

UTHUKELA DISTRICT MUNICIPALITY



SUPPLY CHAIN MANAGENT POLICY

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LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003

Council resolves in terms of section 111 of the Local Government Municipal Finance Management Act (No. 56 of 2003), to adopt the following proposal as the Supply Chain Management Policy of the Municipality.

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Definitions

1. 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, and –

“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;

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

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

“In the service of the state” means to be –

- (a) A member of –
 - (i) Any municipal council;
 - (ii) Any provincial legislature; or
 - (iii) The National Assembly or the National Council of Provinces;
- (b) A member of the board of directors of any municipal entity;
- (c) An official of any Municipality or municipal entity;
- (d) An employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No.1 of 1999);

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- (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 Financial Regulations of the Uthukela District Municipality.

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

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

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

“Municipality” means Uthukela District Municipality;

“Written or verbal quotations” means quotations referred to in paragraph 12(1)(b) of this Policy.

CHAPTER 1

IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

Supply chain management policy

2. (1) All officials and other role players in the supply chain management system of the **Municipality** must implement this Policy in a way that –
- (a) Gives effect to –
 - (i) Section 217 of the Constitution; and
 - (ii) Part 1 of Chapter 11 and other applicable provisions of the Act;
 - (b) is fair, equitable, transparent, competitive and cost effective;
 - (c) Complies with –
 - (i) The Regulations; and
 - (ii) Any minimum norms and standards that may be prescribed in terms of section 168 of the Act;
 - (d) is consistent with other applicable legislation;
 - (e) does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and
 - (f) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.
- (2) The municipal entity must, in addition to complying with subparagraph (1), apply this Policy, to the extent determined by the parent Municipality, in a way that and that is consistent with the supply chain management policy of the parent Municipality.
- (3) This Policy applies when the Municipality–
- (a) procures goods or services;
 - (b) disposes goods no longer needed;
 - (c) selects contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies; or
 - (d) selects external mechanisms referred to in section 80 (1) (b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in section 83 of that Act.

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- (4) This Policy, except where provided otherwise, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Act, including –
- (a) water from the Department of Water Affairs or a public entity, another Municipality or a municipal entity; and
 - (b) electricity from Eskom or another public entity, another Municipality or a municipal entity.

Amendment of the supply chain management policy

3. (1) The accounting officer must –
- (a) at least annually review the implementation of this Policy; and
 - (b) when the accounting officer considers it necessary, submit proposals for the amendment of this Policy to the council.
- (2) If the accounting officer submits proposed amendments to the Council that differs from the model policy issued by the National Treasury, the accounting officer must –
- (a) ensure that such proposed amendments comply with the Regulations; and
 - (b) report any deviation from the model policy to the National Treasury and the relevant provincial treasury.
- (3) When amending this supply chain management policy the need for uniformity in supply chain practices, procedures and forms between organs of state in all spheres, particularly to promote accessibility of supply chain management systems for small businesses must be taken into account.

Delegation of supply chain management powers and duties

4. (1) The Council hereby delegates all powers and duties to the accounting officer which are necessary to enable the accounting officer –
- (a) to discharge the supply chain management responsibilities conferred on accounting officers in terms of –
 - (i) Chapter 8 or 10 of the Act; and
 - (ii) this Policy;

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- (b) to maximise administrative and operational efficiency in the implementation of this Policy;
 - (c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of this Policy; and
 - (d) to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.
- (2) Sections 79 and 106 of the Act apply to the subdelegation of powers and duties delegated to an accounting officer in terms of subparagraph (1).
- (3) The accounting officer may not subdelegate any supply chain management powers or duties to a person who is not an official of the Municipality or to a committee which is not exclusively composed of officials of the Municipality;
- (4) This paragraph may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this Policy.

Subdelegations

5. (1) The accounting officer may in terms of section 79 or 106 of the Act subdelegate any supply chain management powers and duties, including those delegated to the accounting officer in terms of this Policy, but any such subdelegation must be consistent with subparagraph (2) of this paragraph and paragraph 4 of this Policy.
- (2) The power to make a final award –
- (a) above R10 million (VAT included) may not be subdelegated by the accounting officer;
 - (b) above R2 million (VAT included), but not exceeding R10 million (VAT included), may be subdelegated but only to –
 - (i) the chief financial officer;
 - (ii) a General Manager as defined in Section 57(1)(a) of the Local Government Municipal Systems Act 32 of 2000

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- (iii) 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 subdelegated but only to –
 - (i) the chief financial officer;
 - (ii) a General Manager;
 - (iii) a manager directly accountable to the chief financial officer or a General Manager; or
 - (iv) a bid adjudication committee.
- (3) An official or bid adjudication committee to which the power to make final awards has been subdelegated in accordance with subparagraph (2) must within five days of the end of each month submit to the official referred to in subparagraph (4) a written report containing particulars of each final award made by such official or committee during that month, including–
 - (a) the amount of the award;
 - (b) the name of the person to whom the award was made; and
 - (c) the reason why the award was made to that person.
- (4) A written report referred to in subparagraph (3) must be submitted –
 - (a) to the accounting officer, in the case of an award by –
 - (i) the chief financial officer;
 - (ii) a General Manager; or
 - (iii) a bid adjudication committee of which the chief financial officer or a General Manager is a member; or
 - (b) to the chief financial officer or the General 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 General Manager is not a member.
- (5) Subparagraphs (3) and (4) of this policy do not apply to procurements out of petty cash.

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- (6) This paragraph may not be interpreted as permitting an official to whom the power to make final awards has been subdelegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this Policy.
- (7) No supply chain management decision-making powers may be delegated to an advisor or consultant.

Oversight role of council

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

Supply chain management unit

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

Training of supply chain management officials

8. The accounting officer and all other officials of the municipality involved in the Implementation of the SCM Policy must meet the prescribed competency levels in terms of the National Treasury Competency Regulations-
 - (1) The training of officials involved in implementing this Policy should be in accordance with any Treasury guidelines on supply chain management training.
 - (2) The municipality must provide opportunities and resources for training of officials Preferred to meet the relevant prescribed supply chain management competency levels. There must be ongoing rotation of duties for officials and training on each section of the SCM Unit.

