submission to the council.
- (3) The accounting officer must, within 10 days of the end of each quarter, submit a report on the implementation of the supply chain management policy to the mayor.
- (4) The reports must be made public in accordance with section 21A of the Municipal Systems Act.

#### **9. Supply chain management unit**

- (1) A supply chain management unit is hereby established to implement this Policy.
- (2) The supply chain management unit operates under the direct supervision of the chief financial officer or an official to whom this duty has been delegated in terms of section 82 of the Act.



**10. Training of supply chain management officials**

- (1) The training of officials involved in implementing this Policy should be in accordance with any Treasury guidelines on supply chain management training.



**CHAPTER 2**  
**SUPPLY CHAIN MANAGEMENT SYSTEM**

**11. Format of supply chain management system**

This Policy provides systems for –

- (i) demand management;
- (ii) acquisition management;
- (iii) logistics management;
- (iv) disposal management;
- (v) risk management; and
- (vi) performance management.

***Part 1: Demand management***

**12. System of demand management**

- (1) The accounting officer must establish and implement an appropriate demand management system in order to ensure that the resources required by the municipality support its operational commitments and its strategic goals outlined in the Integrated Development Plan.
- (2) The demand management system must –
  - (a) include timely planning and management processes to ensure that all goods and services required by the municipality are quantified, budgeted for and timely and effectively delivered at the right locations and at the critical delivery dates, and are of the appropriate quality and quantity at a fair cost;
  - (b) take into account any benefits of economies of scale that may be derived in the case of acquisitions of a repetitive nature; and
  - (c) provide for the compilation of the required specifications to ensure that its needs are met.
  - (d) to undertake appropriate industry analysis and research to ensure that innovations and technological benefits are maximized.
- (3) Before each financial year commences end departments must submit procurement plans for the forth coming year to the SCM unit. The procurement plan must include:
  - (l) quantity of goods including monthly requirement;



- (m) estimated prices; and
- (n) expected purchase date
- (o) proposed procurement method

## **Part 2: Acquisition management**

### **13. System of acquisition management**

- (1) The accounting officer must implement the system of acquisition management set out in this Part in order to ensure –
- (a) that goods and services are procured by the municipality 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 bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation;
- and
- (e) that any Treasury guidelines on acquisition management are properly taken into account.
- (2) When procuring goods or services contemplated in section 110(2) of the Act, the accounting officer must make public the fact that such goods or services are procured otherwise than through the municipality's supply chain management system, including -
- (a) the kind of goods or services; and
  - (b) the name of the supplier.

### **14. Range of procurement processes**

- (1) Goods and services may only be procured by way of –
- (a) petty cash purchases, up to a transaction value of R2 000 (VAT included);
  - (b) formal written price quotations for procurements of a transaction value over R2 000 up to R200 000 (VAT included); and
  - (c) a competitive bidding process for–
    - (i) procurements above a transaction value of R200 000 (VAT included); and



- (ii) the procurement of long term contracts.
- (2) Goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of the policy. 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.

**15. General preconditions for consideration of written quotations or bids**

A written quotation or bid may not be considered unless the provider who submitted the quotation or bid:

- (a) has furnished that provider's:
  - (i) full name;
  - (ii) identification number or company or other registration number; and
  - (iii) tax reference number and VAT registration number, if any;
- (b) has authorized the municipality to obtain a tax clearance from the South African Revenue Services that the provider's tax matters are in order; and
- (c) has indicated:
  - (i) whether he or she 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 stakeholder is in the service of the state, or has been in the service of the state in the previous twelve months; or
  - (iii) whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in subparagraph (ii) is in the service of the state, or has been in the service of the state in the previous twelve months.

**16. Lists of accredited prospective providers**

- (1) The accounting officer must:
- (a) keep a list of accredited prospective providers of goods and services that must be used for the procurement requirements through formal written price quotations; and
  - (b) at least once a year through newspapers commonly circulating locally, the website and any other appropriate ways, invite prospective providers of goods or services to apply for evaluation and listing as accredited prospective providers;
  - (c) specify the listing criteria for accredited prospective providers; and



- (d) disallow the listing of any prospective provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector.
- (2) The list must be updated at least monthly to include any additional prospective providers and any new commodities or types of services. Prospective providers must be allowed to submit applications for listing at any time.
- (3) The list must be compiled per commodity and per type of service.

**Registration on National Treasury Central Supplier Database (CSD)**

Prospective supplier of goods and services will be required to register on the National Treasury Central Database to assist in performing validation functions of key supplier information. With effect from 01 July 2016, Municipalities and Municipal Entities must use the CSD supplier number starting with MAAA which is auto generated by the Central Supplier Database System after successful registration and validation of prospective provider as mandatory requirement as part of listing criteria for accrediting prospective provider in line with Section 14(1) (b) of the Municipal Supply Chain Management Regulations.

The CSD will automatically validate the following registration documents for Municipalities;

- Confirmation and status of Business Registration Documents ;
- Proof of bank account registration;
- Tax compliance status;
- Employee in the service of the state as defined in the Municipal SCM Regulations with information only available in the CAAT system at this time;
- Identity documentation; and
- Tender defaulters and restrictions status;

The following aspects are work-in-progress and further information will be provided once systems have been upgraded after consultation with relevant stakeholders, they are not yet available, the municipality is required to continue with their existing process :

- BBBEE Status
- CIDB
- Municipal Account status.

The municipality will continue with verification of other listing criteria which are not currently validated by CSD.



## **17. Petty cash purchases**

Refer to Table 2: Specific Procurement Threshold Values under paragraph 5, Sub delegations, for provisions relating to petty cash purchases.

## **18. Formal written price quotations**

- (1) The conditions for the procurement of goods or services through formal written price quotations are as follows:
  - (a) quotations must be obtained in writing from at least three different providers whose names appear on the list of accredited prospective providers of the municipality;
  - (b) quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria set out in paragraph 15 of this Policy;
  - (c) if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the Chief financial Officer if the transaction value exceeds R2000, and
  - (d) the procurement system must make provision for recording the names of the potential providers and their written quotations.
  
- (2) A designated official referred to in subparagraph (1) (c) must within three days of the end of each month report to the chief financial officer on any approvals given during that month by that official in terms of that subparagraph.

## **19. Procedures for procuring goods or services through formal written price quotations**

- (1) The accounting officer should appoint quotation committees as indicated below:
  - a) Mini Tender Evaluation Committee; and

### **(2) Appointment of Mini Tender Evaluation Committee**

The Accounting Officer must appoint members of the Mini Tender Evaluation Committee in writing. The term of office of the Mini Tender Evaluation Committee should be for the financial year.



(3) **Composition of Mini Tender Evaluation Committee**

- a) The committee shall comprise of at least 4 officials from the Municipality and the procurement clerk responsible must be invited.
- b) The composition should be as follows:
  - (i) Chairperson – SCM Manager
  - (ii) Member – Grants and Expenditure Manager
  - (iii) Member – Budget Manager
  - (iv) Member - Procurement Coordinator

(4) **Functions of the Mini Tender Evaluation Committee**

This committee is responsible for the award of quotations received, which includes:

- a) Verification of administrative compliance of the quotation documents.
- b) If less than three quotations were obtained that would require the CFO to pre approve before the process continues.
- c) Evaluation of quotations in accordance with the criteria specified in the invitation to quote documents (specification) and the PPPFA Regulations. Ensures that the evaluation was done in a fair and transparent manner;
- d) Detect and manage the splitting of orders; and
- e) Recording of minutes of the award and sign-off thereof by each member.

(5) **Decisions**

- a) Members are obliged to reveal to the Committee any information that may affect the decision made or to be made by the Committee.
- b) Decisions will be determined by the adjudication criteria. In the event where two or more quotations have scored equal total points, the successful quotation must be the one scoring the highest number of preference points for specified goals. Should two or more quotations still be equal in all respect, the award shall be decided by the drawing of lots.

**Criteria for breaking deadlock in scoring**

- (i) If two or more tenderers score an equal total number of points, the contract must be awarded to the tenderer that scored the highest points for B-BBEE.
- (ii) 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.
- (iii) If two or more tenderers score equal total points in all respect, the award must be decided by



th+++9drawing of lot

Confidentiality of information and documentation must be maintained. All documents/memoranda must remain on the table during the Mini Tender Evaluation Committee meetings, unless the Chairperson grants permission to members to keep certain documents.

**(10) Participation of advisors**

The accounting officer may procure the services of advisors to assist in the execution of the supply chain management function. These services should be obtained through competitive bidding process. No advisor may, however, form part of the final decision making process regarding the award of quotations, as this will counter the principle of vesting accountability with the accounting officer. The accounting officer cannot delegate decision-making authority to a person other than a public service official.

**(11) General**

- a) In performing their functions, the Committee should be guided by all the applicable SCM, Procurement Legislations, Policies and Directives
- b) No lobbying in Mini Tender Evaluation Committees or from interested outside parties is allowed.
- c) Any allegations against members must be in writing, substantiated and channeled through the procedure as determined by the accounting officer as prescribed in the Municipality SCM System.
- d) No press release should be made without the approval of the accounting officer.
- e) All the proceedings shall be recorded manually and decisions must be minuted.

