UGU DISTRICT MUNICIPALITY

Policy Custodian	**Budget and Treasury Office**
Policy Name	**Supply Chain Management Policy**
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Contents

PREAMBLE

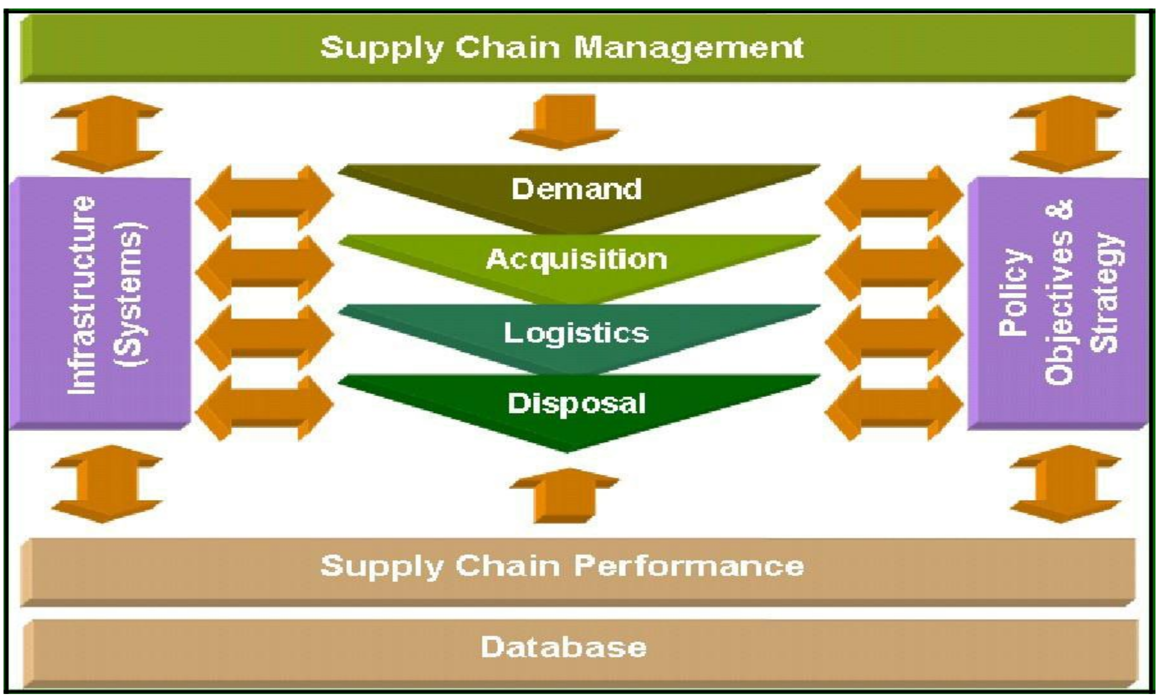
In terms of section 111 of the Municipal Finance Management Act, each Municipality, Municipal entity and Organ of State is obliged to adopt and implement a supply chain management policy in accordance with the requirements of these Acts. This Supply Chain Management Policy implements the supply chain management practices as envisaged by the Acts and its Regulations. Ugu District Municipality is committed to combating fraud, corruption, favouritism and irregular practices in Supply Chain Management.

1. INTRODUCTION

1.1 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.

SCM system must be supported by effective and efficient SCM systems, policies and standard operating procedures that achieve the overall SCM strategy and objectives.

2. DEFINITIONS AND ABBREVIATIONS

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.

“Accounting Officer” mean the Ugu Municipal Manager or Acting Ugu Municipal Manager as per section 60 for the MFMA.

“Amendment” means a change made to the value of the contract beyond the contract authority and/or the duration of the contract beyond the contract authority and/or scope changes in the contract and/or contracting arrangements beyond the contracting allowances. An amendment may be a minor amendment or a major amendment.

“Appeal Authority “mean an independent and impartial person appointed by the Accounting

Officer in terms of Regulation 50 of the Local Government Municipal Supply Chain Regulations.

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

“Major Amendment” mean an amendment to a contract which is not a minor amendment.

“Contingency” means an amount included in the contract authority to cover the cost of unforeseen circumstances and must be used in line with respective industry norms and standards. This percentage must be appropriately motivated and approved.

“Contract” means a legally binding agreement between the Municipality and the Contractor for the latter to provide goods, services, engineering, and construction works, or professional services in return payment by the former.

“Contract Authority “means the total contract award value as approved, or supported, by the Bid Adjudication Committee. This is inclusive of escalations and the normal contingency allowance for variations under the general conditions of contract and shall be taken from the amount approved at the Bid Specification Committee or Bid Adjudication Committee.

“Contract Manager” means the delegated official to manage and oversee a contract.

“Contract Participation Goal (CPG)” must mean the value of work to be subcontracted to enterprises or businesses factored according to their level of HDI/PPG ownership as set and approved in the bidding documents.

“Contract Period” must mean the duration of the contract as set out in the contract.

“Contractor” means any person, body, or legal entity that is under contract to the Municipality for the performance of the contract. A Tenderer whose tender has been accepted becomes a Contractor.

“Control” means the possession and exercise of legal authority and power to manage the assets, goodwill and daily operations of a business and the active and continuous exercise of appropriate managerial authority and power in determining the policies and directing the operations of the business.

“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.

“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).

(d) the Constitution, Act no 108 of 2006

“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)

“Exempted Micro Enterprise” means a bidder with an annual total revenue of R10 million or less (in terms of the Broad-Based Black Economic Empowerment Act).

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

“Manufacturer” means a firm that operates or maintains a factory or establishment that produces on its premises materials or supplies required by the Prime Contractor for the performance of the Contract.

“Military Veteran”: means any South African Citizen who-

a) rendered military service to any military organizations, statutory and non-statutory, which were involved on sides of South Africa’s Liberation war from 1960 to 1994.

b) served in the Union Defense Force before 1960; (c) became a member of the new South African National Defense Force after 1994.

“Minor Amendment” means a change made to the value of the contract beyond the contract authority and where the change is up to 20% of the original contract authority for construction related goods, services and/or infrastructure projects. A change of only up to 15% of the original contract authority relating to goods and/or services is allowed to be considered a minor amendment.

“municipality” means the Ugu District Municipality

“Non-Performance” means default on a contract in the public sector by willfully or negligently:

a) Failing to perform at all.

b) Failing to complete work timeously without good reason.

c) Delivering defective performance, i.e., poor workmanship or substandard materials.

d) Being in breach of a material term of the contract.

e) Failing to achieve a specified contract participation goal or performance target as set out in the tender document/s, and

f) despite being given written notice to remedy non-performance

“SMMEs” means Small, Medium and Micro Enterprises as defined in the National Small Business Act 102 of 1996.