Training and Skills Transfer

1. In the instance of a Service Provider providing professional consulting services, Municipal staff working in the area being serviced by the Service Provider will be identified for skills transfer and training.
2. The Service Provider is required to submit a plan detailing the work plan with set time frames and milestones, performance targets, monitoring systems, roles and responsibilities and a close out report confirming the training that was provided to the relevant Municipal Officials.

CHAPTER 2

SUPPLY CHAIN MANAGEMENT SYSTEM

Format of supply chain management system

9. This Policy provides systems for –
- (i) demand management;
 - (ii) acquisition management;
 - (iii) logistics management;
 - (iv) disposal management;
 - (v) risk management; and
 - (vi) performance management.

Part 1: Demand management

System of demand management

10. (1) The accounting officer must establish and implement an appropriate demand management system in order to ensure that the resources required by the Municipality support its operational commitments and its strategic goals outlined in the Integrated Development Plan.
- (2) The demand management system must –
- (a) include timely planning and management processes to ensure that all goods and services required by the Municipality are quantified, budgeted for and timely and effectively delivered at the right locations and at the critical delivery dates, and are of the appropriate quality and quantity at a fair cost;
 - (b) take into account any benefits of economies of scale that may be derived in the case of acquisitions of a repetitive nature; and
 - (c) provide for the compilation of the required specifications to ensure that its needs are met.
 - (d) To undertake appropriate industry analysis and research to ensure that innovations and technological benefits are maximized.

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Part 2: Acquisition management

System of acquisition management

11. (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 authorised processes only;
 - (b) the end user departments may under no circumstances request or instruct a supplier to render services or provide goods prior to the generation of an order by the SCM unit.
 - (c) that expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the Act;
 - (d) that the threshold values for the different procurement processes are complied with;
 - (e) that bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation; and
 - (f) that any Treasury guidelines on acquisition management are properly taken into account.
- (2) When procuring goods or services contemplated in section 110(2) of the Act, the accounting officer must make public the fact that such goods or services are procured otherwise than through the Municipality's supply chain management system, including
- (a) the kind of goods or services; and
 - (b) the name of the supplier.

Range of procurement processes

PART ONE

12. (1) Goods and services may only be procured by way of –
- (a) petty cash purchases, up to a transaction value of R2000.00 (VAT included);
 - (b) one written or verbal quotations for procurements of a transaction value over R1 up to R2000.00 (VAT included); and official accommodation
 - (c) Three formal written price quotations for procurements of a transaction value over R2001 up to R30 000 (VAT included); and
 - (d) formal written quotations be sourced through bidding process whose value exceeds R30 000.00 but is limited to R200 000.00 inclusive of VAT.
 - (e) a competitive bidding process for–

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- (i) procurements above a transaction value of R200 000.00 (VAT included); and
 - (ii) the procurement of long term contracts.
- (2) The accounting officer may, in writing-direct that –
- (i) written or verbal quotations be obtained for any specific procurement of a transaction value lower than R1000.00;
 - (ii) formal written price quotations be obtained for any specific procurement of a transaction value lower than R1000.00; or
 - (iii) a competitive bidding process be followed for any specific procurement of a transaction value lower than R200 000.00.
- (3) 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.

PART TWO

PLANNING AND STIPULATION OF PREFERENCE POINT SYSTEM TO BE UTILIZED, EVALUATION OF TENDERS ON FUNCTIONALITY, PREFERENCE POINT SYSTEM AND BROAD-BASED BLACK ECONOMIC EMPOWERMENT STATUS, AWARD OF CONTRACTS TO TENDERERS NOT SCORING THE HIGHEST NUMBER OF POINTS AND THE CANCELLATION AND RE-INVITATION OF TENDERS.

Planning and stipulation of preference point system to be utilized

1. An organ of state must, prior to making an invitation for tenders-
 - (a) Properly plan for, and, as far as possible, accurately estimate the costs of the provision of services, works or goods for which an invitation for tenders is to be made,
 - (b) determine and stipulate the appropriate preference point system to be utilized in the evaluation and adjudication of the tenders; and
 - (c) Determine whether the services, works or goods for which an invitation for tenders is to be made has been designated for local production and content in terms of regulation 9.

Evaluation of tenders on functionality

3.
 - (1) An organ of state must indicate in the invitation to submit a tender if that tender will be evaluated on functionality.
 - (2) The evaluation criteria for measuring functionality must be objective.
 - (3) When evaluating tenders on functionality, the-
 - (a) Evaluation criteria for measuring functionality;
 - (b) Weigh of each criterion;
 - (c) Applicable values; and
- (d) Minimum qualifying score for functionality, Must be clearly specified in the invitation to submit a tender.

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- (4) No tender must be regarded as an acceptable tender if it fails to achieve the minimum qualifying score for functionality as indicated in the tender invitation.
- (5) Tenders that have achieved the minimum qualifying score for functionality must be evaluated further in terms of the preference point systems prescribed in regulations 5 and 6.

Pre-qualification criteria for preferential procurement

4. (1) If an organ of state decides to apply pre-qualifying criteria to advance certain designated groups, that organ of state must advertise the tender with a specific tendering condition that only one or more of the following tenderers may respond-
 - (a) a tenderer having a stipulated minimum B-BBEE status level of contributor;
 - (b) an EME or QSE;
 - (c) a tenderer subcontracting a minimum of 30% to-
 - (i) an EME or QSE which is at least 51% owned by black people;
 - (ii) an EME or QSE which is at least 51% owned by black people who are youth;
 - (iii) an EME or QSE which is at least 51% owned by black people who are women;
 - (iv) an EME or QSE which is at least 51% owned by black people with disabilities;
 - (v) an EME or QSE which is 51% owned by black people living in rural or underdeveloped areas or townships;
 - (vi) a cooperative which is at least 51% owned by black people;
 - (vii) an EME or QSE which is at least 51% owned by black people who are military veterans;
 - (viii) an EME or QSE.
- (2) A tender that fails to meet any pre-qualifying criteria stipulated in the tender will not be considered further.

