



UMDONI LOCAL MUNICIPALITY SCM POLICY 2025/2026

The Council of the Umdoni Local Municipality resolves to adopt the following as the official SCM Policy of the Umdoni Local Municipality.

This Policy has been considered and approved by the Council of the Umdoni Local Municipality as follows:

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APPROVED:

Mr DD Naidoo
Acting Municipal Manager

Date

UMDONI LOCAL MUNICIPALITY



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Contents

PREAMBLE

PURPOSE

REGULATORY FRAMEWORK

PROBLEM STATEMENT

1.	DEFINITIONS	9
2.	SUPPLY CHAIN MANAGEMENT POLICY	16
3.	ADOPTION AND AMENDMENT OF THE SUPPLY CHAIN MANAGEMENT POLICY	17
4.	DELEGATION OF SUPPLY CHAIN MANAGEMENT POWERS AND DUTIES	17
5.	SUB-DELEGATIONS	18
6.	OVERSIGHT ROLE OF COUNCIL OF MUNICIPALITY OR BOARD OF DIRECTORS OF MUNICIPAL ENTITY	19
7.	SUPPLY CHAIN MANAGEMENT UNIT	19
8.	TRAINING OF SUPPLY CHAIN MANAGEMENT OFFICIALS	20
9.	FORMAT OF SUPPLY CHAIN MANAGEMENT POLICY	20
10.	SYSTEM OF DEMAND MANAGEMENT	20
11.	SYSTEM OF ACQUISITION MANAGEMENT	20
12.	RANGE OF PROCUREMENT PROCESSES	21
13.	GENERAL PRECONDITIONS FOR CONSIDERATION OF WRITTEN QUOTATIONS OR BIDS	21
14.	LISTS OF ACCREDITED PROSPECTIVE PROVIDERS	22
15.	PETTY CASH PURCHASES	22
16.	WRITTEN OR VERBAL QUOTATIONS	23
17.	FORMAL WRITTEN PRICE QUOTATIONS	23
18.	PROCEDURES FOR PROCURING GOODS OR SERVICES THROUGH FORMAL WRITTEN PRICE QUOTATIONS	23
19.	COMPETITIVE BIDDING PROCESS	25
20.	PROCESS FOR COMPETITIVE BIDDING	25
21.	BID DOCUMENTATION FOR COMPETITIVE BIDS	26
22.	PUBLIC INVITATION FOR COMPETITIVE BIDS	27

23.	THE PROCEDURES FOR THE HANDLING, OPENING AND RECORDING OF BIDS	27
24.	NEGOTIATIONS WITH PREFERRED BIDDERS	28
25.	TWO-STAGE BIDDING PROCESS	28
26.	COMMITTEE SYSTEM FOR COMPETITIVE BIDS	29
27.	BID SPECIFICATION COMMITTEE	29
28.	BID EVALUATION COMMITTEE	31
29.	BID ADJUDICATION COMMITTEE	32
30.	PROCUREMENT OF BANKING SERVICES	34
31.	PROCUREMENT OF IT RELATED GOODS OR SERVICES	34
32.	PROCUREMENT OF GOODS AND SERVICES UNDER CONTRACTS SECURED BY OTHER ORGANS OF STATE	35
33.	PROCUREMENT OF GOODS NECESSITATING SPECIAL SAFETY ARRANGEMENTS	35
34.	PROUDLY SA CAMPAIGN	35
35.	APPOINTMENT OF CONSULTANTS	36
36.	DEVIATION FROM, AND RATIFICATION OF, MINOR BREACHES OF PROCUREMENT PROCESS	36
37.	UNSOLICITED BIDS	37
38.	COMBATING OF ABUSE OF SUPPLY CHAIN MANAGEMENT SYSTEM	38
39.	LOGISTICS MANAGEMENT	39
40.	DISPOSAL MANAGEMENT	42
41.	RISK MANAGEMENT	43
42.	PERFORMANCE MANAGEMENT	44
43.	PROHIBITION ON AWARDS TO PERSONS WHOSE TAX MATTERS ARE NOT IN ORDER	45
44.	PROHIBITION ON AWARDS TO PERSONS IN THE SERVICE OF THE STATE	45
45.	AWARDS TO CLOSE FAMILY MEMBERS OF PERSONS IN THE SERVICE OF THE STATE	46
46.	ETHICAL STANDARDS	46
47.	INDUCEMENTS, REWARDS, GIFTS AND FAVOURS TO MUNICIPALITIES, MUNICIPAL ENTITIES, OFFICIALS AND OTHER ROLE PLAYERS	47
48.	SPONSORSHIPS	48
49.	OBJECTIONS AND COMPLAINTS	48
50.	RESOLUTION OF DISPUTES, OBJECTIONS, COMPLAINTS AND QUERIES	48
50A	MUNICIPAL BID APPEALS TRIBUNAL	49
51.	CONTRACTS PROVIDING FOR COMPENSATION BASED ON TURNOVER	49
52.	IMPLEMENTATION	50

53.	COMMUNICATION	50
54.	POLICY REVIEW	50
55	ADOPTION AND APPROVAL	50

PREAMBLE

Section 111 of the Municipal Finance Management Act requires that each Municipality, Municipal entity to adopt and implement a supply chain management policy which give effect to the requirements of the Acts. In addition the revised Preferential Procurement Policy Framework Act, 2022 requires an Organ of State to determine its Preferential Procurement Policy and to implement it within the framework prescribed. The Umdoni Local Municipality is further committed to combat Fraud, Corruption, Favoritism and irregular practices in Supply Chain Management by blacklisting persons who have been found to have engaged in such practices. All employees of Umdoni Local Municipality must adhere, implement and observe the provisions and requirements of this Policy.

PURPOSE

The purpose of this Policy is:

To implement a supply chain management system in accordance with Section 217 of the Constitution which is fair, equitable, transparent, competitive and cost effective;

To implement a supply chain management system and select service providers and suppliers in a way that is consistent with:

Constitution of the Republic of South Africa;

Preferential Procurement Policy Framework Act;

Municipal Finance Management Act;

Construction Industry Development Board Act

Broad-based Black Economic Empowerment Act;

To ensure consistency with other applicable legislation and regulations thereto;

To enhance uniformity in supply chain management system;

to provide for procedures and processes for the efficient and uniform acquisition of goods, services, works and other products from natural and/or legal entities;

To provide for the documentation to support such decisions;

To provide for procedures and processes for the disposal of goods no longer needed;

to provide for procedures and processes for the selection of contractors to provide assistance in the provision of municipal services other than where Chapter 8 of the Municipal Systems Act applies;

To provide for provision of municipal services through a service delivery agreement with a natural or juristic person which is not an organ of state;

To ensure optimal service delivery by facilitating effective and efficient procurement;

To combat fraud, corruption favoritism and irregular practices in Supply Chain Management by blacklisting persons who have been found to have engaged in such practices;

To combat fraud, corruption, favoritism and irregular practices in Supply Chain Management by blacklisting persons who have been found to have engaged in such practices.

To specify guidelines that will prevent the municipality from doing business with persons who default on performance willfully or negligently;

To develop uniform criteria and a fair process for blacklisting such persons;

REGULATORY FRAMEWORK

This Policy is guided by the following legislative framework:

The Constitution of the Republic of South Africa, 108 of 1996:

Section 217 (1) provides that when an organ of state in the national, provincial or local sphere of government contracts for goods and services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost effective.

Local Government: Municipal Finance Management Act 56 of 2003 (and applicable Regulations):

Section 111 provides that every municipality is required to develop and implement a supply chain management policy in order to give effect to the provisions of the Act;

the Municipality will comply with the requirements set out in this Act and the Supply Chain Management Regulations in establishing the Supply Chain Management Unit Blacklisting Committee and applying its policy and guidelines; and

The Municipality will comply with the Supply Chain Management Regulations 11 (1) and (2) where it procures goods and services otherwise than through its supply chain management system by making public this fact, the name of the supplier and the kind of goods or services procured.

The Preferential Procurement Policy Framework Act 5 of 2000 (and applicable Regulations)

This Act provides for the framework for a procurement policy which allows for categories of preference in the allocation of contracts, together with consideration of the provisions of the Broad-Based Black Economic Empowerment Act, 2003 (No. 53 of 2003).

The Governments Preferential Procurement Policy

This policy provides objectives including the increased usage of local resources; redressing the skewed employment and ownership through the BBBEE Act; the creation of job opportunities and poverty alleviation;

stimulation of skills development and transferring of skills and fast-tracking the growth of and ensuring the sustainability of SMME's.

