



uThukela
Economic Development Agency

SUPPLY CHAIN MANAGENT
POLICY
2023/2024

LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003

The Board of Directors (Board) resolves in terms of section 111 of the Local Government Municipal Finance Management Act (No. 56 of 2003), to adopt the following proposal as the Supply Chain Management Policy of the **UThukela Economic Development Agency (Agency)**.

TABLE OF CONTENTS

DEFINITIONS	4
CHAPTER 1: IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY	9
SUPPLY CHAIN MANAGEMENT POLICY	9
AMENDMENT OF THE SUPPLY CHAIN MANAGEMENT POLICY	10
DELEGATION OF SUPPLY CHAIN MANAGEMENT POWERS AND DUTIES.....	10
SUBDELEGATIONS	11
OVERSIGHT ROLE OF THE BOARD	11
SUPPLY CHAIN MANAGEMENT UNIT.....	12
TRAINING OF SUPPLY CHAIN MANAGEMENT OFFICIALS.....	12
CHAPTER 2: SUPPLY CHAIN MANAGEMENT SYSTEM	13
FORMAT OF SUPPLY CHAIN MANAGEMENT SYSTEM	13
SYSTEM OF DEMAND MANAGEMENT	13
SYSTEM OF ACQUISITION MANAGEMENT	14
RANGE OF PROCUREMENT PROCESSES.....	14
PLANNING AND STIPULATION OF PREFERENCE POINT SYSTEM TO BE UTILIZED .	15
EVALUATION OF TENDERS ON FUNCTIONALITY	15
AWARD OF CONTRACTS TO TENDERERS NOT SCORING THE HIGHEST NUMBER OF POINTS	16
CANCELLATION AND RE-INVITATION OF TENDERS.....	16

GENERAL PRECONDITIONS FOR CONSIDERATION OF FORMAL WRITTEN PRICE QUOTATIONS AND BIDS	18
LISTS OF ACCREDITED PROSPECTIVE PROVIDERS	18
PETTY CASH PURCHASES	19
FORMAL WRITTEN PRICE QUOTATIONS	19
PROCEDURES FOR PROCURING GOODS OR SERVICES THROUGH FORMAL WRITTEN	20
PRICE QUOTATIONS	20
COMPETITIVE BIDS	20
PROCESS FOR COMPETITIVE BIDDING.....	21
BID DOCUMENTATION FOR COMPETITIVE BIDS	21
PUBLIC INVITATION FOR COMPETITIVE BIDS.....	24
PROCEDURE FOR HANDLING, OPENING AND RECORDING OF BIDS	25
NEGOTIATIONS WITH PREFERRED BIDDERS.....	25
TWO-STAGE BIDDING PROCESS.....	26
COMMITTEE SYSTEM FOR COMPETITIVE BIDS.....	26
BID SPECIFICATION COMMITTEES.....	27
BID EVALUATION COMMITTEES	28
EVALUATION OF BIDS BASED ON FUNCTIONALITY AS A CRITERION	28
ACCESS TO BIDDING INFORMATION	30
BID ADJUDICATION COMMITTEES.....	31
PROCUREMENT OF BANKING SERVICES.....	33
PROCUREMENT OF IT RELATED GOODS OR SERVICES	33
PROCUREMENT OF GOODS AND SERVICES UNDER CONTRACTS SECURED BY ...	33
OTHER ORGANS OF STATE	33
PROCUREMENT OF GOODS NECESSITATING SPECIAL SAFETY ARRANGEMENTS	34
PROUDLY SA CAMPAIGN.....	34

APPOINTMENT OF CONSULTANTS	35
DEVIATION FROM, AND RATIFICATION OF MINOR BREACHES OF, PROCUREMENT.....	35
PROCESSES.....	35
UNSOLICITED BIDS	36
COMBATING OF ABUSE OF SUPPLY CHAIN MANAGEMENT SYSTEM.....	37
LOGISTICS MANAGEMENT	39
DISPOSAL MANAGEMENT	40
RISK MANAGEMENT	41
PERFORMANCE MANAGEMENT	41
PROHIBITION OF AWARDS TO PERSONS WHOSE TAX MATTERS ARE NOT IN ORDER	41
PROHIBITION ON AWARDS TO PERSONS IN THE SERVICE OF THE STATE	42
AWARDS TO CLOSE FAMILY MEMBERS OF PERSONS IN THE SERVICE OF THE STATE	42
ETHICAL STANDARDS.....	43
INDUCEMENTS, REWARDS, GIFTS AND FAVOURS TO [MUNICIPALITIES / MUNICIPAL	44
ENTITIES], OFFICIALS AND OTHER ROLE PLAYERS	44
SPONSORSHIPS	45
OBJECTIONS AND COMPLAINTS	45
RESOLUTION OF DISPUTES, OBJECTIONS, COMPLAINTS AND QUERIES	45
CONTRACTS PROVIDING FOR COMPENSATION BASED ON TURNOVER.....	46
UNAUTHORISED, IRREGULAR OR FRUITLESS AND WASTEFUL EXPENDITURE	46
PREFERENTIAL PROCUREMENT.....	46

DEFINITIONS

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

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

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

” Entity” and **“Agency”** mean Uthukela Economic Development Agency

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

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

“In the service of the state” means –

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

- (e) A member of the accounting authority of any national or provincial public entity; or
- (f) An employee of Parliament or a provincial legislature;

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

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

“Other applicable legislation” means any other legislation applicable to municipal/ entity supply chain management, including –

- (a) The Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);
- (b) The Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003); and
- (c) The Construction Industry Development Board Act, 2000 (Act No.38 of 2000); (d)
The Financial Regulations of the Uthukela District Municipality.
- (e) The Companies Act, 2008 (Act No. 71 of 2008)

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

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

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

“Municipality” means UThukela District Municipality

“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 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;

“HDI” HDI (Historically Disadvantaged Individual) means a South African citizen; who, due to the apartheid policy that had been in place, had no franchise in national elections prior to the introduction of the Constitution of the Republic of South Africa, 1983 (Act No. 110 of 1983) or the Constitution of the Republic of South Africa, 1993, (Act No. 200 of 1993) (The Interim Constitution); and/or who is a female; and/or who has a disability; provided that a person who obtained South African citizenship on or after the coming to effect of the Interim Constitution, is deemed not to be a HDI.