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The 80/20 preference point system for acquisition of services, works or goods up to Rand value of R50 million

4.(1) (a) The following formula must be used to calculate the points for price in respect of tenders (including price quotations) with a Rand value equal to, or above R30 000 and up to a Rand value of R50 000 000 (all applicable taxes included):

$$P_s = 80 \left[\frac{1 - P_t - P_{\min}}{P_{\min}} \right]$$

Where

- P_s = Points scored for comparative of tender or offer under consideration;
 P_t = Comparative price of tender or offer under consideration; and
 P_{\min} = Comparative price of lowest acceptable tender or offer.

(b) Organs of state may apply the formula in paragraph (a) for price quotations with a value less than R 30 000, if and when appropriate;

(2) Subject to sub-section (3), points must be awarded to a tenderer for attaining the B-BBEE status level of contributor in accordance with the table below.

B-BBEE Status Level of Contributor	Number of Points
1	20
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

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- (3) A maximum of 20 points may be allocated in accordance with sub-regulation (2)
- (4) The points scored by a tenderer in respect of B-BBEE contribution contemplated in sub-regulation (2) must be added to the points scored for price as calculated in accordance with sub-regulation (1).
- (5) Subject to regulation 7, the contract must be awarded to the tenderer who scores the highest total number of points.

The 90/10 preference points system for acquisition of services, works or goods with a Rand value above R50 million.

- 6.(1) The following formula must be used to calculate the points for price in respect of tenders with a Rand value above R50 000 000(all applicable taxes included):

$$Ps=90 \left[\frac{1- Pt - P \text{ min}}{P \text{ min}} \right]$$

Where

- Ps = Points allocated for comparative price of tender of offer under consideration;
Pt = Comparative price of tender or offer under consideration; and
P min = Comparative price of lowest acceptable tender or offer.

- (2) Subject to sub-regulation (3), points must be awarded to a tenderer for attaining their B-BBEE status level of contributor in accordance with the table below;

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B-BBEE Status Level of Contributor	Number of Points
1	10
2	9
3	6
4	5
5	4
6	3
7	2
8	1
9	0

(3) A maximum of 10 points must be awarded to a tenderer for attaining their B-BBEE status level of contributor in accordance with the table below

(4) The points scored by a tender in respect of the level of B-BBEE contribution contemplated in sub-regulation (2) must be added to the points scored for price as calculated in accordance with sub-regulations (1).

(5) Subject to regulation 7, the contract must be awarded to the tenderer who scores the highest total number of points.

Award of contracts to tenderers not the highest number of points

7. (1) A contract may be awarded to a tenderer that did not score the highest total number of points, only in accordance with section 2 (1) (f) of the Act.

Cancellation and re-invitation of tenders

8. (1) (a) In the event that, in the application of the 80/20 preference points system as stipulated in the tender documents, all tenders received exceed the estimated Rand value of R50 000 000, the tender invitation must be cancelled.

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(b) If one or more of the acceptable tenders received are within the prescribed threshold of R50 000 000, all tenders received must be evaluated on the 80/20 preference point system.

(2) (a) in the event that, in the application of the 90/10 preference point system as stipulated in the tender documents, all tenders received are equal to, or below R50 000 000, the tender must be cancelled.

(b) if one or more of the acceptable tenders received are above the prescribed threshold of R50 000 000, all tenders received must be evaluated on the 90/10 preference point system.

(3) An organ of state which has cancelled a tender invitation as contemplated in sub-regulations (1)(a) and (2)(a) must re-invited tender and must, in the tender documents, stipulate the correct preference point system to be applied.

(4) An organ of state may, prior to the award of a tender, cancel a tender if-

(a) due to changed circumstances, there is no longer a need for the services, works or goods requested; or

(b) Funds are no longer available to cover the total envisaged expenditure; or

(c) No acceptable tenders are received.

(d) A material irregularity in the tender process. Since the Supreme Court of Appeal has recently ruled that cancellation of a tender process is not “administrative action” and therefore can only be challenged on rationality grounds, this change means that an organ of state will have a great deal of leeway to cancel a tender process prior to award, without the risk of legal challenges.

(5) The decision to cancel a tender in terms of sub-regulation (4) must be published in the Government Tender Bulletin or the media in which the original tender invitation was advertised.

General preconditions for consideration of written quotations or bids

- 13.** A written quotation or bid may not be considered unless the provider who submitted the quotation or bid –
- (a) has furnished that provider's –
 - (i) full name;
 - (ii) identification number or company or other registration number; and
 - (iii) tax reference number and VAT registration number, if any;
 - (b) has authorised the Municipality to obtain a tax clearance from the South African Revenue Services that the provider's tax matters are in order; and
 - (c) has indicated –
 - (i) whether he or she is in the service of the state, or has been in the service of the state in the previous twelve months;
 - (ii) if the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the state, or has been in the service of the state in the previous twelve months; or
 - (iii) whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in subparagraph (ii) is in the service of the state, or has been in the service of the state in the previous twelve months.

Lists of accredited prospective providers

- 14.** (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 written or verbal quotations and formal written price quotations; and
 - (b) at least once a year through newspapers commonly circulating locally, the website and any other appropriate ways, invite prospective providers of goods or services to apply for evaluation and listing as accredited prospective providers;
 - (c) specify the listing criteria for accredited prospective providers; and
 - (d) Disallow the listing of any prospective provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector.

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- (2) The list must be updated at least quarterly to include any additional prospective providers and any new commodities or types of services. Prospective providers must be allowed to submit applications for listing at any time.
- (3) The list must be compiled per commodity and per type of service, as per supplier database registration forms of UThukela District Municipality.
- (4) Prospective providers must appear on the National Treasury's Central Supplier database.