Broad-Based Black Economic Empowerment Act 53 of 2003

The Promotion of Administrative Justice Act 3 of 2000

The Promotion of Access to Information Act 2 of 2000

The Construction Industry Development Board Act 38 of 2000

The Prevention and Combating of Corrupt Activities Act 12 of 2004

Municipal Systems Act 32 of 2000

Any and all SCM circulars issued by National Treasury from time to time.

PROBLEM STATEMENT

The Municipality is committed in terms of the Constitution and its procurement policies to have a supply chain policy that is Fair, equitable, transparent, competitive and cost effective and to combat irregular practices in the Tendering process in order to acquire the best goods and services for the Municipality.

(1) Section 217 (1) of the Constitution provides that when an organ of state in the national, Provincial or Local sphere of government contracts for goods and services, it must do so in a manner and in accordance with a system which is fair, equitable, transparent, competitive and cost effective.

(2) Section 111 of the Municipal Finance Management Act requires every municipality to develop and implement a supply chain management policy in order to give effect to the provisions of the Act.

(3) In terms of the Supply Chain Management Regulation 11(1) and (2) , where a municipality procures goods and services otherwise than through its supply chain management system, it must make that fact public.

The name of the supplier and the kind of goods or services procured must be made public.

1. DEFINITIONS

1.1 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:

“Accounting Officer” means the Municipal Manager of the Umdoni Municipality as per section 60 of the Act.

“Amendment” must mean 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” must mean an independent and impartial person appointed by the Accounting Officer in terms of Regulation 50 of the Local Government Municipal Supply Chain Regulations;

“Applicant” must mean a Department of Umdoni Local Municipality;

“Award” must mean the acceptance of a bid or proposal;

“B-BBEE” must mean broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;

“B-BBEE Act” means Broad-Based Black Economic Empowerment Act, 2003

“B-BBEE Status Level of Contributor” must mean the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad Based Black Economic Empowerment Act;

“Bid Adjudication Committee” means that it’s the committee that is composed according to Section 29 of the SCM regulations.

“Restricting Authority” must mean the Restricting Committee;

“Restricting Period” must mean the period for which the blacklisted person is barred from participation in the procuring processes of the Municipality;

“Restriction” must mean the act of disqualifying a person or an entity from participating in or continuing to participate in the procurement process of the Umdoni Municipality;

“Capital Assets” are all assets with a life cycle of greater than one year and above the capitalization threshold (where applicable). For example, this would include property, plant and equipment (infrastructure network, furniture, motor vehicles, computer equipment, etc.), intangible assets, and investment property.

“Chief Financial Officer” must mean the General Manager: Financial Services of the Umdoni Municipality;

“Competitive bid” must mean a bid in terms of a competitive bidding process;

“Competitive bidding process” must mean a competitive bidding process referred to in paragraph 12 (1) (d) of this policy;

“Contingency” must mean an amount included in the contract authority to cover the cost of unforeseen circumstances. This percentage must be appropriately motivated and approved at contract approval stage via the Bid Specification Committee, or Bid Adjudication Committee (where appropriate);

“**Contract**” must mean 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**” must mean 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**” must mean 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 Equity 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**” must mean 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**” must mean 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;

“**Council**” means municipal council referred to in section 157(1) of the constitution

“**Days**” must mean, unless otherwise specified, calendar days. Days must be calculated by excluding the first day and including the last day;

“**Delisting**” must mean the removal of a person from the Umdoni Municipality database of blacklisted persons after the period of blacklisting has expired;

“**Disabled**” must mean in respect of a natural person, a permanent impairment of a physical, intellectual, or sensory function which results in restricted, or lack of, ability to perform an activity in the manner, or within the range, considered normal for a human being;

“**Eligibility Documents**” must mean:

A valid Tax Clearance certificate issued by the South African Revenue Service and Municipal Fee Declarations and certificates certifying that the bidder has no undisputed commitments for municipal fees due to any municipality or overdue for a prescribed period;

Declarations by tenderers certifying the correctness of information and certifying validity of authority to act (Regulation 14 of the Preferential Policy Framework Act 5 of 2000);

Certificates declaring details of Private or business interests in terms of Regulation 46(e) of the Supply Chain Management Regulations;

Proof of registration with the CIDB (Construction Industry and Development Board), where applicable;

Proof of Registration of a Company, close Corporation, Co-operative or any other document requiring formal registration;

Any partnership agreement, or agreement of Joint Venture, Memorandum of Articles of A Company, Association Agreement or any other agreement establishing a business entity;

a statement setting out details of work undertaken in the Government/public sector/ organs of state in the past five years, including particulars of persons who assessed the work and who can be contacted to verify completion/ non completion of the contract;

Audited financial statements where applicable, or books of account; and/ or

Any other document prescribed by law or specifically requested by the Umdoni Municipality.

“Executive Director” must mean a partner in a partnership, a director of a company established in terms of the Companies Act, 1973 (Act 61 of 1973) and the new Companies Act, 2008 (No. 66 of 2008) or a member of a close corporation registered in terms of the Close Corporation Act, 1984 (No. 69 of 1984) who, jointly and severally with their other partners, co-directors or co-members, as the case may be, bears the risk of business and takes responsibility for the management and liabilities of the partnership, company, or close corporation;

“Exempted Micro Enterprise” must mean a bidder with an annual total revenue of R5 million or less (in terms of the Broad-Based Black Economic Empowerment Act;

“Final award” must mean 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” must mean quotations referred to in paragraph 12 (1) (c) of this policy and shall include any offer to purchase immovable property;

“Fronting” must mean claiming preference points, status or goals of any of the target groups listed in the Umdoni Municipality’s Targeted Procurement Policy and/or tendering documents where such claim is false;

“Goods” must mean both movable and immovable property and real rights therein;

“Improper Practice” must include, but not be limited to:

Fronting;

Misrepresentation on eligibility documents or Application forms or any other returnable document which contains information which will have a material bearing on the award;

attempting to bribe or bribing an official by monetary or non-monetary inducement or attempt to influence an official directly or indirectly involved with the procurement process, in order obtain a tender or retain a tender or withdraw from a tender;

Deliberately omitting information, or misrepresenting information which could have a bearing on the award of a tender;

Committing of fraud or extortion in relation to the bidding process;

obtaining information on the contents of other bids in the same tender which one would not ordinarily be entitled to in terms of the Promotion of Access to Information Act (PAIA) No. 2 of 2000, which information is in the possession and under the control of the Municipality;

Collusive tendering;

Restrictive horizontal and vertical Practices as defined by the Competition Act, 1998 (No. 89 of 1998);

Committing an exclusionary act as defined by the Competition Act, 1998 (No. 89 of 1998); and

Any other activity which is not specifically set out in this definition, but constitutes an unlawful or unfair/ improper business practice;

“In the service of the state” must mean:

A member of any municipal council, any provincial legislature or the National

Assembly of the National Council of Provinces;

A member of the board of directors of any municipal entity;

An official of any Municipality or Municipal entity;

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;

A member of the accounting authority of any national or provincial public entity; and

An employee of Parliament or a provincial legislature. The Minister of Finance has specifically exempted non-executive board members of a Municipal entity from the prohibition for being in the service of the state but only in relation to supply chain awards by a municipal entity that they do not serve on. An official or employee

means a full time employee, and excludes any person employed on a part time basis or a person earning a stipend, provided that such person be verified and cleared in terms of conflicts of interest by the COI Task Team;

“Long term contract” mean a contract with a duration period exceeding one years;

“List of accredited prospective providers” must mean the list of accredited prospective providers which a municipality must keep in terms of paragraph 14 of this policy;

“Local Content/Resources” must mean where preference points shall be allocated in terms of the location of the enterprise where applicable in the following order of preference: Umdoni Municipality Area (EMA); KwaZulu-Natal (KZN); South Africa (SA);

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

“Manufacturer” must mean 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”: must mean any South African Citizen who –

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;

Served in the Union Defense Force before 1960;

Became a member of the new South African National Defense Force after 1994.

“Minor Amendment” must mean 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” must mean the Umdoni Municipality or any municipal entity, whichever is applicable;

“Municipal Systems Act” means to provide for the core principles, mechanisms and processes that are necessary to enable municipalities to move progressively towards the social and economic upliftment of local communities.