“Rural area” rural area " means-

(a) sparsely populated area in which people farm or dependent on natural resources, including villages and small towns that are dispersed through the area or

(b) An area including a large settlement which depends on migratory labour and remittance and government social grants for survival, and may have a traditional land tenure system.

“functionality” means the measurement according to predetermined norms, as set out in the bid documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a bidder;

“**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 any method envisaged in legislation that will result in a legal agreement between the organs of state and a third party that produces revenue for the organ of state, and includes, but not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions;

“**Bid**” means a written offer, in the form determined by instruction, in response to an invitation for the procurement of goods or services or other form of procurement through a price quotation, a competitive bidding process, a limited bidding process or any other method envisaged in the Act;

“**Bidder**” means any person/enterprise which has submitted a Bid;

“**Disability**” means in respect of a person, a permanent means, in respect of a 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

“**National Treasury**” means the National Treasury established by section 5 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);

“**People with disabilities**” In terms of the Code of Good Practice on the Employment of Persons with disabilities: it is persons who have a long-term or recurring physical or mental impairment, which substantially limits their prospects of entry into, or advancement in employment.

“SMMEs” means small businesses; as defined in section 1 of the National Small Business Act, 1996 (Act No 102 of 1996) a separate and distinct business entity, including co-operative enterprises and non-governmental organisations, managed by one owner or more which, including its branches or subsidiaries, if any, is predominantly carried on in any sector or sub sector of the economy mentioned in Column I of the Schedule and which can be classified as a micro-, a very small, a small or a medium enterprise by satisfying the criteria 40 mentioned in columns 3; 4 and 5 of the Schedule opposite the smallest relevant size or class as mentioned in column 2 of the Schedule.

“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

“Youth” means persons between the ages of 14 and 35 as the National Youth Development Agency Act 54 of 2008.

CHAPTER 1: IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

SUPPLY CHAIN MANAGEMENT POLICY

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

- (d) selects external mechanisms referred to in section 80 (1) (b) of the Municipal Systems Act for the provision of municipal entity's services in circumstances contemplated in section 83 of that Act.
- (4) This Policy, except where provided otherwise, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Act, including–
- (a) water from the Department of Water Affairs or a public entity, another Municipality or a municipal entity; and
 - (b) electricity from Eskom or another public entity, another Municipality or a municipal entity.

AMENDMENT OF THE SUPPLY CHAIN MANAGEMENT POLICY

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

DELEGATION OF SUPPLY CHAIN MANAGEMENT POWERS AND DUTIES

4. (1) The Board of Directors hereby delegates all powers and duties to the accounting officer, which are necessary to enable the accounting officer –
- (a) To discharge the supply chain management responsibilities conferred on

accounting officers in terms of –

- (i) Chapter 8 or 10 of the Act; and
 - (ii) this Policy;
- (b) to maximise administrative and operational efficiency in the implementation of this Policy;
- (c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of this Policy; and
- (d) to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.
- (2) Sections 106 of the Act apply to the sub-delegation of powers and duties delegated to an accounting officer in terms of subparagraph (1).
- (3) The accounting officer may not sub-delegate any supply chain management powers or duties to a person who is not an official of the **Agency** or to a committee which is not exclusively composed of officials of the **Agency** and/or Municipality;
- (4) This paragraph may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this Policy.

SUBDELEGATIONS

5. (1) The accounting officer may in terms of section 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.
- (2) No supply chain management decision-making powers may be delegated to an advisor or consultant.

OVERSIGHT ROLE OF THE BOARD

6. (1) The Board of directors reserves its right to maintain oversight over the implementation of this Policy.

- (2) For the purposes of such oversight the accounting officer must –
 - (a) within 20 days of the end of each financial year, submit a report on the implementation of this Policy to the Board and the Municipality; and
 - (b) whenever there are serious and material problems in the implementation of this Policy, immediately submit a report to the Board and the Municipality.
- (3) The accounting officer must, within 10 days of the end of each quarter, submit a report on the implementation of the supply chain management policy to the Chairperson of the Board.
- (4) The reports must be made public, and published on the **Agency** website, in accordance with section 21A of the Municipal Systems Act.

SUPPLY CHAIN MANAGEMENT UNIT

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

TRAINING OF SUPPLY CHAIN MANAGEMENT OFFICIALS

8. The accounting officer and all other officials of the **Agency** involved in the Implementation of the SCM Policy must meet the prescribed competency levels in terms of the National Treasury Competency Regulations-
 - (1) The training of officials involved in implementing this Policy should be in accordance with any Treasury guidelines on supply chain management training.
 - (2) The **Agency** must provide opportunities and resources for training of officials preferred to meet the relevant prescribed supply chain management competency levels. There must be ongoing rotation of duties for officials and training on each section of the SCM Unit.
 - (3) In the instance of a Service Provider providing professional consulting services, **Agency** staff working in the area being serviced by the Service Provider will be identified for skills transfer and training.
 - (4) The Service Provider is required to submit a plan detailing the work plan with set time frames and milestones, performance targets, monitoring systems, roles and

responsibilities and a close out report confirming the training that was provided to the relevant **Agency** Officials.

CHAPTER 2: SUPPLY CHAIN MANAGEMENT SYSTEM

FORMAT OF SUPPLY CHAIN MANAGEMENT SYSTEM

9. This Policy provides systems for –

- (1) demand management;
- (2) acquisition management;
- (3) logistics management;
- (4) disposal management;
- (5) risk management; and
- (6) Performance management.

Part 1: Demand management

SYSTEM OF DEMAND MANAGEMENT

10.(1) The accounting officer must establish and implement an appropriate demand management system in order to ensure that the resources required by the **Agency** support its operational commitments and its strategic goals outlined in the Municipal Integrated Development Plan and **Agency's** strategy.