Petty cash purchases

15. The conditions for the procurement of goods by means of petty cash purchases referred to in paragraph 12 (1) (a) of this Policy, are as follows –
 - (a) Petty cash transactions should be reimbursive in nature;
 - (b) a monthly reconciliation report from each manager must be provided to the Chief Financial Officer, including -
 - (i) the total amount of petty cash purchases for that month; and
 - (ii) receipts and appropriate documents for each purchase.

Written or verbal quotations

16. The conditions for the procurement of goods or services through written or verbal quotations are as follows:
 - (a) Quotations must be obtained from at least three different providers preferably from, but not limited to, providers whose names appear on the list of accredited prospective providers of the Municipality, provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria set out in paragraph 14(1)(b) and (c) of this Policy;
 - (b) To the extent feasible, providers must be requested to submit such quotations in writing;
 - (c) if it is not possible to obtain at least three quotations, the reasons must be recorded and reported quarterly to the accounting officer or another official designated by the accounting officer;

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- (d) the accounting officer must record the names of the potential providers requested to provide such quotations with their quoted prices; and
- (e) if a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider.
- (f) if service providers withdraw their quotations they must do so in writing, the supply chain management unit must keep a record of this.

Formal written price quotations

- 17.** (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 14(1)(b) and (c) 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 or an official designated by the chief financial officer.

Procedures for procuring goods or services through written or verbal quotations and formal written price quotations

- 18.** The procedure for the procurement of goods or services through written or verbal quotations or formal written price quotations is as follows:
- (a) when using the list of accredited prospective providers the accounting officer must promote ongoing competition amongst providers by inviting providers to submit quotations on a rotation basis;
 - (b) the accounting officer must take all reasonable steps to ensure that the procurement of goods and services through written or verbal quotations is not abused;
 - (c) the accounting officer or chief financial officer must on a monthly basis 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;
 - (d) offers must be awarded based on compliance to specifications and conditions of contract, ability and capability to deliver the goods and services and lowest price;

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- (e) acceptable offers, which are subject to the preference points system (PPPFA and associated regulations), must be awarded to the bidder who scored the highest points;
- (f) In an attempt to allow for greater exposure of emerging contractors within UThukela District Municipality pre-requisite requirements of previous experience for bids below R 200 000.00 (VAT included) will not be required. Unless it is a specialized service or a sole supplier.

Competitive bids

19. (1) Goods or services above a transaction value of R200 000.00 (VAT included) and long term contracts may only be procured through a competitive bidding process, subject to paragraph 11(2) of this Policy.

(2) No requirement for goods or services above an estimated transaction value of R200 000.00 (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.

Process for competitive bidding

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

- (a) Compilation of bidding documentation as detailed in paragraph 21;
- (b) Public invitation of bids as detailed in paragraph 22;
- (c) Site meetings or briefing sessions as detailed in paragraph 22;
- (d) Handling of bids submitted in response to public invitation as detailed in paragraph 23;
- (e) Evaluation of bids as detailed in paragraph 28;
- (f) Award of contracts as detailed in paragraph 29;
- (g) Administration of contracts
 - (i) After approval of a bid, the accounting officer and the bidder must enter into a written agreement.
- (h) Proper record keeping

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

Bid documentation for competitive bids

21. The criteria to which bid documentation for a competitive bidding process must comply, must –

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

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whether any portion of payment from the Municipality or municipal entity is expected to be transferred out of the Republic; and

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

Public invitation for competitive bids

22. (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 Provincial Government Gazette); and
- (b) the information contained in a public advertisement, must include –
 - (i) the closure date for the submission of bids, which may not be less than 30 days in the case of transactions over R10 million (VAT included), or which are of a long term nature, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to subparagraph (2) of this policy;
 - (ii) a statement that bids may only be submitted on the bid documentation provided by the Municipality; and
 - (iii) date, time and venue of any proposed site meetings or briefing sessions.;

(2) The accounting officer may determine a closure date for the submission of bids which is less than the 30 or 14 days requirement, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process.

(3) Bids submitted must be sealed.

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

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Estimated value of the Project	Document Fee
> R 200 000 < R 1 000 000	R 150
> R 1 000 000 < R 3 000 000	R 200
> R 3 000 000 < R 5 000 000	R 350
> R 5 000 000 < R 10 000 000	R 400
> R 10 000 000 < R 20 000 000	R 500
> R 20 000 000 < R 40 000 000	R 600
> R 40 000 000	R 800

Procedure for handling, opening and recording of bids

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

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

Negotiations with preferred bidders

24. (1) The accounting officer may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provided that such negotiation –

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- (a) does not allow any preferred bidder a second or unfair opportunity;
- (b) is not to the detriment of any other bidder; and
- (c) does not lead to a higher price than the bid as submitted.

(2) Minutes of such negotiations must be kept for record purposes.

Two-stage bidding process

25. (1) A two-stage bidding process is allowed for –

- (a) large complex projects;
- (b) projects where it may be undesirable to prepare complete detailed technical specifications; or
- (c) long term projects with a duration period exceeding three years.

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

(3) In the second stage final technical proposals and priced bids should be invited.

Committee system for competitive bids

26. (1) A committee system for competitive bids is hereby established, consisting of the following committees for each procurement or cluster of procurements as the accounting officer may determine:

- (a) a bid specification committee;
- (b) a bid evaluation committee; and
- (c) a bid adjudication committee;

(2) The accounting officer appoints the members of each committee, taking into account section 117 of the Act; and

(3) A neutral or independent observer, appointed by the accounting officer, must attend or oversee a committee when this is appropriate for ensuring fairness and promoting transparency.

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- (4) The committee system must be consistent with –
- (a) paragraph 27, 28 and 29 of this Policy; and
 - (b) any other applicable legislation.
- (5) The accounting officer may apply the committee system to formal written price quotations.
- (6) Matters of a confidential nature in the possession of officials should be kept confidential unless legislation, the performance of duty or the provisions of law requires otherwise. Any information that is the property of the uThukela District Municipality or its suppliers/ service providers should be protected at all times. No information regarding any Bid/ Quotation/ Contract/ Bidder/ Contractor may be revealed as such an action will infringe on the relevant Bidder's/ Contractor's personal rights.