“Variation” means a change to a provision/s in a contract, the changes referred to in amendments in the definition of this policy.

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

“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.

“Highest acceptable tender” means a tender that complies with all specifications and conditions of tender and that has the highest price compared to other tenders;

“Lowest acceptable tender” means a tender that complies with all specifications and conditions of tender and that has lowest price compared to other tenders;

"Specific goals" means specific goals as contemplated in section 2(1)(d) of the PPPFA which may include contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender and disability including the implementation of programmes of the Reconstruction and Development Programme as published in Government Gazette No. 16085 dated 23 November 1994

"Tender" means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;

"Supplier" must mean a firm that:

a) owns, operates or maintains a store, warehouse or other establishment in which materials or supplies are bought, kept in stock and regularly sold to the public in the usual course of business and
b) engages as its principal business, and in its own name, in the purchase and sale of the products

"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: Black people is a generic term which means Africans, Coloureds and Indians–

a) Who are citizens of the Republic of South Africa by birth or descent; or

b) Who became citizens of the Republic of South Africa by naturalization-

(i) Before 27 April 1994; or

(ii) On or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalization prior to that date

"Infrastructure delivery" – the combination of all planning, technical and administrative and managerial actions associated with the construction, supply, renovation, rehabilitation, alteration, maintenance, operation, or disposal of infrastructure.

2.1 Abbreviations

AO	Accounting Officer
BAC	Bid Adjudication Committee
BBBEEA	Broad-Based Black Economic Empowerment Act
BEC	Bid Evaluation Committee
BSC	Bid Specification Committee
CIBD	Construction Industry Development Board
CFO	Chief Financial Officer
CSD	Central Supplier Database
CIPC	Companies and Intellectual Property Commission
HDI	Historically Disadvantaged Individuals
KZN-T	KwaZulu-Natal Treasury
MBD	Municipal Bid Documents
MFMA	Municipal Finance Management Act, 2003 (Act 56 of 2003)
PPPFA	Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000)
SARS	South African Revenue Service
SCM	Supply Chain Management
SCMU	Supply Chain Management Unit

3. Policy Objectives

2.1 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.

2.2 The above goal shall be achieved through the following objectives:

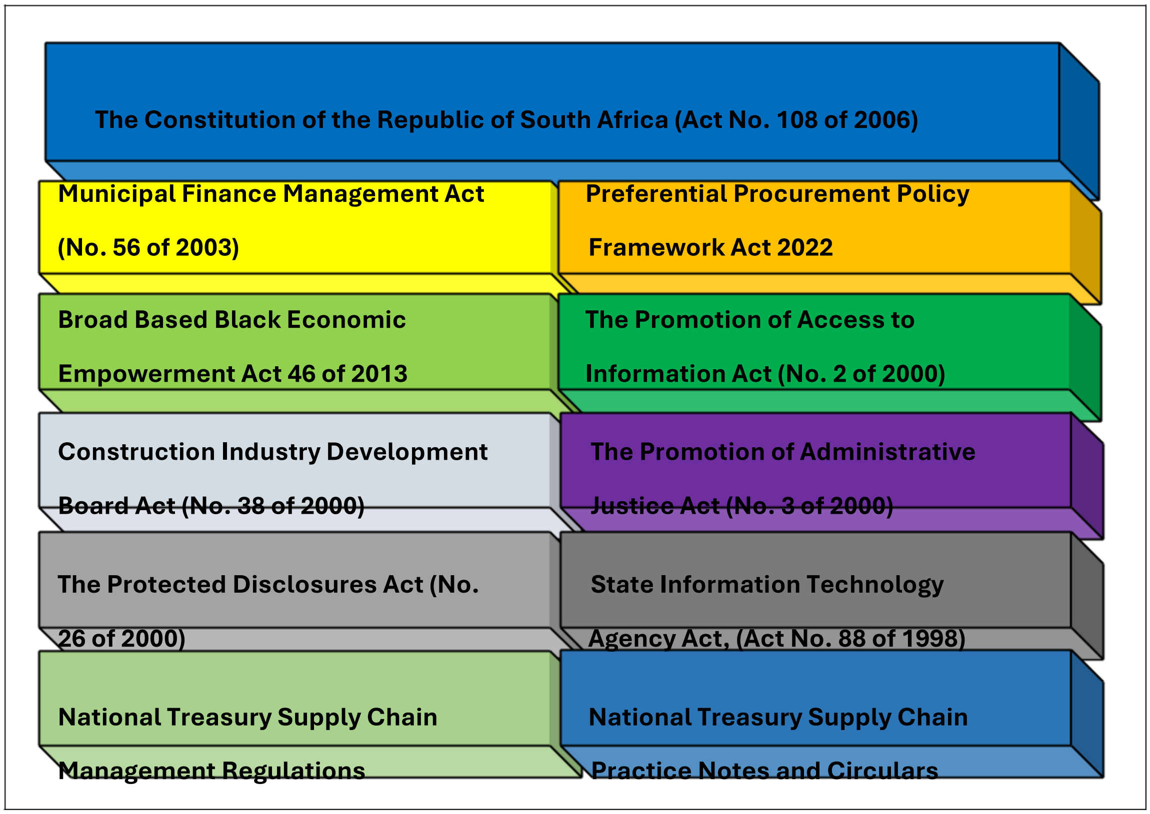
a) SCM practice and procedures shall comply with the SCM policy at all times, unless authorized otherwise by the Accounting Officer; and

b) Appropriate and sufficient resources shall be made available to ensure compliance with the SCM policy.

4. Overview Of Key SCM Legislation

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

LEGISLATIVE MANDATES



5. Prescriptive/Legal Framework

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

5.1 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.

5.2 Municipal Finance Management Act (No. 56 of 2003)

The Municipal Finance Management Act 56 of 200) 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.

5.3 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).

5.4 Preferential Procurement Regulations (2022 Regulations)

The purpose then of the 2022 Regulations is to:

a) comply with Section 217 of the Constitution on procurement of goods and services by organs of state.

b) comply with the PPPFA of 2000.

c) comply with the Constitutional Court judgement of February 2022, on the 2017 Regulation

5.5 Broad Based Black Economic Empowerment Act (BBBEE) (No. 46 of 2013)

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).

5.6 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.

5.7 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.

5.8 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.

5.9 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 behaviour in the workplace. It offers protection from victimization for 'whistleblowers', if they meet the requirements and follow the procedure set out in the Act

5.10 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.