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

Failing to perform at all;

Failing to complete work timeously without good reason;

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

Being in breach of a material term of the contract;

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

Despite being given written notice to remedy non-performance.

“Other applicable legislation” must mean any other legislation applicable to municipal supply chain management, including, but not limited to:

The Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);

The Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003); and

The Construction Industry Development Board Act, 2000 (Act No.38 of 2000);

“Owned” must mean having all the customary incidents of ownership, including the right of disposition, and sharing all the risks and profits commensurate with the degree of ownership interests, as demonstrated by an examination of the substance, rather than the form of ownership arrangements;

“Policy” means a set of ideas or a plan of what to do in particular situations that has been agreed to officially by a group of people, a business organization, a government, or a political party

“Preferred bidder” must mean the most responsive and recommended bidder but whose tender and award has not been confirmed”

“Person” must mean a person including a juristic person and tenderer, supplier, service provider, contractor and business entity must have a corresponding meaning;

“PPPFA” means Preferential Procurement Points Framework Act to give effect to section 217 (3) of the Constitution by providing a framework for the implementation of the procurement policy contemplated in section 217 (2) of the Constitution; and to provide for matters connected therewith

“Prime Contractor” must mean a contractor who contracts with the Municipality as the principal or main contractor or as a joint venture partner to such contractors, to provide goods, services and works;

“Priority population group” must mean black individuals who fall into population groups that were not offered a franchise in the national elections before or after the introduction of the 1984 tri-cameral parliamentary system and only received a franchise during 1994.

“Project Authority” must mean the authority to incur expenditure on the project as budgeted for and approved by Council;

“Regulation” must mean the Local Government: Municipal Supply Chain Management Regulations promulgated under General Notice 868 of 2005 dated 31 May 2005, as amended from time to time;

“Reporting Officer” must mean a delegated official who monitors the performance of a contractor;

“Restrictive Horizontal Practice” must have the same meaning as set out in the Competitions Act 89 of 1998;

“Restrictive vertical Practice” must have the same meaning as set out in the Competitions Act 89 of 1998;

“Senior manager” must mean any official of the Umdoni Municipality with the title Head of Department or who in either of these positions in an official acting capacity or the designated office which may supersede the title of “senior manager”;

“Service Provider” must mean a contractor;

“Sole Supplier” must mean that there exists one service provider or supplier manufacturer in the market, with sole distribution rights and/or patent rights.

“SMMEs” must mean Small, Medium and Micro Enterprises as defined in the National Small Business Act 102 of 1996;

“Supplier” must mean a firm that:

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

Engages as its principal business, and in its own name, in the purchase and sale of the products;

“Supply Chain Management Unit Head” means Manager SCM.

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

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

“Unsolicited Bid” must mean any proposal/concept received by an institution outside its normal procurement process that has not been a solicited bid (a submission that must be innovative, unique and provided by a sole supplier).

“Variation” must mean a change to a provision/s in a contract, excluding the changes referred to in amendments in the definition of this policy;

“Works” must mean engineering and construction works;

“Youth” must mean South African citizens between the ages of 18 and 35;

2. SUPPLY CHAIN MANAGEMENT POLICY

All officials and other role players in the supply chain management system of the Municipality must implement this Policy in a way that:

Gives effect to: Section 217 of the Constitution; and

Part 1 of Chapter 11 and other applicable provisions of the Act.

(b) Is fair, equitable, transparent, competitive and cost effective?

(c) Complies with:

The regulations prescribed in Chapter 2 of the Regulations; and

Any minimum norms and standards that may be prescribed in terms of section 168 of the Act;

Is consistent with other applicable legislation;

Does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and

Is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.

The Municipality may not act otherwise than in accordance with this Policy when:

Procuring goods, services or works;

Disposing of goods, no longer needed;

Selecting contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies; or

Selecting 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.

This Policy, except where specifically provided otherwise, does not apply in respect of the procurement of goods and services contemplated in section 110 (2) of the Act, including but not limited to –

Water from the Department of Water Affairs or a public entity, another municipal or municipal entity;

Electricity from Eskom or another public entity, another municipality or a municipal entity; and

Telecommunication services from Telkom, or another public entity, another municipality or a municipal entity.

3. ADOPTION AND AMENDMENT OF THE SUPPLY CHAIN MANAGEMENT POLICY

1. The Accounting Officer must:

At least annually review the implementation of this Policy, by way of a revised policy document and annually report on the implementation of the policy; and

When the Accounting Officer considers it necessary, submit proposals for the amendment of this Policy to the Council.

2. If the Accounting Officer submits a draft policy to the Council that differs from the model policy issued by the National Treasury:

(a) The Accounting Officer must ensure that such draft policy complies with the Regulations.

(b) The Accounting Officer must report any deviation from the model policy to the National Treasury and the relevant provincial treasury.

3. When amending this 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.

4. The Accounting Officer must in terms of section 62(1) (f) (IV) of the Act take all reasonable steps to ensure that the Municipality has and implements this Policy.

4. DELEGATION OF SUPPLY CHAIN MANAGEMENT POWERS AND DUTIES

The Council hereby delegates all powers and duties to the Accounting Officer necessary so as to enable the Accounting Officer:

To discharge the supply chain management responsibilities conferred on Accounting Officers in terms of:

Chapter 8 or 10 of the Act; and this Policy;

To maximize administrative and operational efficiency in the implementation of Policy;

To enforce reasonable cost-effective measures for the prevention of fraud, corruption, favoritism and unfair and irregular practices in the implementation of Policy; and

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

Sections 79 of the Act apply to the sub-delegation of powers and duties delegated to an Accounting Officer in terms of this Policy.

The Council or Accounting Officer may not delegate or sub-delegate 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; and

This section (delegation of supply chain powers and duties) 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.

5. SUB-DELEGATIONS

(1). The Accounting Officer may in terms of section 79 or 106 of the Act sub-delegate any supply chain management powers and duties, including those delegated to the Accounting Officer in terms of this Policy, but any such sub-delegation must be consistent with subparagraph 5.2 and paragraph 4 of this Policy.

(2) The power to make a final award:

Above R10 million (VAT included) may not be sub-delegated by the Accounting Officer;

Above R2 million (VAT included), but not exceeding R10 million (VAT included), may be sub-delegated only to:

The Chief Financial Officer; or

The Bid Adjudication Committee;

Not exceeding R2 million (VAT included), may be sub-delegated only to:

The Chief Financial Officer

Senior Manager or Manager directly accountable to the Chief Financial Officer

A Bid Adjudication Committee

An official or Bid Adjudication Committee to which the power to make final awards has been sub delegated in accordance with subparagraph 5.2 of this paragraph must ensure that, within five days of the end of each month, a written report containing particulars of each final award made by such official or committee during that month is submitted to the Accounting Officer, including:

The amount of the award;

The name of the person to whom the award was made;

The BEE status of the company; and

The reason why the award was made to that person.

(a) All contract awards with a value exceeding R100 000 (VAT included) must be captured on National Treasury's Contracts Database via the Supply Chain Management Unit.

(b) Subparagraph 5.3 of this Policy does not apply to procurements out of petty cash.

(c) 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 26 of this policy.

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

All other delegations must be made in terms of the supply chain management code of delegations as amended from time-to-time.

6. OVERSIGHT ROLE OF COUNCIL OF MUNICIPALITY OR BOARD OF DIRECTORS OF MUNICIPAL ENTITY

The Council must maintain oversight over the implementation of this Policy.

For the purposes of such oversight the Accounting Officer must:

(i) in the case of a Municipality, within 30 days of the end of the financial year, submit a Report on the implementation of the policy to the Council of the Municipality.

(ii) The Accounting Officer must, within 10 days of the end of each quarter, submit a report on the implementation of the Policy to the mayor.

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

7. SUPPLY CHAIN MANAGEMENT UNIT

The Accounting Officer must establish a supply chain management unit to implement this Policy.

The supply chain management unit must, where possible, operate 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.

Wherever possible, all supply chain management functions and activities are to be performed by the supply chain management unit under the Supply Chain Management Unit Head.

8. TRAINING OF SUPPLY CHAIN MANAGEMENT OFFICIALS

The training of officials involved in implementing the Policy shall be in accordance with Treasury guidelines on supply chain management training.

9. FORMAT OF SUPPLY CHAIN MANAGEMENT POLICY

The Supply chain management policy of a Municipality must describe in sufficient detail the supply chain management system that is to be implemented by the municipality, and

effective systems for:

Demand management;

Acquisition management;

Logistics management;

Disposal management;

Risk management; and

Performance management.