Bid specification committees

- 27.** (1) A bid specification committee must compile the specifications for each procurement of goods or services by the Municipality.
- (2) Specifications –
- (a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
 - (b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organisation, or an authority accredited or recognised by the South African National Accreditation System with which the equipment or material or workmanship should comply;
 - (c) must, where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;
 - (d) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labeling of conformity certification;
 - (e) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible

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way of describing the characteristics of the work, in which case such reference must be accompanied by the word “equivalent”;

- (f) must indicate each specific goal for which points may be awarded in terms of the points system set out in the Preferential Procurement Regulations 2001; and
- (g) must be approved by the accounting officer prior to publication of the invitation for bids in terms of paragraph 22 of this Policy.

(3) A bid specification committee must be composed of one or more officials of the Municipality, preferably the manager responsible for the function involved, and may, when appropriate, include external specialist advisors.

(4) No person, advisor or corporate entity involved with the bid specification committee, or director of such a corporate entity, may bid for any resulting contracts.

Bid evaluation committees

28. (1) A bid evaluation committee must –

- (a) evaluate bids in accordance with –
 - (i) the specifications for a specific procurement; and
 - (ii) the points system set out in terms of paragraph 27(2)(f).
- (b) evaluate each bidder’s ability to execute the contract;
- (c) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears, and;
- (d) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.

(2) A bid evaluation committee must as far as possible be composed of-

- (a) officials from departments requiring the goods or services; and
- (b) at least one supply chain management practitioner of the Municipality .

(3) Discounts

a) When calculating comparative prices:

- i. unconditional discounts must be taken into account for evaluation purposes; and

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ii. conditional discounts must not be taken into account for evaluation purposes but should be implemented when payment is effected

(4) Compulsory sub-contracting

a) A bidder must not be awarded the points claimed for B-BBEE status level of contribution if it is indicated in the bid documents that such a bidder intends sub-contracting more than 25% of the contract value to any other enterprise that does not qualify for at least the same number of points that the bidder qualifies for, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.

b) A contractor is not allowed to sub-contract more than 25% of the contract value to another enterprise that does not have equal or higher B-BBEE status level, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.

c) In relation to a designated sector, a contractor must not be allowed to sub-contract in such a manner that the local production and content of the overall value of the contract is reduced to be lower than stipulated minimum threshold.

d) Where feasible, organs of state must impose a 30% subcontracting requirement in tender invitations for contracts in excess of ZAR30-million. The PPPFA Regulations 2017 contemplate that the compulsory subcontracting requirement, if applied, must be for the purpose of advancing the same categories of EMEs, QSEs and co-operatives as are provided for in relation to pre-qualification criteria.

Where compulsory subcontracting is applied in a tender process, successful tenderers will be obliged to subcontract a minimum of 30% of the contract value to one or more suppliers registered on a database approved by National Treasury to provide the required goods or services.

Sub-contracting with the following designated groups:

1. An EME or QSE which is at least 51% Black Owned
2. An EME or QSE which is at least 51% owned by black youth
3. An EME or QSE which is at least 51% Black Women Owned
4. An EME or QSE which is at least 51% owned by black people with disabilities
5. An EME or QSE which is 51% owned by black people living in rural or underdeveloped areas and / or townships.
6. A Cooperative which is at least 51% owned by black people.
7. An EME or QSE which is at least 51% owned by black people who are military veterans.

A person awarded a contract by an organ of state may enter into a subcontracting arrangement only with the consent of the organ of state.

E) For construction related contracts, the service provider should ensure that a minimum % of the contract, as detailed below, is sub-contracted to qualifying previously disadvantaged companies within the approved emerging contractors incubator project, within the area of jurisdiction of the municipality, subject to (a) and (b) above.

Total value of the project (inclusive of VAT)	% of the Project to be sub-contracted	Minimum number of sub-contractors
> R 5 000 000 < R 10 000 000	5 % of Total value of the project	2
> R10 000 000 < R 15 000 000	10 % of Total value of the project	2
> R15 000 000 < R 20 000 000	15 % of Total value of the project	3
> R20 000 000 < R 25 000 000	20 % of Total value of the project	4
> R25 000 000 < R30 000 000	25 % of Total value of the project	5
>R30 000 000 <	30 % of Total value of the project	6

Service Providers who are granted construction work contracts with a project value of R 5 million or more may be required to subcontract at least 5%-30% of the works to service providers with a CIDB grading of between 1CE and 4CE, whose principal business address is registered, and whose operations are conducted primarily within the jurisdiction of the UThukela District Municipality. Bids with a value above R 1 million for the supply and delivery of goods and services will be subjected to sub-contracting, where it is deemed practical to do so by the municipality.

The service provider may be required to enter into an agreement with the Municipality and the third party subcontractor in order to facilitate a cession of a right to direct payment to allow for the transfer of direct payment to the third party sub-contractor where necessary.

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

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

A. First stage – Evaluation of functionality

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- i. Bids must be evaluated in terms of the evaluation criteria embodied in the bid documents. The amendment of evaluation criteria, weights, applicable values and/or the minimum qualifying score for functionality after the closure of bids is not allowed as this may jeopardise the fairness of the process.
- ii. A bid will be considered further if it achieves the prescribed minimum qualifying score for functionality.
- iii. Bids that fail to achieve the minimum qualifying score for functionality must be disqualified.
- iv. Score sheets should be prepared and provided to panel members to evaluate the bids.
- v. The score sheet should contain all the criteria and the weight for each criterion as well as the values to be applied for evaluation as indicated in the bid documents.
- vi. Each panel member should after thorough evaluation independently award his / her own value to each individual criterion.
- vii. Score sheets should be signed by panel members and if necessary, written motivation may be requested from panel members where vast discrepancies in the values awarded for each criterion exist.
- viii. If the minimum qualifying score for functionality is indicated as a percentage in the bid documents, the percentage scored for functionality may be calculated as follows:

The value awarded for each criterion should be multiplied by the weight for the relevant criterion to obtain the score for the various criteria;

The scores for each criterion should be added to obtain the total score; and

The following formula should be used to convert the total score to percentage for functionality:

$$100 \times \frac{Ms}{So} \times Ps$$

where:

Ps = percentage scored for functionality by bid under consideration

So = total score of bid under consideration

Ms = maximum possible score

- ix. The percentage of each panel member should be added and divided by the number of panel members to establish the average percentage obtained by each bidder for functionality.
- x. During the evaluation of a service provider, the Bid evaluation committee should assess whether the service provider is currently rendering services (construction related contracts) to the municipality:
 - a. If the service provider is currently rendering services to the municipality with a stage of completion less than 50% and/or

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b. the service providers' performance is not in line with the project performance milestones, then the service provider should be disqualified from further evaluation, and should be placed on hold.