- (2) **The demand management system must –**
 - (a) include timely planning and management processes to ensure that all goods and services required by the **Agency** are quantified, budgeted for and timely and effectively delivered at the right locations and at the critical delivery dates, and are of the appropriate quality and quantity at a fair cost;
 - (b) take into account any benefits of economies of scale that may be derived in the case of acquisitions of a repetitive nature; and
 - (c) provide for the compilation of the required specifications to ensure that its needs are met.

Commented [SM1]: MFMA Circular 62 provides for the submission of Procurement Plans in respect of advertised Bids. Accounting officers of municipal entities must submit the procurement plans to the accounting officer of their parent municipality.

- (d) undertake appropriate industry analysis and research to ensure that innovations and technological benefits are maximized.
- (e) Provide for the accounting officer to submit procurement plan to the accounting officer of the municipality before commencement of the financial year when it will be implemented.

Part 2: Acquisition management

SYSTEM OF ACQUISITION MANAGEMENT

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

RANGE OF PROCUREMENT PROCESSES

12. (1) Goods and services may only be procured by way of –

- (a) Formal written price quotations for procurements of a transaction value over R1 up to R200 000 (Inclusive of all applicable taxes)
- (b) a competitive bidding process for–
 - (i) procurements above a transaction value of R200 000.00 (Inclusive of all applicable taxes); and
 - (ii) the procurement of long term contracts.

(2) The accounting officer may, in writing, direct that a competitive bidding process be followed for any specific procurement of a transaction value lower than R200 000.00.

- (3) Goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of this 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

PLANNING AND STIPULATION OF PREFERENCE POINT SYSTEM TO BE UTILIZED

- (4) The **Agency** must, prior to making an invitation for tenders-
 - (a) Properly plan for, and, as far as possible, accurately estimate the costs by determining and conducting an industry and commodity analysis to obtain indicative market-related prices that may be utilised for benchmarking purposes; then, based on the findings, the relevant preference point system (80/20 or 90/10) will be utilised for the evaluation of the tender and must be stipulated in the tender document , of the provision of services, works or goods for which an invitation for tenders is to be made,
 - (b) Determine and stipulate the appropriate preference point system to be utilized in the evaluation and adjudication of the tenders.

EVALUATION OF TENDERS ON FUNCTIONALITY

- (5) (a) The **Agency** must indicate in the invitation to submit a tender if that tender will be evaluated on functionality.
- (b) The evaluation criteria for measuring functionality must be objective.
- (c) When evaluating tenders on functionality, the-
 - (i) Evaluation criteria for measuring functionality;
 - (ii) Weight of each criterion;
 - (iii) Applicable values; and

Commented [SM2]: Kindly remove as per the amended regulations.

Commented [SM3]: This sub-regulation starts with reading as "A supply chain management policy may allow the accounting officer-
a) To lower, but not increase, the different threshold values specified in sub-regulation (1)"

Commented [SM4]: Recommendation: Estimated costs can be determined by conducting an industry and commodity analysis to obtain indicative market-related prices that may be utilise for benchmarking purposes. Based on the findings, the relevant preference point system (80/20 or 90/10) to be utilised for the evaluation of the tender must be stipulated in the tender document.

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

AWARD OF CONTRACTS TO TENDERERS NOT SCORING THE HIGHEST NUMBER OF POINTS

- (6) A contract may be awarded to a tenderer that did not score the highest total number of points, in accordance with item 28 (4)(b)(i-ii), section 2 (1) (f) of the Act and item 3(1)(b) of PPR 2022 which states as follows: *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.*

CANCELLATION AND RE-INVITATION OF TENDERS

- (7) (a) The **Agency** may, if a tender has not yet been awarded, cancel a tender if –
- (i) there is no longer a need for the services, works or goods requested;
or
 - (ii) Funds are no longer available to cover the total envisaged expenditure; or
 - (iii) No acceptable tenders are received.
 - (iv) A material irregularity in the tender process. Since the Supreme Court of Appeal has recently ruled that cancellation of a tender process is not “administrative action” and therefore can only be challenged on rationality grounds, this change means that an organ of state will have a great deal of leeway to cancel a tender process prior to award, without the risk of legal challenges.

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

GENERAL PRECONDITIONS FOR CONSIDERATION OF FORMAL WRITTEN PRICE QUOTATIONS AND BIDS.

13. A formal written price quotation or bid may not be considered unless the provider who submitted the quotation or bid –

(a) has furnished that provider's –

- (i) full name;
- (ii) identification number or company or other registration number;
- (iii) tax reference number and VAT registration number, if any;
- (iv) Valid tax pin number issued by SARS so as to verify supply tax status on SARS e-filing system

(b) has authorised the **Agency** to obtain a tax clearance from the South African Revenue Services that the provider's tax matters are in order; and

(c) Has indicated –

- (i) whether he or she is in the service of the state, or has been in the service of the state in the previous twelve months;
- (ii) if the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholders is in the service of the state, or has been in the service of the state in the previous twelve months;
or
- (iii) Whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in subparagraph, (ii) is in the service of the state, or has been in the service of the state in the previous twelve months.

LISTS OF ACCREDITED PROSPECTIVE PROVIDERS

14. (1) The accounting officer must –

- (a) keep a list of accredited prospective providers of goods and services that must be used for the procurement requirements through formal written price quotations; and

- (b) at least once a year through newspapers commonly circulating locally, the website and any other appropriate ways, invite prospective providers of goods or services to apply for evaluation and listing as accredited prospective providers;
 - (c) specify the listing criteria for accredited prospective providers; and
 - (d) Disallow the listing of any prospective provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector.
- (2) The list must be updated at least quarterly to include any additional prospective providers and any new commodities or types of services. Prospective providers must be allowed to submit applications for listing at any time.
- (3) The list must be compiled per commodity and per type of service, as per supplier database registration forms of UThukela Economic Development Agency.
- (4) Prospective providers must appear on the National Treasury's Central Supplier database.

PETTY CASH PURCHASES

15. The **Agency** shall not utilise petty cash.

FORMAL WRITTEN PRICE QUOTATIONS

17. (1) The conditions for the procurement of goods or services through formal written price quotations, are as follows:
- (a) quotations must be obtained in writing from at least three different providers whose names appear on the list of accredited prospective providers of the **Agency**.
 - (b) quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria set out in paragraph 14(1)(b) and (c) of this Policy;

- (c) If it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the chief financial officer or an official designated by the chief financial officer.