10. SYSTEM OF DEMAND MANAGEMENT

The supply chain management policy must provide for an effective system of demand management to ensure that the resources required to support the strategic and operational commitments are quantified, budgeted for and timely and effectively delivered at the right time, at the right price and at the right location, and that the quantity and quality satisfy the need of the Municipality.

11. SYSTEM OF ACQUISITION MANAGEMENT

A supply chain management policy must provide for an effective system of acquisition management to ensure that:

Goods and services are procured by the Municipality in accordance with authorized processes only;

Expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the Act;

The threshold values for the different procurement processes are complied with;

Bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation; and

Any Treasury guidelines on acquisition management are properly taken into account.

12. RANGE OF PROCUREMENT PROCESSES

The procurement of goods and services through this Policy can only be undertaken by way of:

Petty cash purchases, up to a transaction value of R500 (VAT included);

Formal written price quotations for procurements of a transaction value over:

R2 000 up to R30 000 (VAT included), in the case of a Local Municipality,

R30 000 (vat inclusive) but below R300 000 (vat Inclusive) and

(ii) A competitive bidding process for:

Procurements above a transaction value of R300 000 (VAT included); in the case of a Local Municipality.

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, unless otherwise directed in writing by the Manager of departments of the user department.

13. GENERAL PRECONDITIONS FOR CONSIDERATION OF WRITTEN QUOTATIONS OR BIDS

A written quotation or bid may not be considered unless the provider who submitted the quotation or bid has furnished the Municipality with provider's:

Full name;

Identification number or company or other registration number;

Tax reference number and VAT registration number, if any;

Tax clearance from the South African Revenue Service that the provider's tax matters are in order and

Has made the following declarations, where necessary:

Declaration of Interest (MBD4);

Declaration for procurement above R10 million (all applicable taxes included) (MBD5);

Preference points claim (MBD6.1);

Declaration for local production and content (MBD6.2);

Declaration of bidder's past supply chain management practices (MBD8);

Certificate of independent bid determination (MBD9);

Declaration of municipal fees;

Tax certificate requirements (MBD2)

14. LISTS OF ACCREDITED PROSPECTIVE PROVIDERS

The Accounting Officer must:

keep a list of accredited prospective providers of goods and services that must be used for the procurement requirements of the Municipality or Municipal entity through formal written price quotations; and

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;

Specify the listing criteria for accredited prospective providers; and

disallow the listing of any prospective provider whose name appears on the National Treasury databases as a person/company prohibited from doing business with the public sector, or who is prohibited in terms of section 44 of this Policy, or is blacklisted/restricted in terms of this Policy.

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.

The list must be compiled per commodity and per type of service. No supplier may be concurrently registered for more than two (2) categories at any given time.

No quotations may be solicited from any supplier/service provider/contractor who is not registered and verified by the appropriate branch on the Supply Chain Management Unit's Central Supplier Database, or is in a position to be so before the award.

The function of implementation and management of the list of accredited prospective providers is delegated to the Head: Supply Chain Management or delegate.

15. PETTY CASH PURCHASES

The conditions for the procurement of goods by means of petty cash purchases referred to in paragraph 12 (1) (1) of this Policy are as follows:

The Chief Financial Officer hereby delegates the responsibility to monitor petty cash purchases to the Manager: Expenditure.

Goods and services may only be procured by way of petty cash, up to a transaction value of R500 (VAT included)

All petty cash purchases must be approved by the respective heads of departments or delegated official

Petty cash may only be used for the following types of expenditure: refreshments, catering, gifts, wheel repairs and other small items.

A reconciliation accompanying each request to restore the impress amount must be submitted to the Chief Financial Officer, including:

The value of the request;

Receipts and appropriate documents for each purchase.

16. WRITTEN OR VERBAL QUOTATIONS

Regulation 16 is hereby deleted as per Government Gazette no. 49863, dated 14 December 2023.

17. FORMAL WRITTEN PRICE QUOTATIONS

A supply Chain Management Policy must stipulate the conditions for the procurement of goods or services through formal written price quotations, which must include conditions stating:

That 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 or Municipal entity;

That quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria in the supply chain management policy required by paragraph 14.1(b) and (c);

That 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,

That the Accounting Officer must record the names of the potential providers and their written quotations.

18. PROCEDURES FOR PROCURING GOODS OR SERVICES THROUGH FORMAL WRITTEN PRICE QUOTATIONS

The operational procedure for the procurement of goods or services through written or verbal quotations or formal written price quotations are:

All requirements in excess of R2 000 but below R30 000 (vat Inclusive) that are to be procured by means of a formal written price quotation

all requirements in excess of R30 000 (VAT included) that are to be procured by means of formal written price quotations must, in addition to the requirements of paragraph 17, be scored on price and targeted goals points designed in terms of the PPPFA and its regulations and B-BBEE Act and be advertised for at least seven days (7) on the website and an official notice board of the Municipality or Municipal Entity;

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;

Offers received must be evaluated on a competitive basis taking into account unconditional discounts;

the Accounting 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;

Offers below R30 000 (VAT included) must be awarded based on compliance to specifications and conditions of contract, ability and capability to deliver the goods or services and the lowest price;

Acceptable offers, which are subjected the preference points system of PPPFA and its regulations, and any other relevant regulations, must be awarded to the bidder who scored the highest points;

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;

Municipal requirements of proper record keeping must always be maintained and the following documentation must be kept by the Municipality, in particular:

The authorized purchase requisition produced by the department requiring goods and services;

Formal written price quotations;

The order authorized by the Manager: Supply Chain Management;

Formal invoice or certificate of work performed submitted by the successful supplier;

Payment voucher, as prepared by Expenditure: Creditors Section

Letter of award by the Accounting Officer;

Proof of payment.

19. COMPETITIVE BIDDING PROCESS

A supply chain management policy must specify Goods or services above a transaction value of:

(a) R300 000 (VAT included), in the case of a Local Municipality;

May be procured by the Municipality or Municipal entity only through a competitive bidding process, subject to paragraph 11(2) of this Policy., and

That no requirement for Goods or services above an estimated transaction value of:

R300 000 (VAT included), in case of a Local Municipality, 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.

20. PROCESS FOR COMPETITIVE BIDDING

A supply chain management policy must provide procedures for a competitive bidding process for each of the following:

The compilation of bidding documentation

The public invitation of bids

Site meetings or briefing sessions, if applicable,

The handling of bids submitted in response to public invitation

The evaluation of bids

The award of contracts

The administration of contracts,

Proper record keeping in that original and/or certified copies of documents are kept in a secure place for reference purposes.

21. BID DOCUMENTATION FOR COMPETITIVE BIDS

A supply chain management policy must determine the criteria to which bid documentation for a competitive bidding process must comply and state that in addition to regulation 13, the bid documentation must:

(a) Take into account:

(i) The general conditions of contract,

(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 in accordance with this Policy, contract participation goals, evaluation and adjudication criteria, including any criteria required by other applicable legislation;

(c) Compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;

(d) If the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish:

(i) If the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements:

For the past three years; or

Since their establishment if established during the past three years;

(ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;

(iii) Particulars of any contracts awarded to the bidder by an organ of state during the past 5 years, including particulars of any material non-compliance or dispute concerning the execution of such contract;

(iv) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the Municipality or Municipal Entity is expected to be transferred out of the Republic; and

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

22. PUBLIC INVITATION FOR COMPETITIVE BIDS

1. A Supply chain management must determine the procedure for the invitation of competitive bids is as follows:

(a) that any invitation to prospective providers to submit bids must be by means of a public advertisement in newspapers circulating locally, the website of the Municipality or Municipal Entity 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, time and venue 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 22.2 of this Policy;

(ii) A statement that bids may only be submitted on the bid documentation provided by the Municipality or Municipal Entity;

(iii) The date, time and venue of any proposed site meetings or briefing sessions;

(iv) A statement that no late bid will be accepted.

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 and appropriately labelled.

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

Procedure for Handling, Opening and Recording of Bids

23. THE PROCEDURES FOR THE HANDLING, OPENING AND RECORDING OF BIDS

(a) Stipulate that Bids:

Must be opened only in public;

Must be opened at the same time and as soon as possible after the period for the submission of bids has expired;

Received after the closing time should not be considered and returned unopened immediately; and

To ensure segregation of duties, the opening of bids shall be coordinated by Corporate Services.