**20. Competitive bids**

- (1) Goods or services above a transaction value of R200 000 (VAT included) and long term contracts may only be procured through a competitive bidding process, subject to paragraph 11(2) of this Policy.
- (2) No requirement for goods or services above an estimated transaction value of R200 000 (VAT included), may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.

**21. Process for competitive bidding**



The procedures for the following stages of a competitive bidding process are as follows:

- (a) Compilation of bidding documentation as detailed in paragraph 20;
- (b) Public invitation of bids as detailed in paragraph 21;
- (c) Site meetings or briefing sessions as detailed in paragraph 21;
- (d) Handling of bids submitted in response to public invitation as detailed in paragraph 22;
- (e) Evaluation of bids as detailed in paragraph 27;
- (f) Award of contracts as detailed in paragraph 28;
- (g) Administration of contracts
- (i) After approval of a bid, the accounting officer and the bidder must enter into a written agreement.
- (h) Proper record keeping
- (i) Original / legal copies of written contracts agreements should be kept in a secure place for reference purposes.

## **22. Bid documentation for competitive bids**

The criteria to which bid documentation for a competitive bidding process must comply, must:

- (a) take into account –
  - (i) the general conditions of contract and any special conditions of contract, if specified;
  - (ii) any Treasury guidelines on bid documentation; and
  - (iii) the requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;
- (b) include the preference points system to be used , goals as contemplated in the Preferential Procurement Regulations and evaluation and adjudication criteria, including any criteria required by other applicable legislation;
- (c) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;
- (d) if the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish–
  - (i) if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements –
    - for the past three years; or
    - since their establishment if established during the past three years;
  - (ii) 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 30 days;



- (iii) 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;
- (iv) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality or municipal entity is expected to be transferred out of the Republic; and
- (e) stipulate 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.

### **23. Public invitation for competitive bids**

- (1) The procedure for the invitation of competitive bids, is as follows:
  - (a) Any invitation to prospective providers to submit bids must be by means of a public advertisement in newspapers commonly circulating locally, the website of the municipality or any other appropriate ways (which may include an advertisement in the Government Tender Bulletin); and
  - (b) the information contained in a public advertisement, must include –
    - (i) the closure date for the submission of bids, which may not be less than 30 days in the case of transactions over R10 million (VAT included), or which are of a long term nature, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to subparagraph (2) of this policy;
    - (ii) a statement that bids may only be submitted on the bid documentation provided by the municipality; and
    - (iii) a date, time and venue of any proposed site meetings or briefing sessions.
    - (iv) Here bids will be evaluated on Functionality, the criteria and individual weightings per criterion should be advertised as well as the minimum qualifying score.
- (2) The accounting officer may determine a closure date for the submission of bids which is less than the 30 or 14 days requirement, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process.
- (3) Bids submitted must be sealed.



## **24. Procedure for handling, opening and recording of bids**

The procedures for the handling, opening and recording of bids, are as follows:

- (a) Bids:
  - (i) must be opened only in public;
  - (ii) must be opened at the same time and as soon as possible after the period for the submission of bids has expired; and
  - (iii) received after the closing time should not be considered and returned unopened immediately.
- (a) Any bidder or member of the public has 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;
- (b) No information, except the provisions in subparagraph (b), relating to the bid should be disclosed to bidders or other persons until the successful bidder is notified of the award; and
- (d) The accounting officer must:
  - (i) record in a register all bids received in time;
  - (ii) make the register available for public inspection; and
  - (iii) publish the entries in the register and the bid results on the website.

## **25. Negotiations with preferred bidders**

- (1) The accounting officer may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, 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; and
  - (c) does not lead to a higher price than the bid as submitted.
- (2) Minutes of such negotiations must be kept for record purposes.

## **26. Two-stage bidding process**

- (1) A two-stage bidding process is allowed for –
  - (a) large complex projects;
  - (b) projects where it may be undesirable to prepare complete detailed technical specifications; or



- (c) long term projects with a duration period exceeding three years.
- (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.
- (3) In the second stage final technical proposals and priced bids should be invited.

## **27. Committee system for competitive bids**

- (1) A committee system for competitive bids is hereby established, consisting of the following committees for each procurement or cluster of procurements as the accounting officer may determine:
  - (a) a bid specification committee;
  - (b) a bid evaluation committee; and
  - (c) a bid adjudication committee.
- (2) The Accounting Officer appoints the members of each committee, taking into account section 117 of the Act. A neutral or independent observer may be appointed by the Accounting Officer and must attend or oversee a committee when this is appropriate for ensuring fairness and promoting transparency.
- (3) The committee must be consistent with:
  - a) Paragraphs 27 (5), 27 (6) and 27 (7) of this policy; and
  - b) Any other applicable legislation.
- (4) The Accounting Officer may apply the committee system to formal written price quotations.
- (5) **Bid Specification Committee**
  - a) **Appointment of bid specification committee**
    - (i) The accounting officer must appoint members of the bid specification committee in line with the financial year of the Municipality, in writing.
  - b) **Composition of bid specification committee**



- (ii) The committee shall comprise of at least 5 officials from the municipality and may when appropriate, invite an external technical expert.
- (iii) The composition should be as follows:
  - ✓ Chairperson – equivalent grading to Manager and above from the Water Services Directorate - (Permanent member);
  - ✓ Vice Chairperson - equivalent grading to Manager and above - (Permanent member);
  - ✓ Member - equivalent grading to Manager (Permanent member);
  - ✓ Member - Municipal Official (Permanent member); and
  - ✓ An official responsible for demand management (Permanent member).
- c) Functions of the Specification Committee:
  - (i) It is the responsibility of the committee to compile specifications/ terms of reference for each bid/ quotation for the procurement of goods or services by the municipality and to ensure:
    - ✓ that a proper and unbiased specification is compiled for the specific requirement;
    - ✓ that proper terms of reference is drawn up for the service required clearly indicating the scope of the requirement, the ratio between price and functionality, the evaluation criteria as well as their weights and values;
    - ✓ that strategic sourcing is applied and that the market is properly researched and analyzed;
    - ✓ that the necessary funds are available;
    - ✓ that, in addition to the general conditions of contract, appropriate special conditions of contract are specified, if applicable;
    - ✓ that in terms of the PPPFA, the correct preference point system is prescribed and that appropriate goals are identified and points allocated for these goals.

**(6) Bid evaluation committee**

**a) Appointment of bid evaluation committee**

- (i) The accounting officer must appoint members of the bid evaluation committee in line with the financial year of the Municipality, in writing.
- (ii) Members should declare interest in the bid under consideration up front and such member must automatically recuse himself / herself from participating in the evaluation process.
- (ii) Members should sign oath of secrecy forms up-front.

**b) Composition of Bid Evaluation Committee**

- (i) The committee must in so far as it may be possible, be cross functional.
- (ii) The committee should comprise of at least 5 (five) officials from the Municipality.
- (iii) The following officials should serve in the Bid Evaluation Committee;
  - ✓ Chairperson – equivalent grading to GM and above - (Permanent member);



- ✓ Vice Chairperson - equivalent grading to GM and above - (Permanent member);
- ✓ Legal Services Practitioner (advisory capacity);
- ✓ Two other Municipal Officials (Permanent members);
- ✓ SCM Practitioner (Permanent Member); and
- ✓ The Accounting Officer may appoint an external technical expert to serve in the committee for that specific bid in an advisory capacity only and not as a member.

**c) Functions of the Bid Evaluation Committee**

- (i) This committee is responsible for the evaluation of bids received, which includes:
- ✓ Verification of administrative compliance of the bid documents.
  - ✓ Evaluation of bids in accordance with the criteria specified in the bid documents (specification) and the PPPFA Regulations.
  - ✓ Evaluation of each bidder's technical and functional ability to execute the contract.
  - ✓ Verification of NIPP requirements if the contract is in excess of ten million rand (R10m); and
  - ✓ Submission of evaluation report and recommendation(s) regarding the award of the bid to the Adjudication Committee.

**(7) Bid Adjudication Committee**

**a) Appointment of Bid Adjudication Committee**

- (i) The Accounting Officer must constitute one Municipality bid adjudication committee.
- (ii) The bid adjudication committee is appointed in writing by the Accounting Officer.
- (iii) Members of the adjudication committee cannot be appointed as members of an evaluation committee.
- (iv) The Accounting Officer shall determine the term of office for members although the tenure may not exceed two (2) years.
- (v) The period of tenure may be renewed if the Accounting Officer deems it necessary.
- (vi) All members as well as the secretary of bid adjudication committee should be cleared at the level of "Confidential" by the accounting officer and should be required to declare their financial interest annually.
- (vii) Committee members should be required to sign the code of conduct upon their appointment.
- (viii) Members may be removed by the Accounting Officer/Accounting Authority if a member's conduct violates the principles of the committee's purpose/mandate or code of conduct.



- (ix) The Accounting Officer/Authority may at any given time replace person for management reasons.
- (x) The functions of BAC should form part of member's performance agreements.