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

a) Demand Management.
b) Acquisitions Management.

c) Logistics Management.
d) Disposal Management.
e) Risk Management; and
f) Supply Chain Performance and Reporting.

5.11 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 Act38 of 2002, requires that SITA must act as the procurement agency for the Municipality's information technology requirements.

5.12 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:

a) The Supply Chain Management Guide for Accounting Officers.
b) The Prevention and Combating of Corrupt Activities Act, Act 12 of 2004.
c) The National Small Business Act, Act 102 of 1996.
d) Provincial Growth and Development Strategy.
e) Public Service Act, Act No 23 of 1994.
f) The Competition Act, Act No 89 of 1998; and
g) The King Report on Corporate Governance for South Africa.

CHAPTER 1

IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

6 Supply chain management policy

6.1 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.

6.2 This Policy applies when the municipality–

(a) procures goods or services.

(b) disposes goods no longer needed.

(c) selects contractors to aid in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies; or

6.3 This Policy, except were 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.

7 Delegation of supply chain management powers and duties

7.1 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 this Policy.

(ii) to maximize administrative and operational efficiency in the implementation of this Policy.

(iii) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism, and unfair and irregular practices in the implementation of this Policy; and

a. to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.

b. Sections 79 and 106 of the Act apply to the sub delegation of powers and duties delegated to an accounting officer in terms of subparagraph (1).

c. 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.

d. 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.

8. Sub delegations

8.1 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	Annual reviews of the SCM Policy, SCM Delegations, Procedure Manual and Standard Operating Procedures for End Users.
2.	Appointment of BSC, BEC and BAC members	AO	N/A	Members of the BSC, BEC and BAC must be appointed annually. ✓ At least five **(5)** members must be appointed to each Bid Committee. ✓ The Bid Committees must comprise suitably qualified and experienced members at least at middle management level to senior management. ✓ Members with specialist expertise may be co-opted onto these Bid

				Committees. No member may serve on both the BEC and the BAC.

3.	**Deviations from this delegated authority.** **Detailed contract price adjustment. i.e. deviations and variations.**	AO	Unlimited	✓ Any deviation from these delegations **MUST** be approved by the AO in writing. ✓ Any request for deviation **MUST** 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.	**Level 1:** Procurement for an estimated value up to R2 000 (Including VAT) per case	Manager, subject to condition regarding Petty Cash	R2 000	✓ PPPFA does not apply. ✓ Authority to procure by means of petty cash vests with the Accounting Officer. ✓ **Re-imbursement of expenditure must be supported by actual invoice/ receipt/ cash sale slip from supplier up to R2 000.**

		funded purchase s		✓ **For petty cash procurement between R501 and R2 000, quotation must be obtained and awarded to the cheapest supplier.** ✓ The total monetary value of petty cash purchases per month, per General Manager may not exceed R8000 annual. ✓ Suppliers not registered on the Institution's Suppliers Database may be considered. Records and appropriate documents for each purchase must be ✓ Records and appropriate documents for each purchase must be submitted to the relevant General Manager with 48 hours of purchase.

				✓ 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.
2.	**Level 2** Procurement for an estimated value of more than R2 000 up to R10 000 (Including VAT) per case	Manager	R10 000	✓ Authority to procure may not be delegated to an official lower than a manager. ✓ At least three (3 formal quotations must be obtained from CSD integrated Supplier Database ✓ 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 have been invited to quote. ✓ PPPFA 2022 must apply.
3.	**Level 3:** Procurement for an estimated value of more than R10 000	General Manager	R30 000	✓ Authority to procure may not be delegated to an official lower than a General Manager.

	up to R30 000 (Including VAT) per case.			✓ At least three (3) formal quotations must be obtained from suppliers registered. on the Institution's Suppliers Database. ✓ Where there is less than (3) quotations the CFO must preapprove. ✓ Awarded to the lowest acceptable quote. ✓ PPPFA 2022 must apply.

4.	**Level 4** Procurement for an estimated value of more than R30 001 up to R200 000 (Including VAT) per case.	General Manager	**R30 001 to R200 000**	✓ Authority to procure from **R30 001 up to R200 000** may not be delegated to an official lower than a General Manager. ✓ Procurement above R30 000 must be advertised for a period of seven. (7) days on the Municipal Notice Board and Website. ✓ 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, if all minimum and functionality criteria have been met in terms of the approved specification ✓ PPPFA 2022 must apply.

5.	**Level 5:** Procurement for an estimated value of more than R200 000 (Including VAT) per case.	AO	**Above R200 000.00**	✓ The Competitive Bidding process must be used for **ALL** bids. ✓ Public Invitation of the Bid for 14 days, or 30 days if transaction value exceeds R10m and contracts that are above (12) twelve months. Bids must be invited publicly in at least one local newspaper, e-tender portal of National Treasury, construction related bids to be advertise consecutively in the i-Tender portal of CIDB.

				Bid Specifications must be approved by the BSC prior to advertising. All bids are evaluated by the BEC and a report is submitted to the BAC recommending the successful bidder. All bids are adjudicated by the BAC and a recommended award is submitted to the AO or his delegate for approval and award.
6.	**Exceptional and Emergency Cases** (in terms of section 34 of this policy)	AO	Unlimited	✓ Goods and/or services may be procured, by making use of suppliers registered on the Institution's Suppliers Database. ✓ Where only one formal written price 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. ✓ The conditions contained in the General Conditions of Contract must be made applicable to the purchase ✓ 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.

				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. > Such written motivation must be approved by the Accounting Officer or his/her delegate. > The standard deviation form must be completed and approved by the AO or his delegate.
7.	**Sole Supplier**	AO	Unlimited	✓ 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). ✓ 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. ✓ Original tax clearance certificates should be a pre-requisite for award. ✓ 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: (i) Comparison with prices, after discounts, to other clients and the relative discount that the Municipality enjoys. (ii) Where this is not possible, profit before tax, based on a full statement of relevant costs. (iii) In all cases, comparison with previous bid prices where these are available.