(b) 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; and no other information, except that allowed in paragraph 23.1(2), relating to the bid should be disclosed to bidders or other persons until the successful bidder is notified of the award; and

(c) The Accounting Officer must:

1. Record in a register all bids received in time;
2. Make the register available for public inspection; and
3. Publish the entries in the register and the bid results a notice board or on the website.

24. NEGOTIATIONS WITH PREFERRED BIDDERS

1. The Accounting Officer may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provided that such negotiation:

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

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

25. TWO-STAGE BIDDING PROCESS

1. A two-stage bidding process is allowed for:

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

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

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

4. At each of the stages, proposal/bidding documents above the quotation threshold must be approved by the Bid Specification Committee.

26. COMMITTEE SYSTEM FOR COMPETITIVE BIDS

1. The Accounting Officer is required to –

(a) Establish a committee system for competitive bids consisting of at least:

A Bid Specification Committee;

A Bid Evaluation Committee; and

A Bid Adjudication Committee;

(b) The appoint the members of each committee, taking into account section 117 of the Act; and

(c) An attendance or oversight process by a neutral or independent observer, appointed by the Accounting Officer, when this is appropriate for ensuring fairness and promoting transparency.

2. The committee system must be consistent with:

(a) Paragraphs 27, 28 and 29 of this Policy; and

(b) Any other applicable legislation.

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

27. BID SPECIFICATION COMMITTEE

The Bid Specification Committee must approve the compilation of the specifications for each public invitation for competitive bids, and where authority has been sought to invite bids, by the Municipality.

Specifications:

Must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;

must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organization, or an authority accredited or recognized by the South African National Accreditation System with which the equipment or material or workmanship should comply;

Where possible, must be described in terms of performance required rather than in terms of descriptive characteristics for design;

may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labelling of conformity certification;

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

must indicate each specific goal for which points may be awarded in terms of the points system set out in the Preferential Procurement Regulations; and

Must be approved by the Accounting Officer prior to publication of the invitation for bids in accordance with paragraph 22 of this Policy.

The Bid Specification Committee must be composed of:

A minimum of three officials of the Municipality or Municipal Entity who must serve as standing members, preferably the manager responsible for the function involved;

An official to be co-opted from the end user department preferably a manager and a knowledgeable official responsible for the function involved;

Co-opted external specialist expert;

A SCM Practitioner;

The Bid Specification Committee must:

Be appointed in writing for a period of 12 months which is in line with the financial year end of the Municipality, subject to the annual review period of the Policy;

Have a quorum equal to 50% of the number of permanent (as opposed to co-opted) committee members, plus one member.

Notwithstanding the above, the committee shall be appointed at the discretion of the Accounting Officer.

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.

No item may be considered at the Bid Specification Committee unless the appropriate Supply Chain Management compliance check process has been undertaken and the item has been cleared for acceptance onto the agenda.

The appropriate method of procurement of goods, services and engineering and construction works for all contracts greater than the quotation threshold shall be approved by the Bid Specification Committee. Further, all contracts exceeding R10 million (VAT inclusive) must be accompanied by project-specific procurement and BEE strategies when presented to the Bid Specification Committee. These should be discussed and agreed between multi-disciplinary teams beforehand, and where possible limit the number of awards to a singular company.

28. BID EVALUATION COMMITTEE

The Bid Evaluation Committee must:

Approve the evaluation of bids in accordance with:

The specifications for a specific procurement; and

The points system set out in terms of paragraph 27.2(6).

Ensure that an appropriate assessment of eligible bidder's ability to execute the contract has been undertaken by the department presenting the item;

Ensure that in respect of the recommended bidder it is checked that municipal rates and taxes and municipal service charges are not in arrears;

Ensure in respect of the recommended bidder, that their tax clearance certificate or SARS electronic tax clearance certificate, CIDB certificate, if applicable, and B-BBEE certificates are in order;

In bids where Consortia / Joint Ventures are involved, each party must submit a separate tax clearance certificate.

in instances where a tax clearance certificate is valid at the time of tender, but expires during the evaluation period, the preferred bidder must furnish the Municipality within a period of seven (7) days as stipulated by the Bid Committees with a valid tax clearance certificate;

A designated line department shall communicate in writing with the preferred bidder about the applicability of the suspensive condition by latest the following day of the Bid Adjudications Committee meeting.

The CIDB status, if applicable, must be valid and active at the time of consideration by Bid Evaluation Committee and before final award;

When the B-BBEE certificate is valid at the time of tender and then it expires during evaluation or the level contribution changes, then it is the level at the time of tender that shall be considered. The MBD 6.1. Document requires the bidder to fill in a claim for empowerment points. The B-BBEE certificate shall be taken as the substantiation of the claim and accordingly submission of a B-BBEE certificate is mandatory. If the bidder does not complete MBD 6.1 document in full but provides a valid B-BBEE certificate, the Municipality must award preference points in line with the PPPFA.

If a municipality is in possession of a bidder's original valid tax clearance and B-BBEE certificate through the Municipality's central database, it is not necessary to obtain a new tax clearance certificate or B-BBEE certificate each time a price quotation or bid is submitted from that specific bidder. This provision may be applied only if at the closing date of the price quotation or bid falls within the expiry date of the tax clearance and B-BBEE certificate that is in the municipality's possession. Whenever this ruling is applied, cross-reference must be made to the original tax clearance and BB-BEE certificate for audit purposes.

Health and safety plans must be submitted at the time of tender where applicable.

Submit to the Bid Adjudication Committee a report and recommendations regarding the award of the bid or any other related matter.

The Bid Evaluation Committee must as far as possible be composed of:

A minimum of three managers of the Municipality or Municipal Entity who must serve as standing members, preferably the manager responsible for the function involved;

At least one supply chain management official of the Municipality or Municipal Entity.

The Bid Evaluation Committee must:

Be appointed in writing for a period of 12 months which is in line with the financial year end of the Municipality, subject to the annual review period of the Policy;

Have a quorum equal to 50% of the number of permanent (as opposed to co-opted) committee members, plus one member.

Notwithstanding the above, the committee shall be appointed at the discretion of the Accounting Officer.

No item may be considered at the Bid Evaluation Committee unless the appropriate Supply Chain Management compliance check process has been undertaken and the item has been cleared for acceptance onto the agenda unless otherwise approved by the Chairperson.

29. BID ADJUDICATION COMMITTEE

The bid adjudication committee must:

Consider the report and recommendations of the Bid Evaluation Committee; and

Either:

Depending on its delegations, make a final award or a recommendation to the Accounting Officer to make the final award; or

Make another recommendation to the Accounting Officer how to proceed with the relevant procurement.

The Bid Adjudication Committee must consist of at least four senior managers of the Municipality that must include:

the Chief Financial Officer or, in the absence of Chief Financial Officer, Manager: Budget & Compliance, Treasury Office, reporting directly to the Chief Financial Officer and designated by the Chief Financial Officer; and

At least one senior supply chain management practitioner who is an official of the Municipality; and
a technical expert in the relevant field who is an official, if such an expert exists, and may when appropriate, appoint an external specialists' advisor; and

A quorum equal to 50% of the number of permanent (as opposed to co-opted) committee members, plus one member.

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.

Neither a member of a Bid Evaluation Committee, nor an advisor or person assisting the Bid Evaluation Committee, may be a member of a Bid Adjudication Committee.

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:

check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears; and

Notify the Accounting Officer.

The Accounting Officer may:

After due consideration of the reasons for the deviation, ratify or reject the decision of the Bid Adjudication Committee referred to in paragraph 29.4(1); and

If the decision of the Bid Adjudication Committee is rejected, refer the decision of the Bid Adjudication Committee back to that committee for reconsideration.

The Accounting Officer may at any stage of a bidding process, refer any recommendation made by the Bid Evaluation Committee or the Bid Adjudication Committee back to that committee for reconsideration of the recommendation.

The Accounting Officer must comply with section 114 of the Act within 10 working days if the decision is to award a bid other than that recommended.

The Bid Adjudication Committee must at all times adhere to the requirements of the circular 34 in terms of the Act issued by the National Treasury.

No item may be considered at the Bid Adjudication Committee unless the appropriate Supply Chain Management compliance check has been undertaken and the item has been cleared for acceptance onto the agenda except where otherwise approved by the Chairperson.