**b) Composition of the Bid Adjudication Committee**

- (i) The committee must consist of at least five (5) senior officials constituted as follows:
  - ✓ CFO, as the chairperson of the committee (where possible);
  - ✓ Deputy Chairperson: an official at least at a general management level;
  - ✓ Two other Municipal Officials (Permanent members); and
  - ✓ Head of the SCM Unit is (Permanent member);
- (ii) For the purposes of continuity and not to delay meetings, the AO may also appoint a "secundus" to temporarily replace a member who is absent from meetings due to illness or leave. The AO shall also decide whether or not such "secundus" will have the same powers as members.
- (iii) No external people should serve permanently on the adjudication Committee.

**c) Functions of the Bid Adjudication Committee**

- (i) Consider the reports and recommendations made by the bid evaluation committee.
- (ii) Depending on the delegations granted by the accounting officer/authority the adjudication committee could make the final award of the bid, or make a recommendation to the accounting officer to make the final award.
- (iii) Recommend to the Accounting Officer/Authority the extensions of contracts and deviations if reasonable and justifiable grounds exist.
- (iv) In performing their functions: -
  - ✓ Committee members should be guided by all the applicable SCM, procurement legislations, policies and directives.
  - ✓ Members must declare interest in any specific bid/point on the agenda upfront and such member must automatically recuse him/herself from participating in discussions unless the committee decides otherwise.
  - ✓ If a bid adjudication committee decides to award a bid to a bidder other than the one recommended by the Evaluation Committee, the Bid adjudication committee must consult with the Accounting Officer before a final decision is taken.
  - ✓ Accounting Officer /Authority may confirm or vary a recommendation by an Adjudication Committee. In cases where he/she varies with the BAC recommendations reasons should be furnished in writing and reported to the Provincial Treasury within a prescribed period



of seven (7) days.

- ✓ Furthermore, AO may refer back in writing any recommendation of the bid Adjudication Committee to be reworked if there are any material flaws.

- d) Bid adjudication committee must ensure that:
  - (i) scoring has been fairly, consistently and correctly calculated and applied;
  - (ii) disqualifications are justified;
  - (iii) all declarations of interest have been captured;
  - (iv) all necessary bid documents have been submitted; and
  - (v) that valid and accountable reasons/ motivations were furnished for passing over of bids.
- e) The bid adjudication committee must consider and rule on all recommendations/ reports regarding the amendment, variation, extension, cancellation or transfer of contracts awarded.
- f) In order to meet their obligations, committee members must be familiar with and adhere to all relevant legislation, the SCM policy, SCM Guide to Accounting Officers and SCM Practice Notes.
- g) The highest level of professional competence must be maintained. Furthermore, courteous conduct is expected of all committee members
- h) A declaration form where all members of the committee present at the meeting as well as all officials rendering administrative support during the meeting must be signed to declare that they:
  - (i) accept the confidentiality of the contents of the meeting;
  - (ii) will not make known anything regarding the meeting, unless officially authorized; and
  - (iii) will not purposefully favour or prejudice anybody.
- i) The BAC shall submit a monthly report to the Accounting Officer on all awards made for that month as well as other issues it wishes to bring to the attention of the Accounting Officer.

**(8) Role of the secretariat**

- a) Executes procurement support function for the municipality and a secretariat function for the bid adjudication committee.
- b) The Head of the SCM Unit is an EX-Officio member of the committee without voting powers. He/she serves in an advisory capacity.
- c) Convenes BAC meetings and prepares an agenda for each meeting.
- d) Ensures that all submissions and reports are of good quality and well presented to the committee.
- e) Ensures that the evaluation process is done in a fair and transparent manner.
- f) Ensures that the agenda is dispatched on time.
- g) Takes minutes of all the meetings.



- h) Ensures that proceedings are recorded electronically.
- i) Keeps the attendance register.
- j) Keeps a register of all approved submissions, disapproved, deferred and withheld as well as deviations condoned.
- k) Ensures that the chairperson signs all adopted minutes.
- l) Files all the minutes / documents that served before the committee.

(9) **General**

- a) In performing their functions, the Committee should be guided by all the applicable SCM, Procurement Legislations, Policies and Directives
- b) No lobbying in Bid Committees or from interested outside parties is allowed.
- c) Any allegations against members must be in writing, substantiated and channeled through the procedure as determined by the accounting officer.
- d) No press release should be made without the approval of the accounting officer.
- e) All the proceedings shall be recorded electronically and decisions must be minuted.

**28. Procurement of banking services**

- (1) A contract for banking services –
  - (a) must be procured through competitive bids;
  - (b) must be consistent with section 7 or 85 of the Act; and
  - (c) may not be for a period of more than five years at a time.
- (2) The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.
- (3) The closure date for the submission of bids may not be less than 60 days from the date on which the advertisement is placed in a newspaper in terms of paragraph 22(1). Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).



**29. Procurement of IT related goods or services**

- (1) The municipality shall abide by the provisions of this SCM policy and SITA provisions in the procurement of IT related goods and services.

**30. Procurement of goods and services under contracts secured by other organs of state**

- (1) The accounting officer may procure goods or services 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) there is no reason to believe that such contract was not validly procured;
  - (c) there are demonstrable discounts or benefits to do so; and
  - (d) that other organ of state and the provider have consented to such procurement in writing.
- (2) Subparagraphs (1)(c) and (d) do not apply if –
- (a) a municipality procures goods or services through a contract secured by a municipal entity of which it is the parent municipality.

**31. Procurement of goods necessitating special safety arrangements**

- (1) The acquisition and storage of goods in bulk (other than water), which necessitate special safety arrangements, including gasses and fuel, should be avoided where ever possible.
- (2) Where the storage of goods in bulk is justified, such justification must be based on sound reasons, including the total cost of ownership, cost advantages and environmental impact and must be approved by the accounting officer.

**32. Proudly SA Campaign**

The municipality supports the Proudly SA Campaign to the extent that, all things being equal, preference is given to procuring local goods and services from-



- Firstly – suppliers and businesses within the municipality or district;
- Secondly – suppliers and businesses within the relevant province;
- Thirdly – suppliers and businesses within the Republic.

### **33. Appointment of consultants**

- (1) The accounting officer may procure consulting services provided that any Treasury guidelines in respect of consulting services are taken into account when such procurements are made.
- (2) Consultancy services 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.
- (3) In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish particulars of –
  - (a) all consultancy services provided to an organ of state in the last five years; and
  - (b) any similar consultancy services provided to an organ of state in the last five years.
- (4) The accounting officer must ensure that copyright in any document 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 the municipality.

### **34. Deviation from, and ratification of minor breaches of, procurement processes**

- (1) The accounting officer may –
  - (a) dispense with the official procurement processes established by this 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 and/or nature and game reserves; or



- (v) in any other exceptional case where it is impractical or impossible to follow the official procurement processes.
  - (b) 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.
- (2) The accounting officer must record the reasons for any deviations in terms of subparagraphs (1)(a) and (b) of this policy and report them to the next meeting of the council and include as a note to the annual financial statements.
- (3) Subparagraph (2) does not apply to the procurement of goods and services contemplated in paragraph 13(2) of this policy.

### **35. Unsolicited bids**

- (1) In accordance with section 113 of the Act there is no obligation to consider unsolicited bids received outside a normal bidding process.
- (2) The accounting officer may decide in terms of section 113(2) of the Act to consider an unsolicited bid, 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;
  - (c) the person who made the bid is the sole provider of the product or service; and
  - (d) the reasons for not going through the normal bidding processes are found to be sound by the accounting officer.
- (3) If the accounting officer decides to consider an unsolicited bid that complies with subparagraph (2) of this policy, the decision must be made public in accordance with section 21A of the Municipal Systems Act, together with –
  - (a) reasons as to why the bid should not be open to other competitors;
  - (b) an explanation of the potential benefits if the unsolicited bid were accepted; and
  - (c) an invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.



- (4) The accounting officer must submit all written comments received pursuant to subparagraph (3), including any responses from the unsolicited bidder, to the National Treasury and the relevant provincial treasury for comment.
- (5) The adjudication committee must consider the unsolicited bid and may award the bid or make a recommendation to the accounting officer, depending on its delegations.
- (6) A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.
- (7) When considering the matter, the adjudication committee must take into account –
  - (a) any comments submitted by the public; and
  - (b) any written comments and recommendations of the National Treasury or the relevant provincial treasury.
- (8) If any recommendations of the National Treasury or provincial treasury are rejected or not followed, the accounting officer must submit to the Auditor General, the relevant provincial treasury and the National Treasury the reasons for rejecting or not following those recommendations.
- (9) Such submission must be made within seven days after the decision on the award of the unsolicited bid is taken, but no contract committing the municipality to the bid may be entered into or signed within 30 days of the submission.