				(iv) Proof of reasonableness of prices where only one bid is received, must be available for audit purposes.
7	**Variation Orders/ Contingencies/ Extensions/Amendments to Contracts**	AO	15% and/or 20% of the contract value	✓ Contracts may be expanded or varied by not more than 20% of the contract value (including all applicable taxes) for construction related goods, works and/or services and 15% (including all applicable taxes) or for all other goods and/or services of the original value of the contract, ✓ All variations must be recommended by the relevant management prior to seeking the approval of the AO. ✓ Extensions to any contracts on a month-to-month basis must not exceed a period of 6 months. ✓ All variations must be reported to Council.
8	**Negotiations**	AO	Unlimited	✓ The AO may delegate a Negotiating Team as in when negotiating is required. ✓ 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 ✓ The Accounting Officer may • Where 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

				• Other acceptable means of negotiations with supplier/service provider will include confirmation of specification, 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

Sub – Delegations (2)

8.2 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 –

2. the chief financial officer.

a) a general manager; or

b) a bid adjudication committee of which the chief financial officer or a general manager is a member;

c) not exceeding R2 million (VAT included) may be sub delegated but only to:

(i) the chief financial officer.

(ii)a general manager.

(ii) a manager directly accountable to the chief financial officer or a general manager; or

(iii)a bid adjudication committee.

8.3 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.

8.4 A written report referred to in subparagraph (3) must be submitted –

d) to the accounting officer, in the case of an award by –

e) the chief financial officer.

f) a senior manager; or

g) a bid adjudication committee of which the chief financial officer or a senior manager is a member;

h) 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.

Subparagraphs (3) and (4) of this policy do not apply to procurements out of petty cash.

8.5 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.

No supply chain management decision-making powers may be delegated to an advisor or consultant.

9. **Oversight role of council**

9.1 The council reserves its right to maintain oversight over the implementation of this Policy.

9.2 For the purposes of such oversight the accounting officer must –

a) 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

b) 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.

9.3 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.

9.4 The reports must be made public in accordance with section 21A of the Municipal Systems Act.

10. Supply chain management unit

10.1 A supply chain management unit is hereby established to implement this Policy.

10.2 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.

11. Training of supply chain management officials

11.1 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

12. Format of supply chain management system

12.1 This Policy provides systems for –

a) demand management.

b) acquisition management.

c) logistics management.

d) disposal management.

e) risk management; and

f) performance management.

Part 1: 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:

(b) The Integrated Development Plan.
(c) Service Delivery Budget Implementation Plan.
(d) Approved Budget; and
(e) 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 is 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.

13. System of demand management

13.1 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.

13.2 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.

13.3 Before each financial year commences all Heads of Department/ General Managers must submit as part of the Budget Approval processes a procurement plan containing all planned procurement. This procurement plan must be approved by the HOD or his/her delegate and issue quarterly progress reports on the implementation of SCM policy to Council and KZN-T SCM unit.

13.4 The procurement plan must include:

a) quantity of goods including monthly requirement.

b) estimated prices; and

c) expected purchase date

d) proposed procurement method

Part 2: Acquisition 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 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.

14. System of acquisition management

14.1 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.

e) that any Treasury guidelines on acquisition management are properly taken into account.

14.2 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.

15. Range of procurement processes

15.1 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 (all applicable taxes include); and

c) a competitive bidding process for–

d) procurements above a transaction value of R200 000 ((all applicable taxes include); and

e) the procurement of long-term contracts.

15.2 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.

16. General preconditions for consideration of formal written price quotations or bids

16.1 A written quotation or bid may not be considered unless the provider who submitted the formal written quote or bid: has furnished that providers:

a) full name.

b) identification number or company or other registration number; and

c) tax reference number, SARS PIN number, VAT registration number, if any and CSD registration number.

16.2 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

16.3 has the following declaration where necessary?

16.4 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.

a) 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

b) 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.

c) Bidder's Declaration (MBD4).

d) declaration for procurement above R10 million (all applicable taxes included) (MBD5).

e) preference points claim (MBD 6.1) and proof of points claimed for specific goals.

f) Declaration of bidders' past supply chain management practices (MBD 8)

g) Certificate of independent bid determination (MBD 9); declaration of municipal fees

h) Tax certificate requirements in compliance with Part 2 of this policy

17. Lists of accredited prospective providers

17.1 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) specify the listing criteria for accredited prospective providers; and

c) 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.

d) 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.

e) The list must be compiled per commodity and per type of service. Prospective providers are allowed to amend the list of commodity and type of service at any given point in time.

17.2 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

No quotations may be solicited from any supplier/service provider/contractor who is not registered and verified by the National Treasury Central Supplier Database and by the appropriate branch on the Ugu District Municipality Central Supplier Database or is able to be so before the award.

Implementation of the CSD requirement will be phased in gradual over multiple financial years.

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:

a) BBBEE Status
b) CIDB
c) Municipal Account status.

18. Petty cash purchases

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

19. Formal written price quotations

19.1 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 17 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 (Vat included), and the procurement system must make provision for recording the names of the potential providers and their written quotations.

19.2 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.

20. Procedures for procuring goods or services through formal written price quotations.

20.1 A supply chain management policy must determine the procedure for the procurement of goods or services through formal written price quotations, and must stipulate—

a) that all requirements in excess of R2 001 to R30 000 (VAT included) must be procured by inviting atleast 3 formal written price quotations from the municipality's list of approved suppliers: From R30 001 (VAT included) to R200 000 must be advertised for 7 days on municipality's website and notice boards, in addition to the requirements of regulation 17

b) that when using the list of accredited prospective providers, the accounting officer must promote ongoing competition amongst providers, including by inviting providers to submit quotations on a rotation basis.

c) that the accounting officer must take all reasonable steps to ensure that the procurement of goods and services through written or verbal quotations or formal written price quotations is not abused.

d) that the accounting officer or chief financial officer must monthly be notified in writing of all written or verbal quotations and formal written price quotations accepted by an official acting in terms of a sub delegation; and requirements for proper record keeping.

21. Competitive bids

21.1 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.

21.2 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.

22. Process for competitive bidding

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

a) Compilation of bidding documentation as detailed in paragraph 23.

b) Public invitation of bids as detailed in paragraph 24.

c) Site meetings or briefing sessions as detailed in paragraph 24.

d) Handling of bids submitted in response to public invitation as detailed in paragraph 25.

e) Evaluation of bids as detailed in paragraph 28.

f) Award of contracts as detailed in paragraph 28.

g) Administration of contracts

h) After approval of a bid, the accounting officer and the bidder must enter into a written agreement.

i) Proper record keeping

j) Original / legal copies of written contracts agreements should be kept in a secure place for reference purposes.

23. Bid documentation for competitive bids.

23.1 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 (including all applicable taxes), 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;

(v) A manager requiring the goods/service must submit in writing proof to the BSC that budget provision exists that also includes all other requirements to operationalise the project;

(vi) The Accounting Officer can very compliance with any procurement process and can request assistance from Internal Audit/any other authority to very procurement processes for compliance.