30. PROCUREMENT OF BANKING SERVICES

1. A Contract for the provision of Banking services to a Municipality or Municipal Entity:

Must be procured through competitive bids;

Must be consistent with section 7 or 85 of the Act; and

May not be for a period of more than five years at a time.

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

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).

31. PROCUREMENT OF IT-RELATED GOODS OR SERVICES

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.

Both parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to, SITA.

The Accounting Officer must notify SITA together with a motivation of the IT needs if –

The transaction value of IT related goods or services required in any financial year will exceed R50 million (VAT included); or

The transaction value of a contract to be procured whether for one or more years exceeds R50 million (VAT included).

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 relevant provincial treasury and the Auditor General.

Any arrangement or agreement with SITA must be approved by the Bid Adjudication Committee.

32. PROCUREMENT OF GOODS AND SERVICES UNDER CONTRACTS SECURED BY OTHER ORGANS OF STATE

The Accounting Officer may procure goods or services under a contract secured by another organ of state, but only if:

The contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;

There is no reason to believe that such contract was not validly procured;

There are demonstrable discounts or benefits to do so; and

That other organ of state and the provider have consented to such procurement in writing.

The contractor must be presently in the service of the organ of state

Subparagraphs 32.1(3) and (4) do not apply if –

A municipal entity procures goods or services through a contract secured by its parent municipality; or

A municipality procures goods or services through a contract secured by a municipal entity of which it is the parent municipality.

Any procurement of goods and services under contracts secured by other organs of state must be approved by the Bid Adjudication Committee.

33. PROCUREMENT OF GOODS NECESSITATING SPECIAL SAFETY ARRANGEMENTS

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.

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.

34. PROUDLY SA CAMPAIGN

Wherever possible, the Proudly SA Campaign should be supported to the extent that, all things being equal, preference is given to procuring local goods and services from:

Firstly –suppliers and businesses within Umdoni Municipality;

Secondly - suppliers and businesses within UGU district;

Thirdly– suppliers and businesses within the relevant province; and

Fourthly – suppliers and businesses within the Republic of South Africa

In considering this paragraph, the requirements of the designated sectors for Local Production and Content as issued by the Department of Trade and Industry must be taken into account.

35. APPOINTMENT OF CONSULTANTS

The Accounting Officer may procure consulting services if any Treasury guidelines in respect of consulting services are taken into account when such procurements are made.

A contract for the Consultancy services to a Municipality or Municipal Entity must be procured through competitive bids if the value of the contract exceeds:

R300 000 (VAT included), in the case of a Local Municipality,

The duration period of the contract exceeds one year.

In addition to any requirements prescribed by this Policy for competitive bids, bidders must furnish particulars of:

All consultancy services provided to an organ of state in the last five years; and

Any similar consultancy services provided to an organ of state in the last five years.

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

36. DEVIATION FROM, AND RATIFICATION OF, MINOR BREACHES OF PROCUREMENT PROCESSES

The Accounting Officer may:

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:

In an emergency;

If such goods or services are produced or available from a single provider only;

For the acquisition of special works of art or historical objects where specifications are difficult to compile;

Acquisition of animals for zoos and/or nature and game reserves; and

In any other exceptional case where it is impractical or impossible to follow the official procurement processes;

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.

The Accounting Officer must record the reasons for any deviations in terms of subparagraphs 36.1(1) and (2) of this Policy and report them to the next meeting of the Council and include as a note to the annual financial statements.

The Chief Financial Officer, Manager: Supply Chain Management or appropriate senior official is delegated authority to make a final recommendation for awards on deviations below R300 000 to the accounting officer.

The Executive Committee shall consider if the criteria for a deviation, other than an emergency, have been met.

In the case of emergencies greater than R300 000 (VAT included), where practicable, prior authority must be sought via the Accounting Officer to deviate from the official processes and the Chairperson of the relevant Committee shall be notified of such emergency situation. All emergency procurement must be formalized in a report to the Accounting Officer within 1 working day, and to the next possible Executive Committee meeting.

Emergency procurement should not be used to evade the use of standard procurement procedures:

As a consequence of insufficient stock-levels for items that are used on a daily basis;

As a result of working programs not adequately planned for; or

As a result of no or insufficient communication between warehouses and buying offices.

37. UNSOLICITED BIDS

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

The Accounting Officer may decide in terms of section 113(2) of the Act to consider an unsolicited bid, only if:

The product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;

The product or service will be exceptionally beneficial to, or have exceptional cost advantages;

The person who made the bid is the sole provider of the product or service; and

The reasons for not going through the normal bidding process are found to be sound by the Accounting officer.

If the Accounting Officer decides to consider an unsolicited bid that complies with subparagraph 37.2 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.

All written comments received pursuant to subparagraph 37.3, including any responses from the unsolicited bidder, must be submitted to the National Treasury and the relevant provincial treasury for comment.

The Bid Adjudication Committee must consider the unsolicited bid and may award the bid or make a recommendation to the Accounting Officer, depending on its delegations.

A meeting of the Bid Adjudication Committee to consider an unsolicited bid must be open to the public.

When considering the matter, the Bid Adjudication Committee must take into account:

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

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

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

38. COMBATING OF ABUSE OF SUPPLY CHAIN MANAGEMENT SYSTEM

The Accounting Officer must establish measures for the combating of abuse of the supply chain management system as follows:

The Accounting Officer must:

Take all reasonable steps to prevent abuse of the supply chain management system;

Investigate any allegations against an official or other role player of fraud, corruption, favoritism, unfair or irregular practices or failure to comply with this Policy, and when justified:

Take appropriate steps against such official or other role player; or Report any alleged criminal conduct to the South African Police Service.

prior to awarding any contract, take all reasonable steps, such as *inter alia* checking the National Treasury's database, to ensure that no recommended bidder, or any of its directors, is listed as a person prohibited from doing business with the public sector and/or blacklisted by the Municipality;

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;

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;

Cancel a contract awarded to a person if:

The person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or

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.

Cancellation or termination of contract must be subject to the provisions of Promotion of Administrative Justice Act 3 of 2000;

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,

Has been convicted for fraud or corruption during the past five years;

Has willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years;

Has been listed in the Register for Tender Defaulters in terms section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004); and

Has been blacklisted by the Municipality in terms of this Policy.

The Accounting Officer must inform the National Treasury and relevant provincial treasury in writing of any actions taken in terms of subparagraphs 38.1(1)(b)(ii) (1)(b)(ii), 38.1(1)(e) or 38.1(1)(f) of this Policy.

39. LOGISTICS MANAGEMENT

Logistics management must provide for an effective system in order to provide for the monitoring of spending patterns on types or classes of goods and services, setting of inventory levels that includes minimum and maximum levels and lead times, placing of orders, receiving and distribution of goods, stores and warehouse management, expediting orders, transport management, vendor performance, maintenance and contract administration.

General Logistics:

Purchase orders:

Will be created for bids and quotations;

Will be captured on the appropriate financial management system exclusive of VAT; and

Approvals will be systems based and shall be authorized by the Supply Chain Management Unit only.

Goods received will be captured on the appropriate financial management system via a "Goods Received Note" with reference to the relevant purchase order.

The Treasury Department's Assets Section (for asset creation) and Insurance Section (for claims) will be informed of the purchase via the appropriate financial management system at the end of the procurement process and in terms of other applicable policies.

Deliveries of goods may not exceed the order quantity. Short deliveries will keep the purchase order open until the balance of the order is received or cancelled.

Certification of the receipt of goods and/ or services and/or works by the Municipality means that the Municipality acknowledges those goods and/ or services and/or works:

Have been received or rendered on time;

Are in accordance with the quality and standard required in terms of *inter alia* the purchase order, the general conditions of contract and specifications where applicable.

Are priced in accordance with the quotation in terms of the contract.

The acknowledgement by the Municipality also serves to confirm that payment for received goods and/or services and/or works can be effected.

A designated official is required to monitor and expedite outstanding purchase orders.

Reminder letters may be sent to contractors based on the reminder levels (days before delivery due date) that are set out in the purchase order.

The Municipality's Fleet Management policy must be adhered to at all times including *inter alia* regular checking too ensure that all assets including official vehicles are properly managed, appropriately maintained and only used for official purposes.

The performance monitoring of a contractor will be in accordance with the service provider performance management element of this Policy.