### **36. Combating of abuse of supply chain management system**

- (1) The accounting officer must–
  - (a) take all reasonable steps to prevent abuse of the supply chain management system;
  - (b) investigate any allegations against an official or other role player of fraud, corruption, favoritism, unfair or irregular practices or failure to comply with this Policy, and when justified –
    - (i) take appropriate steps against such official or other role player; or
    - (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 the municipality, or to any other municipality or municipal entity, are in arrears for more than three months; or
- (ii) who during the last five years has failed to perform satisfactorily on a previous contract with the municipality 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; or
  - (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; and
- (g) reject the bid of any bidder if that bidder or any of its directors –
  - (i) has abused the supply chain management system of the municipality or has committed any improper conduct in relation to such system;
  - (ii) has been convicted for fraud or corruption during the past five years;
  - (iii) has willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
  - (iv) has been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).
- (2) The accounting officer must inform the National Treasury and relevant provincial treasury in writing of any actions taken in terms of subparagraphs (1)(b)(ii), (e) or (f) of this policy.

### **37. Prohibition on awards to persons whose tax matters are not in order**

The Accounting Officer must ensure that, irrespective of the procurement process followed, no award above R15 000 (VAT Included) is given to a person whose tax matters have not been declared by SARS to be in order.

Before making an award to a provider or bidder, a tax clearance certificate from SARS or Tax Compliance PIN must first be provided and be verified on the SARS website by the municipality.

### **37. Preferential Procurement Implementation Guidelines**

The Ugu District Municipality is committed to contributing to social and economic transformation in KwaZulu-Natal and will actively pursue the following targeted procurement strategy to advance government's pledge to address poverty, unemployment and job creation.



These guidelines are to be read in conjunction with MFMA Circular number 69 and is intended to assist the Accounting Officer with the implementation of the Preferential Procurement Regulations, 2011 issued in terms of section 5 of the Preferential Procurement Policy Framework Act, Act Number 5 of 2000 (PPPFA).

These guidelines should also be read and utilized in conjunction with other relevant SCM related prescripts, instructions, circulars and guidelines.

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- (1) The Ugu District Municipality has committed itself to the following key priorities with respect to all procurement dealings:
  - (i) Providing second economy opportunities through Black Economic Empowerment;
  - (ii) Increased usage of local resources and emerging contractors;
  - (iii) Promoting growth and ensuring sustainable SMME's;
  - (iv) Contributing to socio-economic transformation;
  - (v) Creation of opportunities for job creation and poverty alleviation;
  - (vi) Commitment to skills development and transfer; and
  - (vii) Fast tracking service delivery.
  
- (2) Our objectives are as follows:
  - (i) The policy is simple so that it can be understood by everyone and easy to apply;
  - (ii) It meets all the legal requirements including provisions of the Constitution to avoid or minimize any possible legal challenges;
  - (iii) The policy is as flexible as possible to allow creativity in the implementation of targeted procurement;
  - (iv) It sets targets to be achieved so that performance can be measured through reliable monitoring mechanisms; and
  - (v) The policy is all encompassing in that it covers everything that is procured and/ or disposed of by the Municipality and embraces all its citizens.
  
- (3) The intended outcomes of these guidelines are to ensure:
  - (i) Preference for employment equity and economic empowerment;
  - (ii) The inclusion of priority groups that have not benefited from the implementation of the current policy;
  - (iii) To have a significant contribution towards job creation, poverty alleviation and economic growth; and



- (iv) To ensure that the Ugu District Municipality impacts significantly on improving the quality of life of the majority of KwaZulu-Natal citizens/beneficiaries, by optimising employment and economic empowerment in all its dealings, resulting in the annual procurement spend reflecting KwaZulu-Natal demographics.

(4) Preference points system:

**80/20 preference point system for acquisition of goods or services for Rand Value equal to or above R30 000 and up to R50 million inclusive of all applicable taxes.**

- A tenderer may not be awarded points for B-BBEE status level of contributor if the tender documents indicates that the tenderer intends subcontracting more than 25% of the value of the contract to any other person not qualifying for at least the points that the tenderer qualifies for, unless the intended subcontractor is an EME that has the capability to execute the subcontract.
- If the price quoted by the tenderer scoring the highest points is not market related , the organ of the state may not award the contract to that tenderer.
- The organ of the state may negotiate a market related price with the tenderer scoring the highest points or cancel the tender;
- If the tenderer does not agree to the market related price, negotiate the market related price with the second highest points or cancel the tender;
- If the tenderer scoring the second highest points does not agree with to a market related price, negotiate a market related price with the tenderer scoring the third highest points or cancel the tender;
- If a market related price is not agreed as envisaged in the above paragraphs organ of the state must cancel the tender.

**90/10 preference point system for acquisition of goods or services for Rand Value above R50 million inclusive of all applicable taxes.**

- A tenderer may not be awarded points for B-BBEE status level of contributor if the tender documents indicates that the tenderer intends subcontracting more than 25% of the value of the contract to any other person not qualifying for at least the points that the tenderer qualifies for, unless the intended subcontractor is an EME that has the capability to execute the subcontract;
- If the price quoted by the tenderer scoring the highest points is not market related , the organ of the state may not award the contract to that tenderer;
- The organ of the state may negotiate a market related price with the tenderer scoring the highest points or cancel the tender;
- If the tenderer does not agree to the market related price, negotiate the market related price with the second highest points or cancel the tender;



- If the tenderer scoring the second highest points does not agree with to a market related price, negotiate a market related price with the tenderer scoring the third highest points or cancel the tender;
- If a market related price is not agreed as envisaged in the above paragraphs organ of the state must cancel the tender.

(5) Broad-Based Black Economic Empowerment (B-BBEE) Status Level Certificates

- (i) Bidders are required to submit original and valid B-BBEE Status Level Verification Certificates or certified copies thereof together with their bids, to substantiate their B-BBEE rating claims.
- (ii) Bidders who do not submit B-BBEE Status Level Verification Certificates or are non-compliant contributors to B-BBEE do not qualify for preference points for B-BBEE but should not be disqualified from the bidding process. They will score points out of 90 or 80 for price only and zero (0) points out of 10 or 20 for B-BBEE.
- (iii) A trust, consortium or joint venture must submit a consolidated B-BBEE Status Level Verification Certificate for every separate bid.
- (iv) Public entities and tertiary institutions must also submit B-BBEE Status Level Verification Certificates together with their bids.
- (v) If the Municipality is already in possession of a valid and original or certified copy of a bidder's B-BBEE Status Level Verification Certificate that was obtained for the purpose of establishing the database of possible suppliers for price quotations or that was submitted together with another bid, it is not necessary to obtain a new B-BBEE Status Level Verification Certificate each time a bid is submitted from the specific bidder. Such a certificate may be used to substantiate B-BBEE rating claims provided that the closing date of the bid falls within the expiry date of the certificate that is in the Municipality's possession.
- (vi) Each time this provision is applied, cross-reference must be made to the B-BBEE Status Level Verification Certificate already in possession for audit purposes.
- (vii) The Accounting Officer must ensure that the B-BBEE Status Level Verification Certificates submitted are issued by the following agencies:
  - ✓ Bidders other than EMEs
    - Verification agencies accredited by SANAS; or
    - Registered auditors approved by IRBA.
  - ✓ Bidders who qualify as Exempted Micro Enterprises
    - Accounting officers as contemplated in the Close Corporations Act, Act No. 69 of 1984; or
    - Verification agencies accredited by SANAS; or
    - Registered auditors. (Registered auditors do not need to meet the prerequisite for



IRBA's approval for the purpose of conducting verification and issuing EMEs with B-BBEE Status Level Certificates)

(6) Planning, Stipulation of Preference Point System to be utilised and the Determination of Designated Sectors

Prior to the invitation of bids, the Accounting Officer is required to:

- (i) Properly plan for the provision of services, works or goods in order to ensure that the resources that are required to fulfil the needs identified in the strategic plan of the Municipality are delivered at the correct time, price, place and that the quantity and quality will satisfy those needs.
- (ii) As far as possible, accurately estimate the costs for the provision of the required services, works or goods. This is in order to determine and stipulate the appropriate preference point system to be utilised in the evaluation and adjudication of the bids and to ensure that the prices paid for the services, works and goods are market related.
- (iii) Estimated costs can be determined by conducting an industry and commodity analysis whereby prospective suppliers may be approached to obtain indicative market related prices that may be utilised for benchmarking purposes. Based on the findings, the relevant preference point system (80/20 or 90/10) to be utilised for the evaluation of the bid must be stipulated in the bid documents.
- (iv) Determine whether the services, works and/or goods for which an invitation is to be made, has been designated for local production and content in terms of Regulation 9 of the Preferential Procurement Regulations. This will entail the inclusion of a specific condition in the bid documents that only locally produced services, works or goods or locally manufactured goods with a stipulated minimum threshold for local production and content will be considered. This will subsequently have a direct impact on the evaluation of the bid.

**Pre-qualification Criteria For Preferential Procurement**

- (i) If an organ of state decides to apply pre-qualifying criteria to advance certain designated groups, that organ of state must advertise the tender with a specific tendering condition that only one or more of the following tenderers may respond.
- (ii) A tenderer having a stipulated minimum B-BBEE status level of contributor;
- (iii) An Exempted Micro Enterprise (EME) or Qualifying Small Business (QSE)
- (iv) A tenderer subcontracting a minimum of 30% to EME or QSE which is at least 51% owned by black people who are youth or women or people with disabilities or black people who are living in rural or underdeveloped areas or townships.
- (v) A tenderer subcontracting a minimum of 30% to cooperatives which is at least 51% owned by black people who are military veterans;



- (vi) A tender that fails to meet any pre-qualifying criteria stipulated in the tender documents is an unacceptable tender.