PROCEDURES FOR PROCURING GOODS OR SERVICES THROUGH FORMAL WRITTEN PRICE QUOTATIONS

18. (1) The procedure for the procurement of goods or services through formal written price quotations is as follows:

- (a) **when** procuring goods:
 - (i) from R1 to R30 000 (inclusive of all applicable taxes) the invitation must be advertised for at least 3 days on the Agency website and official notice board of the Agency,
 - (ii) from R30 000 to R200 000 (inclusive of all applicable taxes) the invitation must be advertised for at least 7 days on the Agency website and official notice board of the Agency. Registration with Central Supplier Database (CSD) will be verified in both instances.
- (b) the accounting officer must take all reasonable steps to ensure that the procurement of goods and services through written quotations is not abused;
- (c) the accounting officer must generate a monthly record of all formal written price quotations awarded in that month.
- (d) acceptable offers, which are subject to the preference points system (PPPFA and associated regulations), must be awarded to the bidder who scored the highest points; not withstanding provisions of item 12 (6) of this policy.

Commented [SM5]: The provisions of MSCM Regulation 18(a) need to reflect in the policy which read as:
“that all requirements in excess of R30 000 (all taxes included) that are procured by means of formal written price quotations must, in addition to the requirements of regulation17, be advertised for at least seven days on the website and an official notice board of the municipal entity”

COMPETITIVE BIDS

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

- (2) No requirement for goods or services above an estimated transaction value of R200 000.00 (all applicable taxes included), may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.

PROCESS FOR COMPETITIVE BIDDING

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

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

BID DOCUMENTATION FOR COMPETITIVE BIDS

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

- (a) take into account –
 - (i) the general conditions of contract and any special conditions of contract, if specified;

- (ii) any Treasury guidelines on bid documentation; and
 - (iii) the requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;
- (b) include the preference points system to be used, specific goals as contemplated in the Preferential Procurement Regulations 2022 and evaluation and adjudication criteria, including any criteria required by other applicable legislation;
- (c) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;
- (d) if the value of the transaction is expected to exceed R10 million (inclusive of all applicable taxes), require bidders to furnish–
 - (i) if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements –
 - (aa) for the past three years; or
 - (bb) since their establishment if established during the past three years;
 - (ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for Municipal or **Agency** services towards the Municipality or the **Agency** or other service provider in respect of which payment is overdue for more than 30 days;
 - (iii) particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material noncompliance 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 **Agency** is expected to be transferred out of the Republic;
- (e) stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law.

(2) The following information must be submitted by the senior manager responsible for the Vote to the CFO prior to the public advertisement of any bids in excess of R10 million (all applicable taxes included):

(a) Proof that budgetary provision exists for procurement of the goods, services and/or infrastructure projects;

(b) Any ancillary budgetary implications related to the bid, for example, if the project is for the acquisition of a municipal asset, does budgetary provision exist for the operation of the asset, maintenance costs relating to the asset, administration costs and rehabilitation/renewal costs

(c) Any multi-year budgetary implications, for example, if a project will take more than one financial year, the estimated expenditure per financial year.

(3) Goods, services, and/or infrastructure projects above the value of R10 million (all applicable taxes included) may only be advertised after the CFO has verified in writing that budgetary provision exists for the commencement of the particular project.

PUBLIC INVITATION FOR COMPETITIVE BIDS

22. (1) The procedure for the invitation of competitive bids, is as follows:

- (a) Any invitation to prospective providers to submit bids must be through a public advertisement in newspapers commonly circulating locally, the website of the **Agency** and of the Municipality or any other appropriate ways (which must include an advertisement in the Provincial Government Gazette), and e-Tenders Portal. Cancellation and variation orders to be advertised. Consequently, all construction related bids to be advertised on the CIDB e-Tender Portal.
- (b) the information contained in a public advertisement must include –
 - (i) the closure date for the submission of bids, which may not be less than 30 days in the case of transactions over R10 million (VAT included), or which are of a long-term nature, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to subparagraph (2) of this policy;
 - (ii) a statement that bids may only be submitted on the bid documentation provided by the **Agency**; and
 - (iii) date, time and venue of any proposed site meetings or briefing sessions.;
- (2) The accounting officer may determine a closure date for the submission of bids which is less than the 30 or 14 days' requirement, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process.
- (3) Bids submitted must be sealed.
- (4) Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies.

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

> R 20 000 000 < R 40 000 000	R 600
> R 40 000 000	R 800

PROCEDURE FOR HANDLING, OPENING AND RECORDING OF BIDS

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

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

NEGOTIATIONS WITH PREFERRED BIDDERS

24. (1) The accounting officer may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provided that such negotiation –
- (a) does not allow any preferred bidder a second or unfair opportunity;
 - (b) is not to the detriment of any other bidder; and
 - (c) does not lead to a higher price than the bid as submitted.
- (2) Minutes of such negotiations must be kept for record purposes.

TWO-STAGE BIDDING PROCESS

25. (1) A two-stage bidding process is allowed for –
- (a) large complex projects;
 - (b) projects where it may be undesirable to prepare complete detailed technical specifications; or
 - (c) long-term projects with a duration period exceeding three years.
- (2) In the first stage technical proposals on conceptual design or performance specifications should be invited, subject to technical as well as commercial clarifications and adjustments.
- (3) In the second stage final technical proposals and priced bids should be invited.