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

(viii) The Chief Financial Officer to confirm in writing to the BSC and BAC that budget provision do exist for the project.

24. Public invitation for competitive bids

24.1 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 + 30 days in the case of transactions over R10 million (all applicable taxes incl), or which are of a long term nature, or 14 days in any other case, from the date on which the advertisement is published, subject to subparagraph (2) of this policy;

(ii) a condition that “Bids may only be submitted on the bid documentation provided by the municipality”; and

(iii) bids must be submitted in a sealed and marked envelope”

(iv) a date, time and venue of any proposed site meetings or briefing sessions.

(v) Evaluation criteria as well as the minimum qualifying score as well as the minimum qualifying score for functionality, where applicable.

24.2 The accounting officer may determine a closure date for the submission of bids which are 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.

25. Procedure for handling, opening and recording of bids.

25.1 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.

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.

(a) 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.

26. Negotiations with preferred bidders

26.1 The accounting officer may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidder, 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.

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

26.3 The multi-disciplinary team undertaking the negotiations must include a representative from SCM Policy and Support Services. The SCM practitioner must preside over the negotiations

26.4 Authority to negotiate price and any conditions of tender with preferred bidder(s) must be approved by the Bid Adjudication Committee and the outcome of the negotiations must be reported back to the Bid Adjudication Committee for final approval or support.

26.5 Authority to negotiate price and any conditions of formal written price quotations must be approved by an official who is sub-delegated in terms of supply chain management code of delegations approved by the accounting officer. The outcome of the negotiations must be reported back to the duly delegated official for final approval.

26.6 The negotiations may include price and or final terms and conditions of tender, project plan and service level agreement.

26.7 Discount offers or alternate offers must be considered for negotiation after the Bid Adjudication Committee has granted authority to consider only unconditional discount can be taken into account. Outcome of the negotiation together with the minutes of the negotiation meeting must be reported back to the Bid Adjudication Committee for final approval or support.

26.8 Bid validity must be monitored and where applicable be extended by the Line Department at all times during the process of negotiations.

26.9 The framework or terms of reference for negotiations shall be determined by the Bid Adjudication Committee

27. Two-stage bidding process

27.1 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.

27.2 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.

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

28. Committee system for competitive bids

28.1 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.

28.2 The Accounting Officer appoints the members of each committee, considering 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.

28.3 The committee must be consistent with:

a) Paragraphs 27 (5), 27 (6) and 27 (7) of this policy; and

b) Any other applicable legislation.

28.4 The Accounting Officer may apply the committee system to formal written price quotations.

28.5 Bid Specification Committee

28.5.1 Appointment of bid specification committee

a) The accounting officer must appoint members of the bid specification committee in line with the financial year of the Municipality, in writing – the appointment letters of members of all bid committees to include a start; the status of the official; and role and responsibility.

28.5.2 Composition of bid specification committee

The committee shall comprise of at least 5 officials from the municipality and may when appropriate, invite an external technical expert. The composition should be as follows:

a) Chairperson – equivalent grading to Manager (Permanent member).

b) Vice Chairperson - equivalent grading to Manager and above - (Permanent member).

c) Member - equivalent grading to Manager (Permanent member).

d) Member - Municipal Official (Permanent member); and

e) An official responsible for demand management (Permanent member).

28.5.3 Functions of the Specification Committee:

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:

a) that a proper and unbiased specification is compiled for the specific requirement.

b) that proper terms of reference are 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.

c) that strategic sourcing is applied and that the market is properly researched and analysed.

d) that the necessary funds are available.

e) that, in addition to the general conditions of contract, appropriate special conditions of contract are specified, if applicable.

f) that in terms of the PPPFA, the correct preference point system is prescribed and that appropriate goals are identified, and the necessary proof required from the supplier when claiming points for specific goals.

28.6 Bid evaluation committee.

28.6.1 Appointment of bid evaluation committee

a) The accounting officer must appoint members of the bid evaluation committee in line with the financial year of the Municipality, in writing.

b) 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.

c) Members should sign oath of secrecy forms up-front.

28.6.2 Composition of Bid Evaluation Committee

a) The committee must in so far as it may be possible, be cross functional.

b) The committee should comprise of at least 5 (five) officials from the Municipality.

c)The following officials should serve in the Bid Evaluation Committee.

- ✓ Chairperson –- equivalent grading to Manager (Permanent member)
- ✓ Vice Chairperson - equivalent grading to Manager (Permanent member)
- ✓ Two other Municipal Officials equivalent grading to Manager (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.

28.6.3 Functions of the Bid Evaluation Committee

a) 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) The manager responsible for the procurement and the Chief Financial Officer to confirm in writing to the BSC and BAC that budget is available for the procurement and any ancillary requirements.
- ✓ Submission of evaluation report and recommendation(s) regarding the award of the bid to the Adjudication Committee.
- ✓ The Accounting Officer can very compliance with any procurement process and can request assistance from Internal Audit/any other authority to very procurement processes for compliance.

28.7 Bid Adjudication Committee

28.7.1 Appointment of Bid Adjudication Committee

a) The Accounting Officer must constitute one Municipality bid adjudication committee.

a) The bid adjudication committee is appointed in writing by the Accounting Officer.

b) Members of the adjudication committee cannot be appointed as members of an evaluation committee.

d) The Accounting Officer shall determine the term of office for members although the tenure may not exceed two (2) years.

e) The period of tenure may be renewed if the Accounting Officer deems it necessary.

f) 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.

g) Committee members should be required to sign the code of conduct upon their appointment.

h) 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.

i) The Accounting Officer/Authority may at any given time replace person for management reasons.

j) The functions of BAC should form part of member's performance agreements.

28.7.2 Composition of the Bid Adjudication Committee

a) The committee must consist of at least five (5) senior officials constituted as follows:

i) CFO, as the chairperson of the committee (where possible).
ii) Deputy Chairperson: an official at least at a general management level.
iii) Two other Municipal Officials (Senior Manager & Permanent members); and
iv) Head of the SCM Unit is (Permanent member).
v) 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.
vi) No external people should serve permanently on the adjudication Committee.

28.7.3 Functions of the Bid Adjudication Committee

a) Consider the reports and recommendations made by the bid evaluation committee.

b) 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.

c) Recommend to the Accounting Officer/Authority the extensions of contracts and deviations if reasonable and justifiable grounds exist.

d) In performing their functions: -

I) Committee members should be guided by all the applicable SCM, procurement legislations, policies and SCM legislative framework and all other applicable legislation.

ii) Members must declare interest in any specific bid/point on the agenda up front and such member must automatically recuse him/herself from participating in discussions unless the committee decides otherwise.

ii) 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.

iii) 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 KZN TREASURY within a prescribed period of seven (7) days.