**(7) Bids Based On Functionality as a Criterion**

- (i) In general, not all bids should be invited on the basis of functionality as a criterion. The need to invite bids on the basis of functionality as a criterion depends on the nature of the required commodity or service taking into account quality, reliability, viability and durability of a service and the bidder's technical capacity and ability to execute a contract.
- (ii) When the Municipality invites a bid that will also be evaluated on the basis of functionality as a criterion, the Accounting Officer of his/her delegate must clearly specify the following aspects in the bid documents:
- ✓ Evaluation criteria for measuring functionality.
  - ✓ The evaluation criteria may include criteria such as the bidder's relevant experience for the assignment, the quality of the methodology; the qualifications of key personnel; transfer of knowledge, etc.
  - ✓ Weight of each criterion.
  - ✓ The weight that is allocated to each criterion should not be generic but should be determined separately for each bid on a case by case basis.
  - ✓ Applicable value.
  - ✓ The applicable values that will be utilised when scoring each criterion should be objective. As a guide, values ranging from 1 being poor, 2 being average, 3 being good, 4 being very good and 5 being excellent, may be utilised.
  - ✓ Minimum qualifying score for functionality.
  - ✓ The minimum qualifying score that must be obtained for functionality in order for a bid to be considered further should not be generic. It should be determined separately for each bid on a case by case basis. The minimum qualifying score must not be prescribed so low that it may jeopardize the quality of the service required nor so high that it may be restrictive to the extent that it jeopardizes the fairness of the SCM system.

**(8) Local Production and Content**

- (i) Designated Sectors
- ✓ Bids in respect of services, works or goods that have been designated for local production and content, must contain a specific bidding condition that only locally produced goods, services or works or locally manufactured goods with a stipulated minimum threshold for local production and content will be considered.



- ✓ The Accounting Officer or His/her delegate must stipulate in bid invitations that the exchange rate to be used for the calculation of local content (local content and local production are used interchangeably) must be the exchange rate published by the SARB at 12:00 on the date, one week (7 calendar days) prior to the closing date of the bid.
- ✓ Only the South African Bureau of Standards (SABS) approved technical specification number SATS 1286:201x must be used to calculate local content.

The following formula to calculate local content must be disclosed in the bid documentation:

The local content (LC) as a percentage of the bid price must be calculated in accordance with the SABS approved technical specification number SATS 1286: 201x as follows:

$$LC = 1 - \left(\frac{x}{y}\right) \times 100$$

Where

x = imported content

y = bid price excluding value added tax (VAT)

Prices referred to in the determination of x must be converted to Rand (ZAR) by using the exchange rate published by the SARB at 12:00 on the date, one week (7 calendar days) prior to the closing date of the bid.

- ✓ For the purpose of the paragraphs above, the SBD 6.2 (Declaration Certificate for Local Content) must form part of the bid documentation.
- ✓ The Declaration Certificate for Local Content (SBD 6.2) must be completed and duly signed. The Accounting Officer or his/her delegate is required to verify the accuracy of the rates of exchange quoted by the bidder in paragraph 6.4.3 of this Certificate.

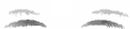
*Non-Designated Sectors*

- ✓ Where there is no designated sector, the Accounting Officer or his/her delegate may decide to include a specific bidding condition that only locally produced goods, services or works or locally manufactured goods with a stipulated minimum threshold for local production and content, will be considered, on condition that such prescript and threshold(s) are in accordance with the specific directives issued for this purpose by the National Treasury in consultation with the DTI.
- ✓ Accounting Officer or his/her delegate must stipulate in bid invitations that the exchange rate to be used for the calculation of local content must be the exchange rate published by



the SARB at 12:00 on the date, one week (7 calendar days) prior to the date of closure of the bid.

- ✓ Only the South African Bureau of Standards approved technical specification number SATS 1286:201x as indicated above must be used to calculate local content.
- ✓ For the purpose of the paragraphs above, the SBD 6.2 (Declaration Certificate for Local Content) must form part of the bid documentation.
- ✓ The Declaration Certificate for Local Content (SBD 6.2) must be completed and duly signed. Accounting Officer or his/her delegate is required to verify the accuracy of the rate(s) of exchange quoted by the bidder in paragraph 4.1 of this Certificate.
- ✓ Any enquiries in respect of Local Production and Content may be directed to the Department



- ✓ of Trade and Industry (DTI) as follows:

Ms Basani Baloyi

Director: Industrial Development Division (IDD) Tel: (012) 394 3851

Fax: (012) 394 2851

E-mail: BBaloyi@thedti.gov.za

**Local Production and Content:**

- DTI in consultation with National Treasury can designate a sector, sub-sector or industry in accordance with national development and industrial policies for local production and content, where only locally produced services or goods or locally manufactured goods meet the stipulated minimum threshold for local production and content.
- Organ of State must in the case of a designated sector, advertise the invitation to tender with a specific condition that only locally manufactured goods, only tenderers who meet the stipulated minimum threshold for local production and content will be considered.
- If there is no designated sector, an organ of state may include as a specific condition of the tender that only locally produced services or goods or locally manufactured goods with a stipulated threshold for local production and content will be considered.\*+
- A tenderer that fails to meet the minimum stipulated threshold for local production and content is an unacceptable tender.

(9) Services Rendered by Tertiary Institutions and Public Entities

- (i) Based on thorough analysis of the market, institutions may invite written price quotations for services that can only be provided by tertiary institutions from the identified tertiary institutions.
- (ii) Where the required service can be provided by tertiary institutions, public entities and enterprises from the private sector, the Municipality must invite competitive bids.

(10) Discounts

- (i) When calculating comparative prices.
- (ii) Unconditional discounts must be taken into account for evaluation purposes.
- (iii) Conditional discounts must not be taken into account for evaluation purposes but should be implemented when payment is affected.

(11) Sub-Contracting



Subcontracting as the condition of tender:

- (i) If feasible to subcontract for a contract above R30 million, an organ of state must apply subcontracting to advance designated groups.
- (ii) Tenderer must subcontract a minimum of 30% of the value of the contract to the black designated group.
- (iii) The organ of state must make available the list of all suppliers registered on a database approved by National Treasury to provide the required goods or services in respect of the applicable designated groups from which the tenderer must select a supplier.

Subcontracting after an award of tender

- (i) A person awarded a contract may only enter into a subcontracting arrangement with the organ of the state.
- (ii) For local production and content a person awarded a contract in relation to the designated sector, may not subcontract in such a manner that the local production and content of overall value of the contract is reduced to below the stipulated minimum threshold.
- (iii) A person awarded a contract may not subcontract 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 subcontracted to an EME (Exempted Micro Enterprise) that has the capability to execute the subcontract.

(12) Evaluation of Bids Based on Functionality as a Criterion

Bids invited on the basis of functionality as a criterion must be evaluated in two stages - first functionality must be assessed and then in accordance with the 80/20 or 90/10 preference point systems prescribed in Preferential Procurement Regulations 5 and 6. The evaluation must be done as follows:

- (i) First stage - Evaluation of functionality
  - ✓ Bids must be evaluated in terms of the evaluation criteria embodied in the bid documents. The amendment of evaluation criteria, weights, applicable values and/or the minimum qualifying score for functionality after the closure of bids is not allowed as this may jeopardise the fairness of the process.
  - ✓ A bid will be considered further if it achieves the prescribed minimum qualifying score for functionality.
  - ✓ Bids that fail to achieve the minimum qualifying score for functionality must be disqualified.
  - ✓ Score sheets should be prepared and provided to panel members to evaluate the bids.
  - ✓ The score sheet should contain all the criteria and the weight for each criterion as well as



the values to be applied for evaluation as indicated in the bid documents.

- ✓ Each panel member should after thorough evaluation independently award his /her own value to each individual criterion.
- ✓ Score sheets should be signed by panel members and if necessary, written motivation may be requested from panel members where vast discrepancies in the values awarded for each criterion exist.
- ✓ If the minimum qualifying score for functionality is indicated as a percentage in the bid documents, the percentage scored for functionality may be calculated as follows:
  - The value awarded for each criterion should be multiplied by the weight for the relevant criterion to obtain the score for the various criteria;
  - The scores for each criterion should be added to obtain the total score; and
  - The following formula should be used to convert the total score to percentage for functionality:

$$P_s = \frac{S_o}{M_s} \times 100$$

Ps = percentage scored for functionality by bid under consideration

So = total score of bid under consideration

Ms = maximum possible score

- ✓ The percentage of each panel member should be added and divided by the number of panel members to establish the average percentage obtained by each bidder for functionality.
- (ii) Second stage - Evaluation in terms of the 80/20 or 90/10 preference point systems
- ✓ Only bids that achieve the minimum qualifying score / percentage for functionality must be evaluated further in accordance with the 80/20 or 90/10 preference point systems prescribed in Preferential Procurement Regulations 5 and 6.
  - ✓ Where appropriate, prices may be negotiated only with short listed or preferred bidders. Such negotiations must not prejudice any other bidders.