COMMITTEE SYSTEM FOR COMPETITIVE BIDS

26. (1) A committee system for competitive bids is hereby established, consisting of the following committees for each procurement or cluster of procurements as the accounting officer may determine:
- (a) a bid specification committee;
 - (b) a bid evaluation committee; and
 - (c) a bid adjudication committee;
- (2) The accounting officer appoints the members of each committee in writing, taking into account section 117 of the Act, where “Councillor” means, in this context, Board member; and
- (3) A neutral or independent observer, appointed by the accounting officer, must attend or oversee a committee when this is appropriate for ensuring fairness and promoting transparency.
- (4) The committee system must be consistent with –
- (a) paragraph 27, 28 and 29 of this Policy; and
 - (b) any other applicable legislation.
- (5) The accounting officer may apply the committee system to formal written price quotations.
- (6) Matters of a confidential nature in the possession of officials should be kept confidential unless legislation, the performance of duty or the provisions of law requires otherwise. Any information that is the property of the Municipality and the **Agency** or its suppliers/

service providers should be protected at all times. No information regarding any Bid/ Quotation/ Contract/ Bidder/ Contractor may be revealed as such an action will infringe on the relevant Bidder's/ Contractor's personal rights.

BID SPECIFICATION COMMITTEES

27. (1) A bid specification committee must compile the specifications for each procurement of goods or services by the **Agency**.
- (2) Specifications –
- (a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
 - (b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organisation, or an authority accredited or recognised by the South African National Accreditation System with which the equipment or material or workmanship should comply; must, where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;
 - (c) 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;
 - (d) 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 word “equivalent”;
 - (e) must indicate each specific goal for which points may be awarded in terms of the points system set out in the Preferential Procurement Regulations 2022; and
 - (f) must be approved by the accounting officer before publication of the invitation for bids in terms of paragraph 22 of this Policy.
- (3) A bid specification committee must be composed of one SCM Official of the **Agency** as the Chairperson and the manager responsible for the function involved, and may, when appropriate, include external specialist advisors.
- (4) No person, advisor or corporate entity involved with the bid specification committee, or director of such a corporate entity, may bid for any resulting contracts.

BID EVALUATION COMMITTEES

28. (1) A bid evaluation committee must –

- (a) evaluate bids under –
 - (i) the specifications for a specific procurement; and
 - (ii) the points system set out in terms of paragraph 27(2)(e).
- (b) evaluate each bidder's ability to execute the contract;
- (c) check, in respect of the recommended bidder, whether municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the municipality or municipal entity, are in arrears for more than 3 months, and;
- (d) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.

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

- (a) one official from each department requiring the goods or services, and, if only one department is affected, another official from any other department; and
- (b) at least one supply chain management practitioner of the **Agency**, as the chairperson.

(3) Discounts

- (a) When calculating comparative prices:
 - (i) Unconditional discounts must be taken into account for evaluation purposes; and
 - (ii) conditional discounts must not be taken into account for evaluation purposes but should be implemented when payment is effected

EVALUATION OF BIDS BASED ON FUNCTIONALITY AS A CRITERION

(4)(a) Bids invited based on functionality as a criterion must be evaluated in two stages – first functionality must be assessed and then in accordance with the 80/20 or 90/10

Commented [SM6]: Evaluation on functionality is based on MFMA Circular 53, no longer the provision of PPR 2022.

preference point systems prescribed in Preferential Procurement Regulations 4 and 5, in line with PPR 2022 regulations. The evaluation must be done as follows:

(aa) First stage – Evaluation of functionality

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

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

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

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

100 X Ms So Ps where:

Ps = percentage scored for functionality by bid under consideration

So = total score of bid under consideration Ms = maximum possible score

- (ix) The percentage of each panel member should be added and divided by the number of panel members to establish the average percentage obtained by each bidder for functionality.
- (b) During the evaluation of a service provider, the Bid evaluation committee should assess whether the service provider is currently rendering services (construction related contracts) to the Municipality or the **Agency**:
 - (i) If the service provider is currently rendering services to the Municipality or the **Agency** with a stage of completion less than 50%, the Agency will assess the capacity of the service provider to execute the project.
 - (ii) Then the award will be made to the second highest scoring bidder.

ACCESS TO BIDDING INFORMATION

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

Informing the unsuccessful bidders

- (d) The SCM Unit must inform unsuccessful bidders in writing through emails, and request confirmation of receipt, that their bids were unsuccessful. At this stage, no detail on why bids were unsuccessful, has to be provided. The unsuccessful bidder has fourteen (14) days to raise an objection against the decision. If no response has been received by the **Agency** within the stipulated period, a letter will be sent to the successful bidder informing him/her of the acceptance of his/her bid.
- (e) on written request, any bidder should be provided with the reasons why his / her own bid was unsuccessful.

Informing the successful bidders

- (f) the successful bidder must be notified in writing by registered or certified mail of the acceptance of their bid within the original validity period of the bid.
- (g) the information of other bidders will not be disclosed to the successful bidder.

Disclosure of information

- (h) bids are not available for perusal by the public in accordance with sections 36 and 63 of the Promotion of Access to Information Act, Act No 2 of 2000.
- (i) When divulging information, a balance must be stricken between one party's right to access information and the right to confidentiality of the other party.
- (j) where no bid has been accepted, particulars of the bids received are not made public.
- (k) The **Agency** can withhold information if the release or publication of the information:
 - (i) will impede law enforcement; or
 - (ii) will be contrary to the public interest; or
 - (iii) will harm the legitimate interests of municipal entity; or
 - (iv) will hinder fair competition between providers by revealing any proprietary information of any bidder.

Publishing of award

- (l) awards shall be published in the media by means of which the bids were originally advertised, Agency and Municipal website.
- (m) The accounting officer, or another official designated by the accounting officer, is responsible for assisting the appointed person to perform his or her functions effectively.

BID ADJUDICATION COMMITTEES

29. (1) A bid adjudication committee must –

- (a) consider the report and recommendations of the bid evaluation committee; and
- (b) either –
 - (i) make a recommendation to the accounting officer to make the final award;
or
 - (ii) make another recommendation to the accounting officer how to proceed with the relevant procurement.