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

28.7.4 Bid adjudication committee must ensure that:

a) scoring has been fairly, consistently and correctly calculated and applied.
b) disqualifications are justified.
c) all declarations of interest have been captured.
d) all necessary bid documents have been submitted; and
e) that valid and accountable reasons/ motivations were furnished for passing over of bids.
f) The bid adjudication committee must consider and rule on all recommendations/ reports regarding the amendment, variation, extension, cancellation, or transfer of contracts awarded.
g) 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 MFMA Circular and guidelines issued.

h) The highest level of professional competence must be maintained. Furthermore, courteous conduct is expected of all committee members

A declaration form where all members of the committee present at the meeting as well as all officials rendering administrative support and all co-opted members, secondi or technical advisors during the meeting must be signed to declare that they and all co-opted members, secondi or technical advisors attending a meeting:

a) accept the confidentiality of the contents of the meeting.
b) will not make known anything regarding the meeting, unless officially authorized, a n d
c) will not purposefully favor or prejudice anybody.
d) 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.

28.8 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 or 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.

28.9 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 channelled 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 recorded.

29 Procurement of banking services

29.1 A contract for banking services –

(a) must be procured through competitive bids.

(b) must be consistent with section 7 of the Act; and

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

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

29.3 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).

30. Procurement of IT related goods or services

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

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

31 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 and that all requirements of MFMA Circular 96 have been met and adhere to.

31.1 Subparagraphs (1)(c) and (d) do not apply if –a municipality procures goods or services through a contract secured by a municipal entity of which it is the parent municipality.

31.2 If the municipality wants to invoke the use of this regulation as part of its procurement competitive bidding process or to give consent to another organ of state it must do so in conjunction with Circular 96 of the MFMA.

32 Procurement of goods necessitating special safety arrangements

32.1 The acquisition and storage of goods in bulk (other than water), which necessitate special safety arrangements, including gasses and fuel, should be avoided wherever possible.

32.2 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.

33. Proudly SA Campaign

33.1 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-

a) Firstly – suppliers and businesses within the municipality or district.

b) Secondly – suppliers and businesses within the relevant province.

c) Thirdly – suppliers and businesses within the Republic

34. Appointment of consultants

34.1 The accounting officer may procure consulting services provided that any Treasury guidelines in respect of consulting services are considered when such procurements are made. 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.

34.2 In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish particulars of –

(c) all consultancy services provided to an organ of state in the last five years; and

(d) any similar consultancy services provided to an organ of state in the last five years.

33.4 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.

35. Deviation from, and ratification of minor breaches of, procurement processes

35.1 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.

35.2 The accounting officer must record the reasons for any deviations in terms of subparagraphs 35(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.

35.3 Subparagraph 35(2) does not apply to the procurement of goods and services contemplated in paragraph 14 of this policy.

(a) the imminent threat to health, injury, or death to persons.

(b) the imminent threat of damage to property or suffering and death of livestock and animals.

(c) The unforeseeable interruption of essential services whose provision is within the municipal competency, including transportation and communication facilities or support services critical to the effective functioning of the Municipality as a whole.

(d) the imminent and or unforeseeable of serious damage occurring to the natural environment.

(e) the imminent threat and or damage of the municipal assets.

35.4 The Municipality is still required to comply with Section 217(1) of the Constitution in the event of an emergency with specific reference to obtaining goods and services on the best possible terms.

35.5 In an emergency, and where possible, at least three quotations must be obtained.

35.6 The value of and duration of contracts which have been concluded because of the emergency must be in accordance with the goods and services required in order to address and/or remedy the immediate emergency. Any other goods and services which may be required subsequent by the municipality. Emergency and relating to such emergency must wherever possible follow the normal tendering process and procedures.

35.7 Procuring goods and services from sole supplier occur in instances where: -

a) only one supplier manufactures or renders goods and services due to unique nature of the requirements.

b) goods and services already in the municipality's value chain/employ are only supplied by an Original Equipment Manufacturer (OEM) or by a licensed agent thereof and there is a requirement for compatibility, continuity, and alignment.

c) the process for approved list of sole suppliers(s) will be as follows:

(i) departments requiring the use of sole supplier must issue a circular calling for the of sole supplier(s) who wish to be on the list or database. SCM Unit shall manage and maintain the list of sole suppliers.

(ii) response to the circular must contain appropriate motivation in terms of constitutional pillars of fair, equitable, transparent, cost effective and competitive.

(iii) the response to the circular and compilation of the list of sole suppliers must be categorized, screened, and supported by a relevant appointed team. In instances where there is no consensus among the team members such be escalated to Head: SCM for decision and support.

(iv) the supported list of sole suppliers be advertised for public comments and or objections.

(v) in instances where there are objections, such objections be referred to the Head SCM for decision and support.

(vi) The report must outline how value for money will be achieved and managed.

35.8 Unit or Department invoking the use of section 36 (1) (a) (v) must in all reports to BAC demonstrate that the use of this provision: -

(a) is not because of poor planning for it being impractical or impossible to follow the official procurement processes. Where there is a risk of poor planning or negligence proof that remedies and actions including disciplinary processes have been taken to avoid recurrence.

(b) has considered that it does not prejudice other potential tenderers and meets the r requirements of section 217 of the Constitution of the Republic of South Africa.

35.9 The respective Unit Head must sign off a report to BAC invoking section 36 (1) (a) (v) that is accepting full responsibility, accountability for the report and its contents.

36. Unsolicited bids

36.1 In accordance with section 113 of the Act there is no obligation to consider unsolicited bids received outside a normal bidding process.

36.2 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.

36.3 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

36.4 an invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.

36.5 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 KZN TREASURY for comment.

36.6 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.

36.7 A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.

36.8 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 KZN TREASURY.

36.9 If any recommendations of the National Treasury or KwaZulu Natal (KZN) treasury (PT) are rejected or not followed, the accounting officer must submit to the Auditor General, the relevant KwaZulu Natal (KZN) treasury (PT) and the
National Treasury the reasons for rejecting or not following those recommendations.

36.10 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 or signed within 30 days of the submission.

37. Combating of abuse of supply chain management system

37.1 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, favouritisms, 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 wilfully 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).

37.2 The accounting officer must inform the National Treasury and relevant KwaZulu Natal (KZN) treasury (PT) in writing of any actions taken in terms of subparagraphs (1)(b)(ii), (e) or (f) of this policy.