### (13) The Preference Point System

#### (i) Step 1: Calculation of points for price

- ✓ The PPPFA prescribes that the lowest acceptable bid will score 80 or 90 points for price. Bidders that quoted higher prices will score lower points for price on a pro-rata basis.
- ✓ The formulae to be utilised in calculating points scored for price are as follows:



80/20 Preference point system [(for acquisition of services, works or goods up to a Rand value of R1million) (all applicable taxes included)];

$$P_s = 80 \left( 1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

Where

$P_s$  = Points scored for comparative price of bid or offer under consideration.

$P_t$  = Comparative price of bid or offer under consideration.

$P_{\min}$  = Comparative price of lowest acceptable bid or offer.

90/10 Preference point system [(for acquisition of services, works and/or goods with a Rand value above R1million) (all applicable taxes included)].

$$P_s = 90 \left( 1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

Where

$P_s$  = Points scored for comparative price of bid or offer under consideration.

$P_t$  = Comparative price of bid or offer under consideration.

$P_{\min}$  = Comparative price of lowest acceptable bid or offer.

- ✓ Points scored must be rounded off to the nearest 2 decimal places.

(ii) *Step 2: Calculation of points for B-BBEE status level of contributor*

- ✓ Points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

| B-BBEE Status<br>Level of Contributor | Number of Points<br>(90/10 System) | Number of Points<br>(80/20 System) |
|---------------------------------------|------------------------------------|------------------------------------|
|---------------------------------------|------------------------------------|------------------------------------|



|                   |    |    |
|-------------------|----|----|
| 1                 | 10 | 20 |
| 2                 | 9  | 18 |
| 3                 | 8  | 16 |
| 4                 | 5  | 12 |
| 5                 | 4  | 8  |
| 6                 | 3  | 6  |
| 7                 | 2  | 4  |
| 8                 | 1  | 2  |
| Non - Contributor | 0  | 0  |

Figure 1: B-BBEE Status Level of Contributor

- ✓ A bid must not be disqualified from the bidding process if the bidder does not submit a certificate substantiating the B-BBEE status level of contribution or is a non-compliant contributor. Such a bidder will score zero (0) out of a maximum of 10 or 20 points respectively for B-BBEE.

(iii) *Calculation of total points scored for price and B-BBEE status level of contribution*

- ✓ The points scored for price must be added to the points scored for B-BBEE status level of contribution to obtain the bidder's total points scored out of 100.

(14) Evaluation of Bids that Scored Equal Points

- (i) In the event that two or more bids have scored equal total points, the successful bid must be the one that scored the highest points for B-BBEE.
- (ii) If two or more bids have equal points, including equal preference points for B-BBEE, the successful bid must be the one scoring the highest score for functionality, if functionality is part of the evaluation process.
- (iii) In the event that two or more bids are equal in all respects, the award must be decided by the drawing of lots.

(15) Cancellation and Re-Invitation of Bids



- (i) In the application of the 80/20 preference point system, if all bids received exceed R50 million, the bid must be cancelled. If one or more of the acceptable bid(s) received are within the R50 million threshold, all bids received must be evaluated on the 80/20 preference point system.
- (ii) In the application of the 90/10 preference point system, if all bids received exceed R50 million, the bid must be cancelled. If one or more of the acceptable bid(s) received are within the R50 million threshold, all bids received must be evaluated on the 90/10 preference point system.
- (iii) If a bid was cancelled in terms of the above paragraphs, the correct preference point system must be stipulated in the bid documents of the re-invited bid.
- (iv) The Accounting Officer of his/her delegate may, prior to the award of a bid, cancel the bid if:
  - ✓ Due to changed circumstances, there is no longer a need for the services, works or goods requested. [Accounting Officer must ensure that only goods, services or works that are required to fulfil the needs of the Municipality are procured]; or
  - ✓ Funds are no longer available to cover the total envisaged expenditure. [Accounting Officer must ensure that the budgetary provisions exist]; or
  - ✓ No acceptable bids are received. [If all bids received are rejected, the Municipality must review the reasons justifying the rejection and consider making revisions to the specific conditions of contract, design and specifications, scope of the contract, or a combination of these, before inviting new bids].
- ✓ An organ of state may only with the prior approval of the relevant treasury cancel a tender invitation for the second time.

(16) Award of Contracts

- (i) A contract must be awarded to the bidder who scored the highest total number of points in terms of the preference point system.
- (ii) In exceptional circumstances a contract may, on reasonable and justifiable grounds, be awarded to a bidder that did not score the highest number of points. The reasons for such a decision must be approved and recorded for audit purposes and must be defensible in a court of law.

(17) Resolution of disputes, objections, complaints and queries

- (i) Once the Accounting Officer agrees with the recommendation of the BAC, the intention to award a bid must be advertised in the Government Gazette, selected news media and the Municipality's



website within 5 days, allowing for disputes, objections, complaints and queries to be lodged with the Municipality within 14 days.

- (ii) An independent and impartial person, not directly involved in the supply chain management process, must be appointed by the Accounting Officer. The independent, impartial person must :
- ✓ advise the Accounting Officer, within 3 days, of any disputes, objections, complaints and queries lodged so that the award process can be suspended until the dispute, objection, complaint or query has been investigated;
  - ✓ assist in resolving disputes between the Municipality and other persons regarding:
    - Any decisions or actions taken in the implementation of the supply chain management system;
    - Any matter arising from a contract awarded in the course of the supply chain management system; or
  - ✓ deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract;
  - ✓ issue a formal report with recommendations to the Accounting Officer.
- (iii) Once the independent, impartial person has completed the investigation, s/he must issue a formal report to the Accounting Officer. The Accounting Officer must consider the recommendations of the independent, impartial person and make a determination on the way forward. The way forward could be to award the bid, refer the bid back for re-evaluation and re-adjudication or even to cancel and re-advertise the bid. Should the Accounting Officer award the bid after the appeals processes have been followed, the successful bidder can be accordingly notified.

(18) Remedies

- (i) The Accounting Officer must act against the bidder or person awarded the contract upon detecting that the B-BBEE status level of contribution has been claimed or obtained on a fraudulent basis or any of the contract conditions have not been fulfilled.
- (ii) The Municipality may, in addition to any other remedy that it may have against the bidder or person:
- ✓ Disqualify the bidder or person from the bidding process;
  - ✓ Recover all costs, losses or damages it has incurred or suffered as a result of that person's conduct;
  - ✓ Cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;



- ✓ Restrict the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, from obtaining business from any organ of state for a period not exceeding 10 years, after applying the audi alteram partem (hear the other side) rule; and
  - ✓ Forward the matter for criminal prosecution.
- (iii) The Municipality must involve their legal services when any of the remedies are applied.
- (iv) The details of any restrictions imposed on bidders, persons or contractors must be forwarded to the National Treasury for inclusion on the central Database of Restricted Suppliers.

(19) Tax Clearance

No bid may be awarded to any bidder whose tax matters have not been declared by the SARS to be in order.

(20) Bidding Documents

- (i) The following bidding documents, which have been amended, where necessary, in accordance with the prescripts of the Preferential Procurement Regulations, 2011, and MFMA Circular No.25 must be used:

| MBD Description  | Document Number |
|--|-----------------|
| ✓ Invitation to Bid  | MBD 1           |
| ✓ Application for Tax Clearance Certificate                                    | MBD 2           |
| ✓ Pricing Schedules  | MBD 3.1 to 3.3  |
| ✓ Declaration of Interest  | MBD 4           |
| ✓ National Industrial Participation Programme                                  | MBD 5           |
| ✓ Preference claims in terms of the Preferential Procurement Regulations, 2011 | MBD 6.1 to 6.12 |
| ✓ Formal contract  | MBD 7.1 to 7.3  |

- (ii) The Municipality must customize and utilize the bidding documents by incorporating the Municipality's name, logo and contact details.
- (iii) Other changes to the MBDs, such as variations necessary to address specific contract and project issues, should be kept to a minimum. The standard wording for the Application for Tax Clearance Certificates (MBD 2) and the National Industrial Participation Programme (MBD 5) should not be amended. The formal contract document (MBD 7.1 to 7.3) should not form part of the bidding documents issued to every prospective bidder, but should be made applicable only to the successful bidder after adjudication and award of the bid.



- (iv) The relevant MBDs must be utilized for procurement by means of written price quotations, advertised competitive bids or proposals.

(21) Sale and Letting of Assets

- (i) The preference point system prescribed in the PPPFA and the Preferential Procurement Regulations, 2011 are not applicable to the sale and letting of assets.
- ✓ In instances where assets are sold or leased by means of advertised competitive bids or written price quotations or by auctions the award must be made to the highest bidder.
  - ✓ The tax clearance requirement applies to the sale and letting of assets as well.