- (2) A bid adjudication committee must consist of at least three heads of sections of the Agency and a senior manager requested from any of the four municipalities within the district which must include –
- (a) the chief financial officer of the Agency; and
 - (b) at least one supply chain management practitioner who is an official of the **Agency**; and
 - (c) a technical expert in the relevant field who is an official, if such an expert exists.
- (3) The accounting officer must appoint the chairperson of the committee. If the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside at the meeting.
- (4) Neither a member of a bid evaluation committee, nor an advisor or person assisting the evaluation committee, may be a member of a bid adjudication committee.
- (5) (a) If the bid adjudication committee decides to recommend to award a bid other than the one recommended by the bid evaluation committee, the bid adjudication committee must prior to recommending to award the bid –
- (i) Check in respect of the preferred bidder if any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the municipality or municipal entity, or to any other municipality or municipal entity, are in arrears for more than 3 months, and;
 - (ii) notify the accounting officer.
- (b) The accounting officer may –
- (i) after due consideration of the reasons for the deviation, ratify or reject the recommendation of the bid adjudication committee referred to in paragraph (a); and
 - (ii) if the recommendation of the bid adjudication committee is rejected, refer the recommendation of the adjudication committee back to that committee for reconsideration.
- (6) The accounting officer may at any stage of a bidding process, refer any recommendation made by the adjudication committee back to that committee for reconsideration of the recommendation.
- (7) The accounting officer must comply with section 114 of the Act within 10 working days.

PROCUREMENT OF BANKING SERVICES

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

PROCUREMENT OF IT RELATED GOODS OR SERVICES

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

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

32. (1) The accounting officer may procure goods or services under a contract secured by another organ of state in accordance with MFMA circular 96, but only if –

- (a) the contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state; and the Agency has no reason to believe that such contract was not validly procured;
- (b) there are demonstrable discounts or benefits to do so; and
- (c) that other organ of state and the service provider have consented to such procurement in writing;
- (d) the contract must be valid;
- (e) the duration or variation of the contract will be aligned with the existing contract between the service provider and the participating municipality or municipal entity.
- (f) The goods or services must be the same and quantity may not be increased.
- (g) Contractual arrangements: the shared contract must have the same dispute resolution mechanism.

(2) Subparagraphs (1)(c) and (d) do not apply if –

- (a) The **Agency** procures goods or services through a contract secured by its parent Municipality; or
- (b) a Municipality procures goods or services through a contract secured by the **Agency** of which the Municipality is the parent.
- (c) The Accounting Officer must first obtain consent from Provincial Treasury before he/she finalizes an agreement with another organ of state and the identified service provider (Circular 01A/2016).

PROCUREMENT OF GOODS NECESSITATING SPECIAL SAFETY ARRANGEMENTS

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

PROUDLY SA CAMPAIGN

- 34.** The **Agency** supports the Proudly SA Campaign, however, PPR 2022 will supersede all other requirements that preference is given to procuring goods and services from:
- Firstly – suppliers and businesses within the Municipal or district;
 - Secondly – suppliers and businesses within the province;

- Thirdly – suppliers and businesses within the Republic.

APPOINTMENT OF CONSULTANTS

- 35.**(1) The accounting officer may procure consulting services provided that any Treasury guidelines, including Local Government Cost Containment Provisions of 2019, in respect of consulting services are taken into account when such procurements are made.
- (2) Consultancy services must be procured through competitive bids if
- (a) the value of the contract exceeds R200 000.00 (inclusive of all applicable taxes); or
 - (b) the duration period of the contract exceeds one year.
- (3) In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish particulars of –
- (a) all consultancy services provided to an organ of state in the last five years; and
 - (b) any similar consultancy services provided to an organ of state in the last five years.
- (4) The accounting officer must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, thing, system or process designed or devised, by a consultant in the course of the consultancy service is vested in the **Agency**.

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

- 36.**(1) The accounting officer may –
- (a) dispense with the official procurement processes established by this Policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only –
 - (i) in an emergency;
 - (ii) if such goods or services are produced or available from a single provider only;
 - (iii) for the acquisition of special works of art or historical objects where specifications are difficult to compile;
 - (iv) acquisition of animals for zoos and/or nature and game reserves; or
 - (v) in any other exceptional case where it is impractical or impossible to follow the official procurement processes; and

- (b) ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature.
- (2) The accounting officer must record the reasons for any **deviations** in terms of subparagraphs (1)(a) and (b) of this policy and report them to the next meeting of the Board for approval, update the deviation register and include as a note to the annual financial statements. All deviations must be reported to Provincial Treasury with 14 days after board approval.
- (3) Sub-paragraph (2) does not apply to the procurement of goods and services contemplated in paragraph 11(2) of this policy.

Commented [SM7]: Procurement through deviations are required to be reported to Provincial Treasury as per KZN SCM circular no. 08 of 2023-2024

UNSOLICITED BIDS

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

- (6) A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.
- (7) When considering the matter, the adjudication committee must take into account –
 - (a) any comments submitted by the public; and
 - (b) any written comments and recommendations of the National Treasury or the provincial treasury.
- (8) If any recommendations of the National Treasury or provincial treasury are rejected or not followed, the accounting officer must submit to the Auditor General, the provincial treasury and the National Treasury the reasons for rejecting or not following those recommendations.
- (9) Such submission must be made within seven days after the decision on the award of the unsolicited bid is taken, but no contract committing the **Agency** to the bid may be entered into or signed within 30 days of the submission.

COMBATING OF ABUSE OF SUPPLY CHAIN MANAGEMENT SYSTEM

38. (1) The accounting officer must–

- (a) take all reasonable steps to prevent abuse of the supply chain management system;
- (b) investigate any allegations against an official or other role player of fraud, corruption, favouritism, unfair or irregular practices or failure to comply with this Policy, and when justified –
 - (i) take appropriate steps against such official or other role player; or
 - (ii) report any alleged criminal conduct to the South African Police Service;
- (c) check the National Treasury's database prior to awarding any contract to ensure that no recommended bidder, or any of its directors, is listed as a person prohibited from doing business with the public sector;
- (d) reject any bid from a bidder–
 - (i) if any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the Municipality or to any other Municipality or municipal entity, are in arrears for more than three months; or
 - (ii) who during the last five years has failed to perform satisfactorily on a previous contract with the Municipality or municipal entity or any other

organ of state after written notice was given to that bidder that performance was unsatisfactory;

(e) reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;

- (f) cancel a contract awarded to a person if –
 - (i) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
 - (ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and
 - (g) reject the bid of any bidder if that bidder or any of its directors –
 - (i) has abused the supply chain management system of the **Agency** or has committed any improper conduct in relation to such system;
 - (ii) has been convicted for fraud or corruption during the past five years;
 - (iii) has wilfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
 - (iv) has been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).
- (2) The accounting officer must inform the National Treasury and relevant provincial treasury in writing of any actions taken in terms of subparagraphs (1)(b)(ii), (e) or (f) of this policy.