(6) Access to bidding information

Information access:

- a) all bidding information remains strictly confidential.
- b) every bidder shall be informed of final bid results.
- c) the information of one bidder shall not be disclosed to any other bidder.

Informing the unsuccessful bidders

d) The SCM Unit must inform unsuccessful bidders in writing that their bids were unsuccessful. At this stage no detail on why bids were unsuccessful, has to be provided. The unsuccessful bidder has fourteen (14) working days to raise an objection against the decision. If no response has been received by the municipality within the stipulated period, a letter will be sent to the successful bidder informing him/her of the acceptance of his/her bid.

e) on written request, any bidder should be provided with the reasons why his / her own bid was unsuccessful.

Informing the successful bidders

a) the successful bidder must be notified in writing by registered or certified mail of the acceptance of their bid within the original validity period of the bid.

b) the information of other bidders will not be disclosed to the successful bidder.

Disclosure of information

a) bids are not available for perusal by the public.

b) (b) according to sections 36 and 63 of the Promotion of Access to Information Act, Act No 2 of 2000, a public body must refuse a request for access to a record of the body if the record contains:

i. trade secrets of a third party.

ii. financial, commercial, scientific or technical information, other than trade secrets, of a third party, the disclosure of which would be likely to cause harm to the commercial or financial interest of the third party.

iii. information supplied in confidence by a third party, the disclosure of which could reasonably be expected:

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to put that third party at a disadvantage in contractual or other negotiations.

to prejudice that third party in commercial competition.

iv. personal information about a third party, including a deceased individual.

c) when divulging information, a balance must be stricken between one party's right to access of information and the right to confidentiality of the other party.

d) where no bid has been accepted, particulars of the bids received are not made public.

e) municipality can withhold information if the release or publication of the information:

i. will impede law enforcement; or

ii. will be contrary to the public interest; or

iii. (will harm the legitimate interests of municipality; or

iv. will hinder fair competition between providers by revealing any proprietary information of any bidder.

Publishing of award

a) awards shall be published in the media by means of which the bids were originally advertised.

b) certain information must be made available on the municipality's website

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.

Bid adjudication committees

29. (1) A bid adjudication committee must –

(a) consider the report and recommendations of the bid evaluation committee; and

(b) either –

(i) depending on its delegations, make a final award or a recommendation to the accounting officer to make the final award; or

(ii) make another recommendation to the accounting officer how to proceed with the relevant procurement.

(2) A bid adjudication committee must consist of at least four General Managers of the Municipality which must include –

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- (a) the chief financial officer or, if the chief financial officer is not available, another manager in the budget and treasury office reporting directly to the chief financial officer and designated by the chief financial officer; and
 - (b) at least one senior supply chain management practitioner who is an official of the Municipality ; and
 - (c) a technical expert in the relevant field who is an official, if such an expert exists.
- (3) The accounting officer must appoint the chairperson of the committee. If the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside at the meeting.
- (4) Neither a member of a bid evaluation committee, nor an advisor or person assisting the evaluation committee, may be a member of a bid adjudication committee.
- (5) (a) If the bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee, the bid adjudication committee must prior to awarding the bid –
- (i) check in respect of the preferred bidder whether that bidder’s municipal rates and taxes and municipal service charges are not in arrears, and;
 - (ii) notify the accounting officer.
- (b) The accounting officer may –
- (i) after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in paragraph (a); and
 - (ii) if the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.
- (6) The accounting officer may at any stage of a bidding process, refer any recommendation made by the evaluation committee or the adjudication committee back to that committee for reconsideration of the recommendation.
- (7) The accounting officer must comply with section 114 of the Act within 10 working days.

Procurement of banking services

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

Procurement of IT related goods or services

- 31.** (1) The accounting officer may request the State Information Technology Agency (SITA) to assist with the acquisition of IT related goods or services through a competitive bidding process.
- (2) Both parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to, SITA.
- (3) The accounting officer must notify SITA together with a motivation of the IT needs if –
- (a) the transaction value of IT related goods or services required in any financial year will exceed R50 million (VAT included); or
 - (b) the transaction value of a contract to be procured whether for one or more years exceeds R50 million (VAT included).
- (4) If SITA comments on the submission and the Municipality disagrees with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the council, the National Treasury, the provincial treasury and the Auditor General.

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

- 32.** (1) The accounting officer may procure goods or services under a contract secured by another organ of state, but only if –
- (a) the contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;
 - (b) there is no reason to believe that such contract was not validly procured;
 - (c) there are demonstrable discounts or benefits to do so; and
 - (d) that other organ of state and the provider have consented to such procurement in writing.
- (2) Subparagraphs (1)(c) and (d) do not apply if –
- (a) a municipal entity procures goods or services through a contract secured by its parent Municipality; or
 - (b) a Municipality procures goods or services through a contract secured by a municipal entity of which it is the parent Municipality.
 - (c) the Accounting Officer must first obtain consent from Provincial Treasury before he/she finalizes an agreement with another organ of state and the identified service provider (Circular 01A/2016).

Procurement of goods necessitating special safety arrangements

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

Proudly SA Campaign

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34. The Municipality supports the Proudly SA Campaign to the extent that, all things being equal, preference is given to procuring local goods and services from:

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

Appointment of consultants

35. (1) The accounting officer may procure consulting services provided that any Treasury guidelines in respect of consulting services are taken into account when such procurements are made.