38. Performance Monitoring of Service Providers

A municipal service can be provided by the Municipality by entering into a Service Delivery Agreement in terms of Section 76(b) of the Municipal System Act 32 of 2000 with an external service provider. The Municipality is responsible for monitoring and assessing the implementation of the agreement, including the performance of the service provider in accordance with section 41 of the Municipal Systems Act 32 of 2000.

The performance of service providers that have been selected to provide assistance in the provision of a municipal service, otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies, is required, by Section 116 of the Municipal Finance Management Act, to be monitored and reported on.

Section 38 of this policy apply to contracts that have been awarded or reviewed, before or after the adoption of this policy. Furthermore, this policy applies to all tenders with a contract value greater than R10million VAT included.

The objectives of the Performance Monitoring of Service Providers is to: -

a) Ensure a high quality of service is maintained,

b) Detect underperformance early, thereby reducing the risks to projects,

c) Create mechanisms to improve performance where targets are not being achieved,

d) Provide data to municipal officials so that informed decisions can be made,

e) Assist in government's developmental objectives in the form of structuring appropriate business,

f) support strategies/interventions to targeted enterprises,

g) Assess the suitability of a service provider for pre-qualification, selective tender lists or expressions of interest,

39. Allocation of Service providers within the municipality panels

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 that the rotation of suppliers is maintained. Below is the illustration of steps followed when allocating goods and services to the service providers within the municipality panels to ensure fair distribution of work : -

No	STANDARD PROCEDURE	RESPONSIBLE PERSON	Document
1	User department drafts the allocation form identifying the services needed as well as a detailed specification. The user department must ensure that budget confirmation is obtained against the proposed budget the user intends to use.	End User	Allocation form Budget confirmation Panel Award letter
2	The department Manager, Senior Manager and the GM authorises the allocation form after considering available budget then submits to SCM Office together with the budget confirmation.	Manager: User Department	Allocation form Budget confirmation Panel Award letter
3	SCM Clerk confirms if there is budget through inspection of a valid budget certificate. With the assistance of the allocation register identifies the next eligible suppliers. The contracts coordinator reviews the eligibility of the contractors. The SCM clerk shall then request quotes from the service providers within the panel.	SCM Clerk Contracts coordinator SCM Manager	Allocation form Budget confirmation Panel Award letter Panel rotation register
4	Once quotes are received, the Requesting Official together with the End User manager goes through the quotes as per their specification and approves if meets all the specifications. They will then approve and send back to the SCM Office for Approval.	SCM Clerk Contracts coordinator End user Manager	Allocation form Budget confirmation Panel Award letter

	The contracts coordinator shall review the allocation against the contract register and recommends the allocation.		Panel rotation register Quotations received
5	The SCM Manager reviews the complete allocation document for the following: i. Budget availability ii. Fair rotation iii. Fair Price quoted.	SCM Manager Project Manager	Allocation form Budget confirmation Panel Award letter Panel rotation register Quotations received
6	The final step is an approval by the Chief Financial Officer once he approves, the allocation form is sent to the Service provider and the User department for user to create a requisition on the system. The user department must then prepare a requisition on the financial system.	SCM Clerk SCM Manager CFO	Allocation form Budget confirmation Panel Award letter Panel rotation register Quotations received

40. Amendments to contracts – MFMA Section 116(3)

(1) This section is applicable to all contracts and Circular 62 and Section 116(3) of the Act must be complied with in respect of amendments to contracts. Section 116(3) of the Act states:

"A contract or agreement procured through the supply chain management policy of the municipality or municipal entity may be amended by the parties, but only after-

1. The reasons for the proposed amendment have been tabled in the council of the municipality or, in the case of a municipal entity, in the council of its parent

(b) The local community-

i. has been given reasonable notice of the intention to amend the contract or agreement; and

ii. has been invited to submit representations to the municipality or municipal entity"

(c) Reports for the application of the amendments to contract must include sufficient details including all previous amendments or variations, the start and the end dates of a contract, original contract value, proposed additional contract value, percentage of the proposed additional contract value against original contract value.

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

41. 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.

41.1 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 goods or services.

42. 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 about 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.

42.1 The store manager shall monthly identify obsolete and slow-moving stock that should be disposed of.

42.2 He shall motivate for their disposal, together with necessary documentation, to the SCM Manager for recommendation for disposal thereof.

42.3 All such stock disposals must be approved by both, the chief financial officer, and the municipal manager.

42.4 Once approved, the stock must be physically transferred for safe keeping and disposal to the disposal unit

43. Risk management

43.1 The SCM unit shall subscribe to the Municipal Risk Management Policy and its related risk management processes.

43.2 Risks are identified and assessed in terms of impact and likelihood.

43.3 Mitigating measures are developed, implemented, and regularly monitored.

43.4 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.

44. Performance management

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 several reporting requirements that are required by National Treasury and Provincial Treasury.

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

45. Contract Management

Contract management processes interact with supply chain management (SCM) processes and project management as well as others. Contracts relating to acquisition and disposal of goods and services will need varying levels of management intervention depending on their value, duration, complexity and the strategic importance of the goods and services. Contract management should ideally feed information into demand management, logistics management, and supply chain performance systems.

Part 4: Other matters

46. Prohibition on awards to persons whose tax matters are not in order.

46.1 In order to comply with the new TCS system and the condition of bids that a successful bidder's tax matters must be in order, Accounting Officers of all municipalities and municipal entities should:

a) Designate officials, preferably from the supply chain management unit, whose function will be to verify the tax compliance status of a taxpayer and to manage the TCS system on the SARS website and have the functionality to verify the tax compliance status of a taxpayer on the SARS' e-Filing system. Guidance to the Tax Compliance functionality on eFiling is available on the SARS website www.sars.gov.za.

b) Utilise the Municipal Bid Document 1 (MBD1) issued with this circular when inviting bids.

c) As a bid condition, request bidders to register on government's Central Supplier Database (CSD) and include in their quotations or bids, their Master Registration Number or tax compliance status PIN to enable the municipality to verify the bidder's tax compliance status

d) Utilise the Master Registration Number or tax compliance status PIN to verify bidders' tax compliance status.

e) Print the tax compliance status screen view or letter with the result of the bidder's status at the date and time of verification to file with the bidder's bid documents for audit purposes.

The CSD and tax compliance status PIN are the approved methods to be used to prove tax compliance as the SARS no longer issues Tax Clearance Certificates but has made provision online, via e-Filing, for bidders to print their own Tax Clearance Certificates which they can submit with their bids or price quotations.