(22) SMME Status Table

| Industrial Sector Category              | Size of Class | Total Full-Time Employees | Total Turnover | Total Gross Asset Value (Fixed Property excl.) |
|---|---------------|---------------------------|----------------|--|
| Agriculture                             | ✓ Medium      | ✓ 100                     | ✓ R5m          | ✓ R5m  |
|   | ✓ Small       | ✓ 50                      | ✓ R3m          | ✓ R3m  |
|   | ✓ Very small  | ✓ 10                      | ✓ R0, 50m      | ✓ R0, 50m                                      |
|   | ✓ Micro       | ✓ 5                       | ✓ R0, 20m      | ✓ R0, 10m                                      |
| Mining and Quarrying                    | ✓ Medium      | ✓ 200                     | ✓ R39m         | ✓ R5m  |
|   | ✓ Small       | ✓ 50                      | ✓ R10m         | ✓ R3m  |
|   | ✓ Very small  | ✓ 20                      | ✓ R4m          | ✓ R0, 50m                                      |
|   | ✓ Micro       | ✓ 5                       | ✓ R0, 20m      | ✓ R0, 10m                                      |
| Manufacturing                           | ✓ Medium      | ✓ 200                     | ✓ R51m         | ✓ R5m  |
|   | ✓ Small       | ✓ 50                      | ✓ R13m         | ✓ R3m  |
|   | ✓ Very small  | ✓ 10                      | ✓ R5m          | ✓ R0, 50m                                      |
|   | ✓ Micro       | ✓ 5                       | ✓ R0, 20m      | ✓ R0, 10m                                      |
| Electricity, Gas & Water                | ✓ Medium      | ✓ 200                     | ✓ R51m         | ✓ R5m  |
|   | ✓ Small       | ✓ 50                      | ✓ R13m         | ✓ R3m  |
|   | ✓ Very small  | ✓ 20                      | ✓ R5m          | ✓ R0, 50m                                      |
|   | ✓ Micro       | ✓ 5                       | ✓ R0, 20m      | ✓ R0, 10m                                      |
| Construction                            | ✓ Medium      | ✓ 200                     | ✓ R26m         | ✓ R5m  |
|   | ✓ Small       | ✓ 50                      | ✓ R6m          | ✓ R3m  |
|   | ✓ Very small  | ✓ 20                      | ✓ R3m          | ✓ R0, 50m                                      |
|   | ✓ Micro       | ✓ 5                       | ✓ R0, 20m      | ✓ R0, 10m                                      |
| Retail, Motor Trade and Repair Services | ✓ Medium      | ✓ 200                     | ✓ R39m         | ✓ R5m  |
|   | ✓ Small       | ✓ 50                      | ✓ R19m         | ✓ R3m  |
|   | ✓ Very small  | ✓ 20                      | ✓ R4m          | ✓ R0, 50m                                      |
|   | ✓ Micro       | ✓ 5                       | ✓ R0, 20m      | ✓ R0, 10m                                      |

| Industrial Sector Category                           | Size of Class | Total Full-Time Employees | Total Turnover | Total Gross Asset Value (Fixed Property excl.) |
|--|---------------|---------------------------|----------------|--|
| Wholesale Trade, Commercial Agents & Allied Services | ✓ Medium      | ✓ 200                     | ✓ R64m         | ✓ R5m  |
|  | ✓ Small       | ✓ 50                      | ✓ R32m         | ✓ R3m  |
|  | ✓ Very small  | ✓ 20                      | ✓ R6m          | ✓ R0, 50m                                      |
|  | ✓ Micro       | ✓ 5                       | ✓ R0, 20m      | ✓ R0, 10m                                      |
| Catering, Accommodation and other Trade              | ✓ Medium      | ✓ 200                     | ✓ R13m         | ✓ R5m  |
|  | ✓ Small       | ✓ 50                      | ✓ R6m          | ✓ R3m  |
|  | ✓ Very small  | ✓ 20                      | ✓ R5, 10m      | ✓ R0, 50m                                      |
|  | ✓ Micro       | ✓ 5                       | ✓ R0, 20m      | ✓ R0, 10m                                      |
| Transport, Storage & Communication                   | ✓ Medium      | ✓ 200                     | ✓ R26m         | ✓ R5m  |
|  | ✓ Small       | ✓ 50                      | ✓ R13m         | ✓ R3m  |
|  | ✓ Very small  | ✓ 20                      | ✓ R3m          | ✓ R0, 50m                                      |
|  | ✓ Micro       | ✓ 5                       | ✓ R0, 20m      | ✓ R0, 10m                                      |
| Finance and Business Services                        | ✓ Medium      | ✓ 200                     | ✓ R26m         | ✓ R5m  |
|  | ✓ Small       | ✓ 50                      | ✓ R13m         | ✓ R3m  |
|  | ✓ Very small  | ✓ 20                      | ✓ R3m          | ✓ R0, 50m                                      |
|  | ✓ Micro       | ✓ 5                       | ✓ R0, 20m      | ✓ R0, 10m                                      |
| Community, Social and Personal Services              | ✓ Medium      | ✓ 200                     | ✓ R13m         | ✓ R5m  |
|  | ✓ Small       | ✓ 50                      | ✓ R6m          | ✓ R3m  |
|  | ✓ Very small  | ✓ 20                      | ✓ R1m          | ✓ R0, 50m                                      |
|  | ✓ Micro       | ✓ 5                       | ✓ R0, 20m      | ✓ R0, 10m                                      |

(23) Payment to SMME's (Early Payment Cycles)

SMME's within the Very small and Micro categories will be paid within 30 days of receipt of approved invoice. All other payments are to be within 30 days from date of delivery or in the case of work completed, the date on which the invoice has been approved.

**Part 3: Logistics, Disposal, Risk and Performance Management**

**38. Logistics management**

The accounting officer must establish and implement an effective system of logistics management, which must include -

- (a) the monitoring of spending patterns on types or classes of goods and services incorporating, where practical, the coding of items to ensure that each item has a unique number;



- (b) the setting of inventory levels that includes minimum and maximum levels and lead times wherever goods are placed in stock;
- (c) the placing of manual or electronic orders for all acquisitions other than those from petty cash;
- (d) before payment is approved , certification by the responsible officer that the goods and services are received or rendered on time and is in accordance with the order, the general conditions of contract and specifications where applicable and that the price charged is as quoted in terms of a contract;
- (e) appropriate standards of internal control and warehouse management to ensure that goods placed in stores are secure and only used for the purpose for which they were purchased;
- (f) monitoring and review of the supply vendor performance to ensure compliance with specifications and contract conditions for particular goods or services.

### **39. Disposal management**

- (1) The store manager shall on a monthly basis identify obsolete and slow moving stock that should be disposed off.
- (2) He shall motivate for their disposal, together with necessary documentation, to the SCM Manager for recommendation for disposal thereof.
- (3) All such stock disposals must be approved by both, the chief financial officer and the municipal manager.
- (4) Once approved, the stock must be physically transferred for safe keeping and disposal to the disposals unit.

### **40. Risk management**

- (1) The SCM unit shall subscribe to the Municipal Risk Management Policy and its related risk management processes.
- (2) Risks are identified and assessed in terms of impact and likelihood.
- (3) Mitigating measures are developed, implemented and regularly monitored.
- (4) 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 manage 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 cover for residual risks; and
- (e) the assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.

#### **41. Performance management**

The accounting officer must establish and implement an internal monitoring system in order to determine, on the basis of a retrospective analysis, whether the authorised supply chain management processes were followed and whether the objectives of this Policy were achieved.



#### **Part 4: Other matters**

#### **42. Prohibition on awards to persons whose tax matters are not in order**

- (1) No award above R15 000 may be made in terms of this Policy to a person whose tax matters have not been declared by the South African Revenue Service to be in order.
- (2) Before making an award to a person the accounting officer must first check with SARS whether that person's tax matters are in order.
- (3) If SARS does not respond within 7 days such person's tax matters may for purposes of subparagraph (1) be presumed to be in order.

#### **43. Prohibition on awards to persons in the service of the state**

Irrespective of the procurement process followed, no award may be made to a person in terms of this Policy –

- (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; or
- (c) a person who is an advisor or consultant contracted with the municipality.

#### **44. Awards to close family members of persons in the service of the state**

The accounting officer must ensure that the notes to the annual financial statements disclose particulars of any award of more than R2000 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 the 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; and
- (c) the amount of the award.



#### 45. Code of conduct

(1) The purpose of this Code of Conduct is to promote mutual trust and respect and an environment where business can be conducted with integrity and in a fair and reasonable manner.

#### (2) General Principles

- a) The municipality commits itself to a policy of fair dealing and integrity in the conducting of its business. Officials and other role players involved in supply chain management (SCM) are in a position of trust, implying a duty to act in the public interest. Officials and other role players should not perform their duties to unlawfully gain any form of compensation, payment or gratuities from any person, or provider/contractor for themselves, their family or their friends.
- b) Officials and other role players involved in SCM should ensure that they perform their duties efficiently, effectively and with integrity, in accordance with the relevant legislation, policies and guidelines. They should ensure that public resources are administered responsibly.
- c) Officials and other role players involved in SCM should be fair and impartial in the performance of their functions. They should at no time afford any undue preferential treatment to any group or individual or unfairly discriminate against any group or individual. They should not abuse the power and authority vested in them.