(2) Consultancy services must be procured through competitive bids if

- (a) the value of the contract exceeds R200 000.00 (VAT included); or
- (b) the duration period of the contract exceeds one year.

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

- (a) all consultancy services provided to an organ of state in the last five years; and
- (b) any similar consultancy services provided to an organ of state in the last five years.

(4) The accounting officer must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, thing, system or process designed or devised, by a consultant in the course of the consultancy service is vested in the Municipality .

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

36. (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

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- (v) in any other exceptional case where it is impractical or impossible to follow the official procurement processes; and
- (b) ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature.
 - (2) The accounting officer must record the reasons for any deviations in terms of subparagraphs (1)(a) and (b) of this policy and report them to the next meeting of the council and include as a note to the annual financial statements.
 - (3) Subparagraph (2) does not apply to the procurement of goods and services contemplated in paragraph 11(2) of this policy.

Unsolicited bids

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

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(4) The accounting officer must submit all written comments received pursuant to subparagraph (3), including any responses from the unsolicited bidder, to the National Treasury and the relevant provincial treasury for comment.

(5) The adjudication committee must consider the unsolicited bid and may award the bid or make a recommendation to the accounting officer, depending on its delegations.

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

(7) When considering the matter, the adjudication committee must take into account –

- (a) any comments submitted by the public; and
- (b) any written comments and recommendations of the National Treasury or the provincial treasury.

(8) If any recommendations of the National Treasury or provincial treasury are rejected or not followed, the accounting officer must submit to the Auditor General, the provincial treasury and the National Treasury the reasons for rejecting or not following those recommendations.

- (9) Such submission must be made within seven days after the decision on the award of the unsolicited bid is taken, but no contract committing the Municipality to the bid may be entered into or signed within 30 days of the submission.

Combating of abuse of supply chain management system

38. (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, favouritism, 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

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- (ii) report any alleged criminal conduct to the South African Police Service;
 - (c) check the National Treasury's database prior to awarding any contract to ensure that no recommended bidder, or any of its directors, is listed as a person prohibited from doing business with the public sector;
 - (d) reject any bid from a bidder–
 - (i) if any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the Municipality , or to any other Municipality or municipal entity, are in arrears for more than three months; or
 - (ii) who during the last five years has failed to perform satisfactorily on a previous contract with the Municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;
 - (e) reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;
 - (f) cancel a contract awarded to a person if –
 - (i) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
 - (ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and
 - (g) reject the bid of any bidder if that bidder or any of its directors –
 - (i) has abused the supply chain management system of the Municipality or has committed any improper conduct in relation to such system;
 - (ii) has been convicted for fraud or corruption during the past five years;
 - (iii) has willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
 - (iv) has been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).
- (2) The accounting officer must inform the National Treasury and relevant provincial treasury in writing of any actions taken in terms of subparagraphs (1)(b)(ii), (e) or (f) of this policy.

Logistics management

- 39.** 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) regular checking to ensure that all assets including official vehicles are properly managed, appropriately maintained and only used for official purposes; and
 - (g) monitoring and review of the supply vendor performance to ensure compliance with specifications and contract conditions for particular goods or services.

Disposal management

- 40.** (1) The criteria for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the Act, are as follows:
- (2) Assets may be disposed of by –
 - (i) transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;

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- (ii) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
- (iii) selling the asset; or
- (iv) destroying the asset.

(3) The accounting officer must ensure that –

- (a) immovable property is sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
- (b) movable assets are sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous or convenient;
- (c) firearms are not sold or donated to any person or institution within or outside the Republic unless approved by the National Conventional Arms Control Committee;
- (d) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise;
- (e) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed;
- (f) where assets are traded in for other assets, the highest possible trade-in price is negotiated; and
- (g) in the case of the free disposal of computer equipment, the provincial department of education is first approached to indicate within 30 days whether any of the local schools are interested in the equipment.

Risk management

41. (1) The criteria for the identification, consideration and avoidance of potential risks in the supply chain management system, are as follows:

(2) Risk management must include –

- (a) the identification of risks on a case-by-case basis;
- (b) the allocation of risks to the party best suited to 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;

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- (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.

Performance management

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

Part 4: Other matters

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

- 43.** (1) No award above R30 000 may be made in terms of this Policy to a person whose tax matters have not been declared by the South African Revenue Service to be in order.
- (2) Before making an award to a person the accounting officer must first check with SARS whether that person's tax matters are in order.
- (3) If SARS does not respond within 7 days such person's tax matters may for purposes of subparagraph (1) be presumed to be in order.

Prohibition on awards to persons in the service of the state

- 44.** Irrespective of the procurement process followed, no award may be made to a person in terms of this Policy –
- (a) 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
 - (b) a person who is an advisor or consultant contracted with the Municipality ,
 - (c) who is in the service of the state.

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

45. 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,

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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.

Ethical standards

46. (1) A code of ethical standards as set out in subparagraph (2) / the “*National Treasury’s code of conduct for supply chain management practitioners and other role players involved in supply chain management*” is hereby established for officials and other role players in the supply chain management system of the Municipality in order to promote –

- (a) mutual trust and respect; and
- (b) an environment where business can be conducted with integrity and in a fair and reasonable manner.

(2) An official or other role player involved in the implementation of this Policy –

- (a) must treat all providers and potential providers equitably;
- (b) may not use his or her position for private gain or to improperly benefit another person;
- (c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350;
- (d) notwithstanding subparagraph (2) (c), must declare to the accounting officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;
- (e) must declare to the accounting officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, 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 be scrupulous in his or her use of property belonging to Municipality;

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- (h) must assist the accounting officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system; and
 - (i) must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including –
 - (i) any alleged fraud, corruption, favouritism or unfair conduct;
 - (ii) any alleged contravention of paragraph 47(1) of this Policy; or
 - (iii) any alleged breach of this code of ethical standards.
- (3) Declarations in terms of subparagraphs (2)(d) and (e) -
- (a) must be recorded in a register which the accounting officer must keep for this purpose;
 - (b) by the accounting officer must be made to the Mayor of the Municipality who must ensure that such declarations are recorded in the register.
- (4) The National Treasury's code of conduct must also be taken into account by supply chain management practitioners and other role players involved in supply chain management.
- (5) A breach of the code of ethics must be dealt with as follows -
- (a) in the case of an employee, in terms of the disciplinary procedures of the Municipality envisaged in section 67(1)(h) of the Municipal Systems Act;
 - (b) in the case a role player who is not an employee, through other appropriate means in recognition of the severity of the breach.
 - (c) In all cases, financial misconduct must be dealt with in terms of chapter 15 of the Act.