A contract manager:

Will be a designated official of the Municipality who will attend to the administration of the contract from inception thereof;

Will derive his/her duties and powers from the conditions of contract and any other applicable law;

Must be fair to the parties to the contract when required to make decisions or form an opinion in respect of the contract, whilst always acting in the best interests of the Municipality;

Ensure that all the necessary formalities in the signing up of the contract and/or issuing the purchase order(s) are adhered to;

Ensure that contracts related to the procurement of goods and/or services and/or works are captured on the appropriate financial management system;

Ensure that all original contract documentation is lodged with the Supply Chain Management Unit for record purposes;

must where appropriate, authorize payments due in terms of the contract by processing payment certificates (if applicable), and ensuring that the necessary Service Entry Sheets or Goods Received Notes are captured on the appropriate financial management system;

Manage amendments, variations and procedures in terms of the contract;

Administer disputes where necessary, in terms of this Policy and the applicable Conditions of Contract;

Conduct a post contract review;

Maintain accurate and detailed records to create an audit trail;

Must act with care and diligence;

Must observe all accounting and legal requirements;

Must ensure that payments are processed within 30 calendar days, or 14 calendar days in the case of Exempted Micro Enterprises.

Departmental Heads shall be responsible for ensuring that contract managers:

Are assigned to all contracts within the Department Head's area of responsibility; and

Are adequately trained so that they can exercise the necessary level of responsibility in the performance of their duties.

All HOD must submit as part of the budget approval process a procurement plan containing all planned procurement. This procurement plan must be approved by the HOD or his/her delegate prior to its submission.

A central contracts register is to be maintained for all contracts within the Municipality. Items will only be permitted onto the register if contained within an approved procurement plan.

Stock is valued on the weighted average/standard costing method per plant and is VAT exclusive. Input VAT is claimed upon purchase and output VAT is accounted for at the time of issue according to the accounting policy.

Stock items must be systematically replenished using the re-order point planning strategy and open reservations must be taken into account during the replenishment run.

Goods will be issued from stock with reference to reservations. Goods can be issued for consumption against internal orders, cost centers, projects and assets under construction.

Purchase orders will be created, where applicable, with reference to replenishment requisitions in respect of term supply contracts for goods and:

Replenishment requisition approvals will be systems based.

All replenishments will be effected via the Acquisition Management System.

The registered stores function shall be decentralized but will operate under the jurisdiction of the Supply Chain Management Unit.

The Supply Chain Management Unit must ensure proper financial and budgetary control; uphold the principle of effective administration, proper stock holding and control, product standardization, quality of products and a high standard of service levels.

40. DISPOSAL MANAGEMENT

The system of disposal management for the disposal or alienation of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the Act, is as follows:

An obsolescence plan must be determined for each asset to ensure that when the asset can no longer be maintained or used for its original purpose, that there is a plan to replace it.

The disposal or alienation of assets must be made within an integrated, service and financial planning framework by one of the following methods:

- (a) Transferring the asset to another organ of state in terms of a provision of the Act for the transfer of assets;
- (b) Transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
- (c) The alienation of the asset; or
- (d) Destroying the asset, after taking into account re-cycling;

Provided that:

Immovable property may be sold only through a competitive bidding process except when the public interest or the plight of the poor demands otherwise;

Immovable property is sold only at market related prices except when the public interest or the plight of the poor demands otherwise;

movable assets are sold either by way of a written price quotations, a competitive bidding process, auction or at a market related price, whichever is the most advantageous;

Firearms are not sold or donated to any person or institution within or outside the Republic unless approved by the National Convention Arms Control Committee;

Immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise;

All fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed;

Where assets are traded in for other assets, the highest possible trade-in price is negotiated; and

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.

41. RISK MANAGEMENT

The Accounting Officer must ensure an effective system of risk management for the identification, consideration and avoidance of potential risks in the supply chain management system.

The risk management system must be allocated to the Chief Financial Officer, the Supply Chain Management practitioners, the internal audit function and the Audit Committee, each of which shall ultimately be accountable to the Accounting Officer or the Council for the discharge of their responsibilities.

Risk management must include:

The identification of risks on a case-by-case basis;

The allocation of risks to the party best suited to manage such risks;

Acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;

The management of risks in a pro-active manner and the provision of adequate cover for residual risks; and

The assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.

42. PERFORMANCE MANAGEMENT

The Accounting Officer must ensure an effective planning, implementation and monitoring system and include the planning in the SDIP. The AO must determine, on the basis of a retrospective analysis,

whether the authorized supply chain management processes were followed and whether the desired objectives and objective of this Policy were achieved.

The performance management system shall be a process of monitoring and retrospective analysis to determine whether:

There was value for money;

Proper processes had been followed;

Desired objectives have been achieved;

There is an opportunity to improve the process;

Suppliers have been assessed and what that assessment is; and

If there has been deviation from procedures and, if so, what the reasons for that deviation are.

The performance management system shall accordingly focus on, *inter alia*:

Achievement of goals;

Compliance to norms and standards;

Savings generated;

Cost variances per item;

Non-compliance with contractual conditions and requirements; and

The cost efficiency of the procurement process itself.

For all contracts, a close-out report is required on completion of the contract, which includes the points raised in subparagraphs 42.2 and 42.3 above.

For all annual supply, period, or term contracts, the report to the Bid Specification Committee for the new or replacement contract, must include the points raised in subparagraphs 42.2 and 42.3 above as at a particular point in the contract it replaces.

For monitoring performance on individual contracts see also the service provider performance management section of this Policy.

43. PROHIBITION ON AWARDS TO PERSONS WHOSE TAX MATTERS ARE NOT IN ORDER

Irrespective of the procurement process followed, no award above R15 000 may be made to a person whose tax matters have not been declared by the South African Revenue Service to be in order.

It is the Accounting Officer's responsibility to ensure that this does not happen and hence, before making an award, the Accounting Officer must first check with SARS whether that person's tax matter are in order.

If SARS does not respond within 7 days, then such person's tax matters may for purposes of paragraph 43.1 be presumed to be in order.

If a municipality / municipal entity is in possession of a supplier's original valid tax clearance certificate, it is not necessary to obtain a new tax clearance certificate each time a price quotation or bid is submitted from that specific supplier. This provision may be applied only if the closing date of the price quotation or bid falls within the expiry date of the tax clearance certificate that is in the municipality's / municipal entity's possession. Cross-reference must be made to the original tax clearance certificate for audit purposes.

44. PROHIBITION ON AWARDS TO PERSONS IN THE SERVICE OF THE STATE

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

Who is in the service of the state; or

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

A person who is an advisor or consultant contracted with the Municipality or Municipal Entity.

It is the Accounting Officer's responsibility to ensure that this does not happen.

The Municipality further reserves its rights to immediately cancel any contract if such conflicts are discovered after the award of a contract.

45. AWARDS TO CLOSE FAMILY MEMBERS OF PERSONS IN THE SERVICE OF THE STATE

The Accounting Officer must ensure that the notes to the annual financial statements must 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:

The name of that person;

The capacity in which that person is in the service of the state; and

The amount of the award.

46. ETHICAL STANDARDS

A code of ethical standards is hereby established, in accordance with subparagraph 46.2, for officials and other role players in the supply chain management system in order to promote:

Mutual trust and respect; and

An environment where business can be conducted with integrity and in a fair and reasonable manner.

An official or other role player involved in the implementation of the Policy:

Must treat all providers and potential providers equitably;

May not use his or her position for private gain or to improperly benefit another person;

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;

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;

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;

Must be scrupulous in his or her use of property belonging to the Municipality or Municipal Entity;

Must assist the Accounting Officer in combating fraud, corruption, favoritism and unfair and irregular practices in the supply chain management system; and

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;
- (ii) Any alleged contravention of paragraph 47.1 of this Policy; or

Any alleged breach of this code of ethical standards.

Declarations in terms of subparagraphs 46.2(4) and (5):

Must be recorded in a register which the Accounting Officer must keep for this purpose;

By the Accounting Officer must be made to the mayor of the Municipality who must ensure that such declarations are recorded in the register.

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.

The municipality adopts the "*National Treasury's code of conduct for supply chain management practitioners and other role players involved in supply chain management*". When adopted, such code of conduct becomes binding on all officials and other role players involved in the implementation of the Policy. A copy of the National Treasury code of conduct is available on the website www.treasury.gov.za/mfma located under "legislation".

A breach of the code of conduct adopted by the municipality must be dealt with in accordance with Schedule 2 of the Systems Act.

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;

In the case of a role player who is not an employee, through other appropriate means in recognition of the severity of the breach;

In all cases, financial misconduct must be dealt with in terms of chapter 15 of the Act.