Part 3: Logistics, Disposal, Risk and Performance Management

LOGISTICS MANAGEMENT

39. (1) The accounting officer must establish and implement an effective system of logistics management, which must include -
- (a) the monitoring of spending patterns on types or classes of goods and services incorporating, where practical, the coding of items to ensure that each item has a unique number;
 - (b) the setting of inventory levels that includes minimum and maximum levels and lead times wherever goods are placed in stock;
 - (c) the placing of manual or electronic orders for all acquisitions other than those from petty cash;
 - (d) before payment is approved, certification by the responsible officer that the goods and services are received or rendered on time and is in accordance with the order,

the general conditions of contract and specifications where applicable and that the price charged is as quoted in terms of a contract;

- (e) appropriate standards of internal control and warehouse management to ensure that goods placed in stores are secure and only used for the purpose for which they were purchased;
- (f) regular checking to ensure that all assets including official vehicles are properly managed, appropriately maintained and only used for official purposes; and
- (g) monitoring and review of the supply vendor performance to ensure compliance with specifications and contract conditions for particular goods or services.

DISPOSAL MANAGEMENT

40. (1) The criteria for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the Act, are as follows:

(2) Assets may be disposed of by –

- (a) transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;
- (b) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
- (c) selling the asset; or
- (d) destroying the asset.

(3) The accounting officer must ensure that –

- (a) immovable property is sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
- (b) movable assets are sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous or convenient;
- (c) 80/20 preference points system for tenders for income-generating contracts with Rand value equal to or below R50 million, or 90/10 preference point system for tenders for income-generating contracts with Rand value above R50 million.
- (d) Firearms are not sold or donated to any person or institution within or outside the Republic unless approved by the National Conventional Arms Control Committee;

- (e) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise;
- (f) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed;
- (g) where assets are traded in for other assets, the highest possible trade-in price is negotiated; and
- (h) in the case of the free disposal of computer equipment, the provincial department of education is first approached to indicate within 30 days whether any of the local schools are interested in the equipment.

RISK MANAGEMENT

41. (1) The criteria for the identification, consideration and avoidance of potential risks in the supply chain management system, are as follows:
- (2) Risk management must include –
- (a) the identification of risks on a case-by-case basis;
 - (b) the allocation of risks to the party best suited to manage such risks;
 - (c) acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;
 - (d) the management of risks in a pro-active manner and the provision of adequate cover for residual risks; and
 - (e) the assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.

PERFORMANCE MANAGEMENT

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

Part 4: Other matters

PROHIBITION OF AWARDS TO PERSONS WHOSE TAX MATTERS ARE NOT IN ORDER

43. (1) In order to comply with the new TCS system, in terms of MFMA Circular 90, and the condition of bids that a successful

bidder's tax matters must be in order, Accounting Officers of all municipalities and municipal entities should:

- (a) designate official(s) to verify the bidder's tax compliance status prior to the finalisation of the award of the bid or price quotation.
- (b) Where the recommended bidder is not tax compliant, the bidder should be notified of their non-compliant status and the bidder must be requested to submit to the municipality or municipal entity, within 7 working days, written proof from SARS of their tax compliance status or proof from SARS that they have made an arrangement to meet their outstanding tax obligations.
- (c) The proof of tax compliance status submitted by the bidder to the municipality or municipal entity must be verified via the CSD or e-Filing.
- (d) The accounting officer should reject a bid submitted by the bidder if such a bidder fails to provide proof of tax compliance status within the timeframe stated above

PROHIBITION ON AWARDS TO PERSONS IN THE SERVICE OF THE STATE

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

- (a) if that person is a juristic person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state; or
- (b) if a person is an advisor or consultant contracted with the **Agency**,
- (c) if a person is in the service of the state.

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

45. The accounting officer must ensure that the notes to the annual financial statements disclose particulars of any award of more than R2000 to a person who is a spouse, child or parent of a person in the service of the state, or has been in the service of the state in the previous twelve months, including –

- (a) the name of that person;
- (b) the capacity in which that person is in the service of the state; and
- (c) the amount of the award.

ETHICAL STANDARDS

46. (1) A code of ethical standards as set out in subparagraph (2) / the “*National Treasury’s code of conduct for supply chain management practitioners and other role players involved in supply chain management*” is hereby established for officials and other role players in the supply chain management system of the **Agency** in order to promote –
- (a) mutual trust and respect; and
 - (b) an environment where business can be conducted with integrity and in a fair and reasonable manner.
- (2) An official or other role player involved in the implementation of this Policy –
- (a) must treat all providers and potential providers equitably;
 - (b) may not use his or her position for private gain or to improperly benefit another person;
 - (c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person;
 - (d) notwithstanding subparagraph (2) (c), must declare to the accounting officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;
 - (e) must declare to the accounting officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by, the **Agency**;
 - (f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;
 - (g) must be scrupulous in his or her use of property belonging to **Agency**;
 - (h) must assist the accounting officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system; and
 - (i) must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including –
 - (i) any alleged fraud, corruption, favouritism or unfair conduct;

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

INDUCEMENTS, REWARDS, GIFTS AND FAVOURS TO [MUNICIPALITIES / MUNICIPAL ENTITIES], OFFICIALS AND OTHER ROLE PLAYERS

47. (1) No person who is a provider or prospective provider of goods or services, or a recipient or prospective recipient of goods disposed or to be disposed of may either directly or through a representative or intermediary promise, offer or grant –
- (a) any inducement or reward to the **Agency** for or in connection with the award of a contract; or
 - (b) any reward, gift, favour or hospitality to –
 - (i) any official; or
 - (ii) any other role player involved in the implementation of this Policy.
- (2) The accounting officer must promptly report any alleged contravention of subparagraph (1) to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted,

should be listed in the National Treasury's database of persons prohibited from doing business with the public sector.