Inducements, rewards, gifts and favours to [municipalities / municipal entities], officials and other role players

- 47.** (1) No person who is a provider or prospective provider of goods or services, or a recipient or prospective recipient of goods disposed or to be disposed of may either directly or through a representative or intermediary promise, offer or grant –
- (a) any inducement or reward to the Municipality for or in connection with the award of a contract; or
 - (b) any reward, gift, favour or hospitality to –

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- (i) any official; or
 - (ii) any other role player involved in the implementation of this Policy.
- (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.
- (3) Subparagraph (1) does not apply to gifts less than R350 in value.
- (4) The uThukela District Municipality shall maintain a register for gifts which officials may accept and which gifts and/ or value level may not be considered at all.

Sponsorships

48. 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.

Objections and complaints

49. 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, a written objection or complaint against the decision or action.

Resolution of disputes, objections, complaints and queries

50. (1) The accounting officer must appoint an independent and impartial person, [not directly involved in the](#) supply chain management processes –
- (a) to assist in the resolution of disputes between the Municipality and other persons regarding -
 - (i) any decisions or actions taken in the implementation of the supply chain management system; or

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- (ii) any matter arising from a contract awarded in the course of the supply chain management system; or
- (b) [to deal with](#) objections, [complaints](#) or [queries regarding](#) any such decisions or actions or any matters arising from such contract.

Municipal Bid Appeals Tribunal

- (1) The council shall establish a Municipal Bid Appeals Tribunal for its area of jurisdiction to hear and determine an appeal against the award of a bid.
- (2) The accounting officer of the municipality, in consultation with the Provincial Treasury, shall appoint the Chairperson, Deputy Chairperson and Members of the Municipal Bid Appeals Tribunal.
- (3) The powers, duties and functions of the Municipal Bid Appeals Tribunal, and matters incidental thereto, are set out in the Rules which are appended to this Supply Chain Management Policy and marked Appendix A
- (4) The administrative and secretarial work involved in the performance of the duties and functions of the Municipal Bid Appeals Tribunal shall be performed by officers of the Provincial Treasury as set out in the Rules referred to in paragraph 3.
- (5) There shall be no further appeal against a decision of the Municipal Bid Appeals Tribunal.

The person appointed must -

- a) strive to resolve promptly all objections or complaints received; and
- b) submit monthly reports to the accounting officer on all such objections and complaints received, attended to or resolved.

An objection or complaint may be referred to the KwaZulu-Natal Provincial Treasury if:

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

Contracts providing for compensation based on turnover

- 51.** 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

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amount collected, the contract between the service provider and the Municipality must stipulate –

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

52. Local production and content

(1) The Department of Trade and Industry may, in consultation with the National Treasury-

(a) designate a sector, sub-sector or industry or product in accordance with national development and industrial policies for local production and content, where only locally produced services or goods or locally manufactured goods meet the stipulated minimum threshold for local production and content, taking into account economic and other relevant factors; and

(b) stipulate a minimum threshold for local production and content.

(2) An organ of state must, in the case of a designated sector, advertise the invitation to tender with a specific condition that only locally produced goods or locally manufactured goods, meeting the stipulated minimum threshold for local production and content, will be considered.

(3) The National Treasury must inform organs of state of any designation made in terms of regulation 8(1) through a circular.

(4)(a) If there is no designated sector, an organ of state may include, as a specific condition of the tender, that only locally produced services or goods or locally manufactured goods with a stipulated minimum threshold for local production and content, will be considered.

(b) The threshold referred to in paragraph (a) must be in accordance with the standards determined by the Department of Trade and Industry in consultation with the National Treasury.

(5) A tender that fails to meet the minimum stipulated threshold for local production and content is an unacceptable tender.

Unauthorised, irregular or fruitless and wasteful expenditure

52. (1) If a deviation is found to be wasteful expenditure it will be recovered from the official who initiated the transaction. The accounting officer may determine a closure date for the submission of bids which is less than the 30 or 14 days requirement, but only if such shorter

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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.

53. Equitable Distribution of work and Awards

1. In an attempt to allow for greater exposure of emerging contractors within the precincts of the UThukela District Municipality, as well as to facilitate fair competition and service provider rotation, in instances where the Municipality advertises for the submission of bids, or issues a request for quotations for the supply and delivery of goods, or rendering of any service the Municipality reserves the right to award the contract or award to the candidate with the second highest points (referred to hereinafter for purposes of this section as “The Second Bidder”) in instances where:

- a. The recommended bidder has already been awarded a contract of the same or similar nature which still subsists at the date of evaluation of the contract under consideration, and
- b. The following criterion exist in respect of the following classes of contracts:

1. For construction related goods, services and / or infrastructure projects, the prices of The Second Bidder is market related and the difference between the final price of The Second Bidder and Recommended Bidder is not greater than 20% from the lowest quoted price which would have been awarded..
2. For all other goods and/or services, the prices of The Second Bidder is market related and the difference between the final price of The Second Bidder and Recommended Bidder is not higher than 15% from the lowest quoted price which would have been awarded.
3. For the purposes of this clause, the overall price of the submissions must be considered and not the prices on individual items or services submitted by the bidders.

This policy has been considered and approved by the COUNCIL OF UTHUKELA DISTRICT MUNICIPALITY as follows:

Resolution No: A01/05/18

Approval Date: 18 May 2018