47. INDUCEMENTS, REWARDS, GIFTS AND FAVOURS TO MUNICIPALITIES OR MUNICIPAL ENTITIES, OFFICIALS AND OTHER ROLE PLAYERS

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 –

Any inducement or reward to the Municipality for or in connection with the award of a contract; or

Any reward, gift, favor or hospitality to:

Any official; or

Any other role player involved in the implementation of the Policy.

The Accounting Officer must promptly report any alleged contravention of subparagraph 47.1 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.

48. SPONSORSHIPS

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

A provider or prospective provider of goods or services; or

A recipient or prospective recipient of goods disposed or to be disposed.

49. OBJECTIONS AND COMPLAINTS

Persons aggrieved by decisions or actions taken in the implementation of this supply chain management system, may lodge within 14 days of the decision or action, a written objection or complaint against the decision or action to the Municipal Manager.

50. RESOLUTION OF DISPUTES, OBJECTIONS, COMPLAINTS AND QUERIES

The Accounting Officer must appoint an independent and impartial person, not directly involved in the supply chain management processes:

1. To assist in the resolution of objections, complaints or disputes between the Municipality and other persons regarding:

Any decisions or actions taken in the implementation of the supply chain management system; or

Any matter arising from a contract awarded in the course of the supply chain management system; or

To deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.

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.

The person appointed must:

Strive to resolve promptly all disputes, objections, complaints or queries received; and

Submit monthly reports to the Accounting Officer on all disputes, objections, complaints or queries received, attended to or resolved.

A dispute, objection, complaint or query may be referred to the relevant provincial treasury if:

The dispute, objection, complaint or query is not resolved within 60 days; or

No response is forthcoming within 60 days.

If the provincial treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.

This paragraph must not be read as affecting a person's rights to approach a court at any time.

Reports on appeals are to be included in the normal Supply Chain Management monthly, quarterly and annual reports.

50A 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. The cost of these listed members as well as any other individuals/experts co-opted by the "MBAT" shall be borne by Provincial Treasury.
- (3) The powers, duties and functions of the Municipal Bid Appeals Tribunal, and matters incidental thereto, are to be set out in a Policy governing the "MBAT".
- (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 50A.3.
- (5) There shall be no further appeal against a decision of the Municipal Bid Appeals Tribunal.

51. CONTRACTS PROVIDING FOR COMPENSATION BASED ON TURNOVER

If a service provider acts on behalf of the 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 cap on the compensation payable to the service provider; and

That such compensation must be performance based.

The specifications for all such contracts must also be approved by the Bid Specification Committee.

52. IMPLEMENTATION

The policy will be implemented and effective once approved by Council.

53. COMMUNICATION

The Policy shall be communicated to Umdoni Municipality and to the Public through the Website and other communication channels.

54. POLICY REVIEW

The Policy will be reviewed on annual basis and revised if necessary at least once a year as per MFMA Regulations.

55. ADOPTION AND APPROVAL

55.1 The Council of the Umdoni Local Municipality resolves to adopt the official Budget Policy of the Umdoni Local Municipality.

55.2 This Policy has been considered and approved by the Council of the Umdoni Local Municipality as follows:

- a) Resolution No: C11.17 / MAR-26
- b) Date adopted 25 March 2026

APPENDIX A

PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000: PREFERENTIAL PROCUREMENT REGULATIONS.

The minister of Finance has, in terms of section 5, read with section 2(1)(b)(i) and (ii) and 2(1)(c), of the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000), and with effect from 16 January 2023 made the regulations set out in the Schedule.

SCHEDULE

PREFERENTIAL PROCUREMENT REGULATIONS, 2022

Contents

1. Definitions
2. Application
3. Identification of preference point system
4. 80/20 preference point system for acquisition of goods or services with Rand value equal to or below R50 million
5. 90/10 preference point system for acquisition of goods or services with Rand value above R50 million
6. 80/20 preference points system for tenders to generate income or to dispose of or lease assets with Rand value equal to or below R50 million
7. 90/10 preference point system for tenders to generate income or to dispose of or lease assets with Rand value above R50 million
8. Criteria for breaking deadlock in scoring
9. Remedies
10. Repeal of regulations
11. Short title and commencement

Definitions

1. In these Regulations, unless the context indicates otherwise, any word or expression to which a meaning has been assigned in the Act must bear the meaning so assigned—

“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;

“price” means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;

“Rand value” means the total estimated value of a contract in Rand, calculated at the time of the tender invitation;

“specific goals” means specific goals as contemplated in section 2(1)(d) of the Act 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;

“tender for income-generating contracts” means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions; and

“the Act” means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

Application

2. These Regulations apply to organs of state as defined in section 11 of the Act.

Identification of preference point system

3.(1) An organ of state must, in the tender documents, stipulate—

(a) the applicable preference point system as envisaged in regulations 4, 5, 6 or 7;
(b) the specific goal in the invitation to submit the tender for which a point may be awarded, and the number of points that will be awarded to each goal, and proof of the claim for such goal.

(2) If it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—

(a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or
(b) any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system.

80/20 preference point system for acquisition of goods or services with Rand value equal to or below R50 million

4.(1) The following formula must be used to calculate the points out of 80 for price in respect of an invitation for a tender with a Rand value equal to or below R50 million, inclusive of all applicable taxes:

where Ps = Points scored for price of tender under consideration;

Pt = Price of tender under consideration; and

Pmin = Price of lowest acceptable tender.

(2) A maximum of 20 points may be awarded to a tenderer for the specific goal specified for the tender.

(3) The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.

(4) Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.

90/10 preference point system for acquisition of goods or services with Rand value above R50 million

5.(1) The following formula must be used to calculate the points out 90 for price in respect of an invitation for tender with a Rand value above R50 million, inclusive of all applicable taxes:

Where P_s = Points scored for price of tender under consideration;

P_t = Price of tender under consideration; and

$P_{min.}$ = Price of lowest acceptable tender.

(2) A maximum of 10 points may be awarded to a tenderer for the specific goal specified for the tender.

(3) The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.

(4) Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.

80/20 preference points system for tenders for income-generating contracts with Rand value equal to or below R50 million

6.(1) The following formula must be used to calculate the points for price in

respect of an invitation for tender for income-generating contracts, with a Rand value equal to or below R50 million, inclusive of all applicable taxes:

Where Ps = Points scored for price of tender under consideration;

Pt = Price of tender under consideration; and

Pmax = Price of highest acceptable tender.

(2) A maximum of 20 points may be awarded to a tenderer for the specific goal specified for the tender.

(3) The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.

(4) Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.

90/10 preference point system for tenders for income-generating contracts with Rand value above R50 million

7.(1) The following formula must be used to calculate the points for price in respect of a tender for income-generating contracts, with a Rand value above R50 million, inclusive of all applicable taxes:

Where Ps = Points scored for price of tender under consideration;

Pt = Price of tender under consideration; and

Pmax = Price of highest acceptable tender.

(2) A maximum of 10 points may be awarded to a tenderer for the specific goal specified for the tender.

(3) The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.

(4) Subject to section 2(1)(f) of the Act, the contract must be awarded to the

tenderer scoring the highest points.

Criteria for breaking deadlock in scoring

8.(1) If two or more tenderers score an equal total number of points, the contract must be awarded to the tenderer that scored the highest points for specific goals.

(2) If two or more tenderers score equal total points in all respects, the award must be decided by the drawing of lots.

Remedies

9.(1) If an organ of state is of the view that a tenderer submitted false information regarding a specific goal, it must—

(a) inform the tenderer accordingly; and

(b) give the tenderer an opportunity to make representations within 14 days as to why the tender may not be disqualified or, if the tender has already been awarded to the tenderer, the contract should not be terminated in whole or in part.

(2) After considering the representations referred to in sub-regulation (1)(b), the organ of state may, if it concludes that such information is false—

(a) disqualify the tenderer or terminate the contract in whole or in part; and

(b) if applicable, claim damages from the tenderer.

Repeal of regulations

10.(1) Subject to this regulation, the Preferential Procurement Regulations, 2017 published in Government No. 40553 of 20 January 2017, are hereby repealed with effect from the date referred to in regulation 11.

(2) Any tender advertised before the date referred to in regulation 11 must be dealt with in terms of the Preferential Procurement Regulations, 2017.

Short title and commencement

11. These Regulations are called the Preferential Procurement Regulations, 2022 and take effect on 16 January 2023.