Accounting Officers may therefore, accept printed or copies of Tax Clearance Certificates submitted by bidders and verify them on e-Filing. The verification result should be filed for audit purposes. Where a supplier does not submit a tax compliance status PIN but provides a CSD number, the accounting officer should utilise the CSD number via its website www.csd.gov.za to access the supplier records and verify tax compliance status. A printed screen view at the time of verification should then be attached to the supplier's records for audit purposes.

Where goods and services are procured from foreign suppliers with tax obligations in South Africa, proof of tax compliance status should be obtained from the supplier.

Foreign suppliers with neither South African tax obligations nor history of doing business in South Africa should complete a pre-award questionnaire on the MBD 1 for their tax obligation categorisation. Where a recommendation for award of a bid has been made to a bidder who is a foreign supplier and who completed the pre-award questionnaire on the MBD 1, the Accounting Officer must submit a copy of the completed MBD 1 received from the bidder to SARS on the following email address: GovernmentInstitute@sars.gov.za. SARS will issue a letter to the procuring entity confirming whether or not the foreign supplier has tax obligations in South Africa. Where goods and services are procured from foreign suppliers with no tax obligation in South Africa, there is no need to request proof of tax compliance status. Where goods and services are imported, all custom related taxes shall be applied as prescribed by SARS.

47. Prohibition on awards to persons in the service of the state

47.1 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.

48. Awards to close family members of persons in the service of the state

48.1 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.

49. Code of conduct

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.

49.1 General Principles

49.1.1 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.

49.1.2 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.

49.1.3 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.

49.2 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, favor, 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, favor, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person.

e) must declare to the 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.

49.3 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, favoritism 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, favoritism, or unfair conduct.

j) any alleged contravention of the policy on inducements, rewards, gifts and favors to municipalities or municipal entities, officials, or other role players; and

k) any alleged breach of this code of conduct.

l) 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.

49.4 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.

49.5 Confidentiality

a) Any information that is the property of the municipality or its providers should always be protected.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 provision of law requires otherwise. Such restrictions also apply to officials and other role players involved in SCM after separation from service.

49.6 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.

49.7 Combative Practices

Combative practices are unethical and illegal and should be avoided at all costs. 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.

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

a) 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 or has any business relations with the municipality:

(b) 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 authorization.

(d) In the event that the General Manager/ or the Municipal Manager be of the opinion that the gift reward or favor 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 favor refused. The circumstances will be given to the benefactor.

(g) A register of all gifts, rewards and/ or favors accepted by employees shall be maintained by each Head of Department, which shall be inspected by the Municipal Manager monthly.

50.1 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, trademark, or logo and which are presented for advertising purposes; and

d) Gifts less than R350 in value.

50.2 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.

51. Sponsorships

51.1 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.

52 Objections and complaints

52.1 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.

53 Resolution of objections and complaints against procurement process

53.1 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.

53.2 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.

(a) The person appointed must –

(b) strive to resolve promptly all objections and complaints received; and

(c) submit monthly reports to the accounting officer on all such objections and complaints received, attended to or resolved.

53.3 If the independent and impartial person referred to in paragraph 53 (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.

53.4 An objection or complaint may be referred to the KwaZulu-Natal (KZN) treasury (PT) if:

(a) the objection or complaint is not resolved within 60 days: or

(b) no response is forthcoming within 60 days.

53.5 If the KZN TREASURY does not or cannot resolve the matter, the objection or complaint

may be referred to the National Treasury for resolution.

54. Municipal Bid Appeals Tribunal

(a) The council shall utilize a Municipal Bid Appeals Tribunal for matters referred by the Independent & Impartial person referred to in 53 above

(b) 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.

(c) 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 KZN TREASURY as set out in the Rules referred to in paragraph.

(d) There shall be no further appeal against a decision of the Municipal Bid Appeals Tribunal, expect for where normal legal rights exist, such as referral to High Court for Review. /PAJA.

55. Contracts providing for compensation based on turnover.

55.1 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

(b) that such compensation must be performance based.

56. Roles and responsibilities

56.1 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.

57. Monitoring and Evaluation

57.1 This Policy shall be monitored and evaluated by the Policy Commitee and regular monitoring reports submitted to the Management Committee Meeting, Portfolio Committee, Executive Committee and Full Council Meetings.

58. Commencement of The Policy

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

59. Amendment and/or Abolition

59.9 This policy may be amended or repealed by the Municipality through a Council Resolution.

60 . Compliance and Enforcement

60.1 Violation or non-compliance with this policy will give a just cause for disciplinary steps to be taken.

61 . POLICY REVIEW

61.1 This Policy will be reviewed annually to ensure applicability and relevance.

62. APPEAL PROCESS/ GRIEVANCE PROCEDURE

62.1 The policy must also state what will happen if one of the users thereof is not satisfied or there is a violation with the implementation process.

Records of Approval

Meeting	Date	Resolution
Review 2021/2022		
Policy Review Committee	20 January 2022	Recommended to MANCO
MANCO	24 January 2022	Recommended to Portfolio Committee on Finance
Portfolio Committee on Finance	03 February 2022	Recommended to EXCO
EXCO	06 March 2022	Recommended to Council
Council	26 May 2022	Approved
Review 2022/2023		
Policy Review Committee	10 February 2023	Recommended to MANCO
MANCO	24 April 2023	Recommended to Portfolio Committee on Finance
Portfolio Committee on Finance	16 May 2023	Recommended to EXCO
EXCO	17 May 2023	Recommended to Council
Council	25 May 2023	Approved
Review 2023/2024		
Policy Review Committee	14 February 2024	Recommended to MANCO
MANCO	11 March 2024	Recommended to Portfolio Committee on Finance
Portfolio Committee on Finance	14 March 2024	Recommended to EXCO
EXCO	20 March 2024	Recommended to Council
Council	23 May 2024	Approved
Review 2024/2025		
Policy Review Committee	18 February 2025	Recommended to MANCO
MANCO	19 May 2025	Recommended to Portfolio Committee on Finance
Joint Portfolio Committee on Finance and EXCO	26 May 2025	Recommended to EXCO
Joint Portfolio Committee on Finance and EXCO	26 May 2025	Recommended to Council
Council	29 May 2025	Approved

Review 2025/2026		
Policy Review Committee	24 February 2026	Recommended to MANCO
MANCO	04 May 2026	Recommended to Portfolio Committee on Finance
Portfolio Committee on Finance	12 May 2026	Recommended to EXCO
EXCO	20 May 2026	Recommended to Council
Council	28 May 2026	Approved