#### (3) Conflict of interest

An official or other role player involved with supply chain management:

- (a) must treat all providers and potential providers equitably;
- (b) may not use his or her position for private gain or to improperly benefit another person;
- (c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350;
- (d) must declare to the accounting officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;
- (e) must declare to the accounting officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process, or in any award of a contract by the municipality.
- (f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;



- (g) must declare any business, commercial and financial interests or activities undertaken for financial gain that may raise a possible conflict of interest;
- (h) should not place him/herself under any financial or other obligation to outside individuals or organizations that might seek to influence them in the performance of their official duties; and
- (i) Should not take improper advantage of their previous office after leaving their official position.

**(4) Accountability**

- a) Practitioners are accountable for their decisions and actions to the public.
- b) Practitioners should use public property scrupulously.
  
- c) Only accounting officers or their delegates have the authority to commit the municipality to any transaction for the procurement of goods and / or services.
- d) All transactions conducted by a practitioner should be recorded and accounted for in an appropriate accounting system. Practitioners should not make any false or misleading entries into such a system for any reason whatsoever.
- e) Practitioners must assist the accounting officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system.
- f) Practitioners must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including
  - (i) any alleged fraud, corruption, favouritism or unfair conduct;
  - (ii) any alleged contravention of the policy on inducements, rewards, gifts and favours to municipalities or municipal entities, officials or other role players; and
  - (iii) any alleged breach of this code of conduct.
- g) Any declarations made must be recorded in a register which the accounting officer must keep for this purpose. Any declarations made by the accounting officer must be made to the mayor who must ensure that such declaration is recorded in the register.

**(5) Openness**

Practitioners should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only if it is in the public interest to do so.

**(6) Confidentiality**

- a) Any information that is the property of the municipality or its providers should be protected at all times. No information regarding any bid / contract / bidder / contractor may be revealed if such an action will infringe on the relevant bidder's / contractors personal rights.



- b) Matters of confidential nature in the possession of officials and other role players involved in SCM should be kept confidential unless legislation, the performance of duty or the provisions of law requires otherwise. Such restrictions also apply to officials and other role players involved in SCM after separation from service.

**(7) Bid Specification / Evaluation / Adjudication Committees**

- a) Bid specification, evaluation and adjudication committees should implement supply chain management on behalf of the municipality in an honest, fair, impartial, transparent, cost-effective and accountable manner.
- b) Bid evaluation / adjudication committees should be familiar with and adhere to the prescribed legislation, directives and procedures in respect of supply chain management in order to perform effectively and efficiently.
- c) All members of bid adjudication committees should be cleared by the accounting officer at the level of "CONFIDENTIAL" and should be required to declare their financial interest annually.
- d) No person should:
  - (i) interfere with the supply chain management system of the municipality\_or
  - (ii) amend or tamper with any price quotation / bid after its submission.

**(8) Combative Practices**

Combative practices are unethical and illegal and should be avoided at all cost. They include but are not limited to:

- a. Suggestions to fictitious lower quotations;
- b. Reference to non-existent competition;
- c. Exploiting errors in price quotations / bids;
- d. Soliciting price quotations / bids from bidders / contractors whose names appear on the Register for Tender Defaulters.

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

- (1) This policy ensures that the officials employed by the municipality do not unlawfully, for private gain, accept gifts, rewards or favours from Customers/ Public or any person who either seeks to have or has any business relations with the municipality:



- a) An official, upon possible or actual receipt of a reward or gift of whatever nature and regardless of the total value thereof from a benefactor must immediately disclose this to his or her immediate Manager/Supervisor.
- b) The prescribed discloser form to be duly completed and signed by the official and handed to the Manager/ Supervisor or in his absence to the official appointed in an Acting capacity.
- c) The General Manager/ Supervisor must acknowledge receipt of the disclosure form and hand same to the Municipal Manager for his authorisation.
- d) In the event that the General Manager/ or the Municipal Manager be of the opinion that the gift reward or favour constitutes bribery or will unduly influence the official or enrich him/ her, the General Manager or Municipal Manager will advise the official accordingly in writing.
- e) Under the circumstances prescribed in clause (d) above, the gift or reward will be returned to the benefactor and the favour refused. The circumstances will be given to the benefactor.
- f) A register of all gifts, rewards and/ or favours accepted by employees shall be maintained by each Head of Department, which shall be inspected by the Municipal Manager on a monthly basis.

(2) Exclusions:

- a) Gifts received during conferences, workshops, seminars and meetings which accrue to all participants at same conference, workshop or seminar;
- b) Gifts received as a token of appreciation for the delivery of an address/ speech at a conference, seminar or workshop;
- c) Gifts such as calendars, diaries, cufflinks, ties, scarves or articles for normal office use which display the supplier's name, trade mark or logo and which are presented for advertising purposes; and
- d) Gifts less than R350 in value.

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

**47. Sponsorships**

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



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

#### **48. Objections and complaints**

Persons aggrieved by decisions or actions taken in the implementation of this supply chain management system, may lodge within 14 days of the decision or action indication of their grievance.:

#### **49. Resolution of objections and complaints against procurement process**

- (1) The accounting officer must appoint an independent and impartial official, not directly involved in the supply chain management processes to assist in the resolution of objections and complaints between the municipality and any other person regarding:
  - a) the implementation of the procurement process in terms of the supply chain management system;  
or
  - b) any matter arising from the implementation of the procurement process in terms of the supply chain management system.
- (2) The accounting officer, or another official designated by the accounting officer, is responsible for assisting the appointed person to perform his or her functions effectively.
- (3) The person appointed must –
  - a) strive to resolve promptly all objections and complaints
  - b) received; and
  - c) submit monthly reports to the accounting officer on all such objections and complaints received, attended to or resolved.
- (4) If the independent and impartial person referred to in paragraph (1), is of the view that a matter should be dealt with in terms of paragraph externally, , he or she shall forthwith refer the matter to the Municipal Bid Tribunals convened at Provincial Treasury; and that Tribunal shall then hear and determine the matter.
- (5) An objection or complaint may be referred to the KwaZulu-Natal Provincial Treasury if:
  - a) the objection or complaint is not resolved within 60 days; or



- b) no response is forthcoming within 60 days.
- (6) If the Provincial Treasury does not or cannot resolve the matter, the objection or complaint may be referred to the National Treasury for resolution.

#### **50. Municipal Bid Appeals Tribunal**

- (1) The council shall utilize a Municipal Bid Appeals Tribunal for matters referred by the Independent & Impartial person referred to in 49 above
- (3) The powers, duties and functions of the Municipal Bid Appeals Tribunal, and matters incidental thereto, are set out in the Rules which are appended to this Supply Chain Management Policy and marked Appendix A.
- (4) The administrative and secretarial work involved in the performance of the duties and functions of the Municipal Bid Appeals Tribunal shall be performed by officers of the Provincial Treasury as set out in the Rules referred to in paragraph
- (5) There shall be no further appeal against a decision of the Municipal Bid Appeals Tribunal, except for where normal legal rights exist, such as referral to High Court for Review./PAJA.

#### **51. Contracts providing for compensation based on turnover**

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

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

#### **52. Roles and responsibilities**

The SCM unit is tasked with the effective and efficient implementation of this policy document, thereby ensuring compliance with and enforcement of the SCM policy.



### 53. Monitoring and evaluation

Internal Audit, as part of their annual audit plan, shall monitor and evaluate compliance with the SCM policy.

### 54. Annual review and amendments to the policy

- (1) The SCM unit is tasked with the annual review of the policy, and to submit the updated policy to the Policy Task Team for review and onward submission through the relevant structures, and culminating in Council approval thereof prior to the commencement of each financial year.
- (2) The SCM unit is also tasked with effecting amendments to the policy during the year, when necessary, and to submit the updated policy to the Policy Task Team for review and onward submission through the relevant structures, and culminating in Council approval thereof.

### 55. Commencement of the policy

This policy shall come into effect on the date of the adoption by the Ugu District Municipality Council.

### 56. Council approval

|                                  |   |
|----------------------------------|---|
| <b>TITLE</b>                     | Draft Supply Chain Management Policy 2016/2017  |
| <b>VERSION</b>                   | Version 1. 0  |
| <b>COMPILED BY</b>               | Supply Chain Management Unit  |
| <b>EFFECTIVE DATE</b>            | 30 June 2016  |
| <b>SUMMARY</b>                   | This document is the Supply Chain Management Policy applicable to the Ugu District Municipality |
| <b>COUNCIL RESOLUTION NUMBER</b> |   |

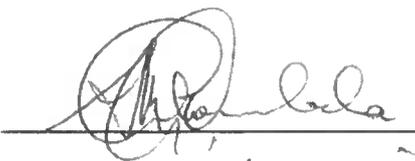


# *Ugu District Municipality*

## **Quality Certificate**

I, **Elliot Michael Sibusiso Ntombela, Acting Municipal Manager of Ugu District Municipality** hereby certify that the Adjustments Budget 2021/2022 and supporting documentation have been prepared in accordance with the Municipal Finance Management Act and regulations made under the Act, and that the Annual Budget and supporting documentation are consistent with the Integrated Development Plan of the municipality.

Name: ELLIOT M. S. NTOMBELA  
MUNICIPAL MANAGER

Signature: 

Date: 02/03/2022