SPONSORSHIPS

- 48.** The accounting officer must promptly disclose to the National Treasury and the relevant provincial treasury any sponsorship promised, offered or granted, whether directly or through a representative or intermediary, by any person who is –
- (a) a provider or prospective provider of goods or services; or
 - (b) a recipient or prospective recipient of goods disposed or to be disposed.

OBJECTIONS AND COMPLAINTS

- 49.** Persons aggrieved by decisions or actions taken in the implementation of this supply chain management system, may lodge within 14 days of the decision or action, a written objection or complaint against the decision or action with the accounting officer.

RESOLUTION OF DISPUTES, OBJECTIONS, COMPLAINTS AND QUERIES

- 50.** (1) The accounting officer must request from the accounting officer of the Municipality an appointment of a municipal official, not directly involved in the supply chain management processes of the **Agency** –
- (a) to assist in the resolution of disputes between the **Agency** and other persons regarding
 - (i) any decisions or actions taken in the implementation of the supply chain management system; or
 - (ii) any matter arising from a contract awarded in the course of the supply chain management system; or
 - (b) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.

Municipal bid appeals tribunal

- (2) The Agency shall use the services of the parent Municipality's bid appeal tribunal established by KZN Treasury to hear and determine an appeal against the award of a bid.
- (3) The person appointed must –

- (a) strive to resolve promptly all objections or complaints received; and
 - (b) submit monthly reports to the accounting officer on all such objections and complaints received, attended to or resolved.
- (4) An objection or complaint may be referred to the KwaZulu-Natal Provincial Treasury if:
- (a) the objection or complaint is not resolved within 60 days; or
 - (b) no response is forthcoming within 60 days.
- (5) If the Provincial Treasury does not or cannot resolve the matter, the objection or complaint may be referred to the National Treasury for resolution.
- (6) For section 32 procurements dispute resolution will follow paragraph 32 of this policy.

CONTRACTS PROVIDING FOR COMPENSATION BASED ON TURNOVER

- 51(1)** If a service provider acts on behalf of the **Agency** 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 **Agency** must stipulate –
- (a) a cap on the compensation payable to the service provider; and
 - (b) that such compensation must be performance based.

UNAUTHORISED, IRREGULAR OR FRUITLESS AND WASTEFUL EXPENDITURE

- 53.** (1) If a deviation is found to be wasteful expenditure it will be recovered from the official who initiated the transaction.
- (2) The accounting officer may determine a closing 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.

PREFERENTIAL PROCUREMENT

1. (a) The basket of preference goals as contained in the relevant legislation are listed hereunder and the Agency is at liberty to apply specific goals in any combination format

depending on their preference targets. The Agency may include in their policy specific goals as part of their tendering conditions.

(b) Each tender document will have a specific goal with the points required determined by the Bid Specification Committee in their meeting.

2. Preference Goal 1

Ownership as a specific goal

A maximum of 20 points (80/20 preference points system) or 10 (90/10) preference points system), may be allocated. Bidder may score preference points based on company ownership.

If the Agency applies ownership as specific goal, the entity must advertise the tender with a

specific tendering preferential procurement requirements that in order for a tenderer to claim 10 / 20 points for specific goals, a tendering company must have the following ownership:

- race, (Historically Disadvantaged Persons) or
- gender (Historically Disadvantaged Persons HDP) or;
- disability (Historically Disadvantaged Persons);

Ownership verification may be conducted through the Companies and Intellectual Property Commission (CIPC).

3. Preference Goal 2

RDP Goals

Over and above the awarding of preference points in favour of HDPs, the following activities

may be regarded as a contribution towards achieving the goals of the RDP (published in Government Gazette No. 16085 dated 23 November 1994):

- (a) The promotion of South African owned enterprises;
- (b) The promotion of export orientated production to create jobs;
- (c) The promotion of SMMEs;
- (d) The creation of new jobs or the intensification of labour absorption;

- (e) The promotion of enterprises located in a specific province for work to be done or services to be rendered in that province;
- (f) The promotion of enterprises located in a specific region for work to be done or services to be rendered in that region;
- (g) The promotion of enterprises located in a specific municipal area for work to be done or services to be rendered;
- (h) The promotion of enterprises located in rural areas;
- (i) The empowerment of the work force by standardising the level of skill and knowledge of workers;
- (j) The development of human resources, including by assisting in tertiary and other advanced training programmes, in line with key indicators such as percentage of wage bill spent on education and training and improvement of management skills; and
- (k) The upliftment of communities through, but not limited to, housing, transport, schools, infrastructure donations, and charity organizations.

The Municipal entity may also use other RDP goals identified in the Government Gazette No. 16085 dated 23 November 1994;

<https://www.gov.za/sites/default/files/governmentgazetteid16085.pdf>

4. Preference Goal 3

Combinations of any other Goals

The Agency may also combine any specific goals above in a manner that will help them evaluate and apply preference points to tenders.

(a) The Bid Specification Committee shall set appropriate Local Economic Development Targets in the form of Contract Participation Goals and or Targeted Procurement objectives which must form part of the invitation to tender, set as performance criteria within contracts, where appropriate, for the following target groups:

- (i) Priority population groups
- (ii) Women
- (iii) Youth
- (iv) Disabled

- (v) Co-operatives
- (vi) Location of a Business Enterprise

(b) Tender(s) received need to be evaluated in terms of the preference point system first. Once the highest points scorer has been ascertained only then the targeted procurement will be applied. Targeted Procurement will justify the award of tender to a tenderer with lower preference points score.

(c) Targeted Procurement Criteria will be applied, where feasible, on a tender-by-tender basis.

(d) In an event where a tender with the highest number of preference points score does not meet the targeted procurement criteria set for the specific tender, then the next responsive tender with a lower preference points score and who meets targeted procurement criteria must be considered for the award of a tender.

This policy has been considered and approved by the BOARD OF DIRECTORS OF UTHUKELA ECONOMIC DEVELOPMENT AGENCY as follows:

Resolution number:

Dr K. Nduli
Chairperson

Approval Date: