



SUPPLY CHAIN MANAGEMENT POLICY

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Table of Contents

1.	Definitions.....	4
2.	Supply chain management policy	6
3.	Amendment of the supply chain management policy.....	6
4.	Delegation of supply chain management powers and duties	7
5.	Sub-delegations	7
6.	Oversight role of council.....	9
7.	Supply chain management unit	9
8.	Training of supply chain management officials	9
9.	Format of supply chain management system.....	9
10.	System of demand management.....	10
11.	System of acquisition management.....	10
12.	Range of procurement processes	10
13.	General preconditions for consideration of written quotations or bids	11
14.	Lists of accredited prospective providers	11
15.	Petty cash purchases.....	12
16.	Written quotations or verbal quotations.....	Error! Bookmark not defined.
17.	Formal written price quotations.....	12
18.	Procedures for procuring goods or services through written quotations and formal written price quotations.....	12
19.	Competitive bids	13
20.	Process for competitive bidding	14
21.	Bid documentation for competitive bids.....	14
22.	Public invitation for competitive bids	15
23.	Procedure for handling, opening, and recording of bids.....	16
24.	Negotiations with preferred bidders	16
25.	Two-stage bidding process	17
26.	Committee system for competitive bids.....	17
27.	Bid specification committees.....	18
28.	Bid evaluation committees.....	19
29.	Bid adjudication committees.....	19
30.	Procurement of banking services	21
31.	Procurement of IT related goods or services.....	21

UMGUNGUNDLOVU DISTRICT MUNICIPALITY SUPPLY CHAIN MANAGEMENT POLICY
LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003

32.	Procurement of goods and services under contracts secured by other organs of state.....	22
33.	Procurement of goods necessitating special safety arrangements	22
34.	Proudly SA Campaign	22
35.	Appointment of consultants	23
36.	Deviation from and ratification of minor breaches of, procurement processes	23
37.	Unsolicited bids.....	24
38.	Combating of abuse of supply chain management system	25
39.	Logistics management	26
40.	Disposal management.....	26
41.	Risk management.....	27
42.	Performance management	28
43.	Prohibition on awards to persons whose tax matters are not in order	28
44.	Prohibition on awards to persons in the service of the state.....	28
45.	Awards to close family members of persons in the service of the state.....	29
46.	Ethical standards.....	29
47.	Inducements, rewards, gifts and favors to municipalities, officials and other role players	30
48.	Sponsorships	30
49.	Remedies.....	30
50.	Unsatisfactory performance	31
51.	Contract termination	31
52.	Objections and complaints	32
53.	Resolution of disputes, objections, complaints, and queries	32
54.	Access to bidding information.	33
55.	Cancellation of tender	34
56.	Contracts providing for compensation based on turnover.	34
57.	Preferential Procurement	35
58.	Functionality Tests	36
59.	Commencement.....	36
60.	Annexure A: SCM Procedure Manual	36

**UMGUNGUNDLOVU DISTRICT MUNICIPALITY SUPPLY CHAIN MANAGEMENT POLICY
LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003**

1. Definitions

In this Policy, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) has the same meaning as in the Act, and –

ITEM	DESCRIPTION
Accounting Officer	means a person appointed by the Municipality in terms of Section 82 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998) and who is the head of administration and the Municipal Manager for the Municipality.
Asset	means a tangible or intangible resource capable of ownership.
Bidder	means any person submitting a competitive bid or a quotation.
Black designated groups	has the meaning assigned to it in the codes of good practice issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act.
Black people	has the meaning assigned to it in section 1 of the Broad-Based Black Economic Empowerment Act.
Broad-Based Black Economic Empowerment (B-BBEE) Act	means the Broad-Based Black Economic Empowerment Act, 53 of 2003 and Codes of Good Practice pertaining thereto.
CIDB	means The Construction Industry Development Board.
Close family member	means a person's spouse, whether in a marriage or in a customary union according to indigenous law, domestic partner in a civil union, or child, parent, brother, sister, whether such a relationship results from birth, marriage or adoption.
Competitive bid	means a bid in terms of a competitive bidding process.
Competitive bidding process	means a competitive bidding process referred to in paragraph 12 (1) (d) of this Policy.
Construction Industry Development Board (CIDB) Act	means the Construction Industry Development Board Act, 38 of 2000 and includes the regulations pertaining thereto.
Consultant	means a person or entity providing services requiring knowledge-based expertise.
Contract Owner	means the official that is ultimately accountable for the deliverables during the contract lifecycle relevant to the service delivery target that the contract seeks to achieve.
Designated group	means- (a) black designated groups; (b) black people; (c) women; (d) people with disabilities; or (e) small enterprises, as defined in section 1 of the National Small Enterprise Act, 1996 (Act No. 102 of 1996)
Disability	persons who have a long-term or recurring physical or mental impairment, which substantially limits their prospects of entry into, or advancement in employment.
Designated sector	means a sector, sub-sector or industry or product designated in terms of regulation 8(1)(a).
Emergency	means a sudden and dangerous occurrence i.e., an occurrence involving actual or potential threat to human life and or actual material financial loss to Council.
Final award	in relation to bids or quotations submitted for a contract, means the final decision on which bid or quote to accept.
Formal written price quotation	means quotations referred to in paragraph 12(1)(c) of this Policy.
Functionality	means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents.

**UMGUNGUNDLOVU DISTRICT MUNICIPALITY SUPPLY CHAIN MANAGEMENT POLICY
LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003**

ITEM	DESCRIPTION
HDI	Historically Disadvantaged Individuals - 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.
In the service of the state	means to be – a) a member of – • any municipal council; • any provincial legislature; or • 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.
Municipality	means uMgungundlovu District Municipality.
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.
Price	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.
Rural area	means- (a) a sparsely populated area in which people farm or depend 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 remittances and government social grants for survival and may have a traditional land tenure system.
SMME	means small businesses; as defined in section 1 of the National Small Business Act, 1996 (Act No 102 of 1996).
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.
The Act	means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003).
The Regulations	Municipal Supply Chain Management Regulations published by Government Notice 868 of 2005.
Treasury	has the meaning assigned to it in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999).
Treasury guidelines	means any guidelines on supply chain management issued by the Minister in terms of section 168 of the Act.
Urgency	means a situation requiring prompt action, i.e., occurrence involving actual or potential material loss to Council.
Written quotations	means quotations referred to in paragraph 12(1) (b) of this Policy.
Youth	has the meaning assigned to it in section 1 of the National Youth Development Agency Act, 2008 (Act No. 54 of 2008).

UMGUNGUNDLOVU DISTRICT MUNICIPALITY SUPPLY CHAIN MANAGEMENT POLICY
LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003

CHAPTER 1
IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

2. Supply chain management policy

- 2.1. All officials and other role players in the supply chain management system of the **municipality** must implement this Policy in a way that –
- a) gives effect to –
 - i. section 217 of the Constitution; and
 - ii. Part 1 of Chapter 11 and other applicable provisions of the Act.
 - b) is fair, equitable, transparent, competitive and cost effective.
 - c) complies with –
 - i. the Regulations; and
 - ii. any minimum norms and standards that may be prescribed in terms of section 168 of the Act.
 - d) is consistent with other applicable legislation.
 - e) does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and
 - f) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.
- 2.2. This Policy applies when the **municipality** –
- a) procures goods or services.
 - b) disposes goods no longer needed.
 - c) selects contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies; or
 - d) selects external mechanisms referred to in section 80 (1) (b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in section 83 of that Act.
- 2.3. This Policy, except where provided otherwise, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Act, including –
- a) water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and
 - b) electricity from Eskom or another public entity, another municipality or a municipal entity.

3. Amendment of the supply chain management policy

- 3.1. The accounting officer must –
- a) at least annually review the implementation of this Policy; and
 - b) When the accounting officer considers it necessary, submit proposals for the amendment of this Policy to the **council**.

UMGUNGUNDLOVU DISTRICT MUNICIPALITY SUPPLY CHAIN MANAGEMENT POLICY
LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003

- 3.2. If the accounting officer submits proposed amendments to the **council** that differs from the model policy issued by the National Treasury, the accounting officer must–
- a) ensure that such proposed amendments comply with the Regulations; and
 - b) report any deviation from the model policy to the National Treasury and the Provincial Treasury.
- 3.3. 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.

4. Delegation of supply chain management powers and duties

- 4.1. The **council** hereby delegates all powers and duties to the accounting officer which are necessary to enable the accounting officer –
- a) to discharge the supply chain management responsibilities conferred on accounting officers in terms of –
 - i. Chapter 8 or 10 of the Act; and
 - ii. this Policy.
 - b) to maximise administrative and operational efficiency in the implementation of this Policy.
 - c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favoritism, and unfair and irregular practices in the implementation of this Policy; and
 - d) to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.
- 4.2. Sections 79 and 106 of the Act apply to the sub delegation of powers and duties delegated to an accounting officer in terms of subparagraph (1).
- 4.3. The accounting officer may not subdelegate any supply chain management powers or duties to a person who is not an official of **the municipality** or to a committee which is not exclusively composed of officials of the **municipality**.
- 4.4. 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 25 of this Policy.

5. Sub-delegations

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

**UMGUNGUNDLOVU DISTRICT MUNICIPALITY SUPPLY CHAIN MANAGEMENT POLICY
LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003**

- 5.2. The power to make a final award –
- a) above R5 000 000 (VAT included) may not be sub-delegated by the accounting officer.
 - b) above R2 000 000 (VAT included), but not exceeding R5 0000 000 (VAT included), may be sub-delegated but only to –
 - i. The Chief Financial Officer.
 - ii. The Bid Adjudication Committee.
 - c) not exceeding R2 000 000 (VAT included) may be sub-delegated but only to -
 - i. the Chief Financial Officer.
 - ii. The Bid Adjudicating Committee
 - d) not exceeding R200 000 (VAT included) may be sub-delegated but only to –
 - i. the Chief Financial Officer
 - ii. Divisional Manager: Supply Chain Management
- 5.3. An official or bid adjudication committee to which the power to make final awards has been sub-delegated in accordance with subparagraph (2) must within five days of the end of each month submit to the official referred to in subparagraph (4) a written report containing particulars of each final award made by such official or committee during that month, including –
- a) the amount of the award.
 - b) the name of the person to whom the award was made; and
 - c) the reason why the award was given to that person.
- 5.4. A written report referred to in subparagraph (3) must be submitted –
- a) to the accounting officer, in the case of an award by –
 - i. the Chief Financial Officer.
 - ii. a senior manager; or
 - iii. a bid adjudication committee of which the chief financial officer or a senior manager is a member; or
 - b) to the chief financial officer or the senior manager responsible for the relevant bid, in the case of an award by –
 - i. a manager referred to in subparagraph (2)(c)(iii); or
 - ii. a bid adjudication committee of which the chief financial officer or a senior manager is not a member.
- 5.5. Subparagraphs (3) and (4) of this policy do not apply to procurements out of petty cash.
- 5.6. This paragraph may not be interpreted as permitting an official to whom the power to make final awards has been sub-delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 25 of this Policy.
- 5.7. No supply chain management decision-making powers may be delegated to an advisor or consultant.

UMGUNGUNDLOVU DISTRICT MUNICIPALITY SUPPLY CHAIN MANAGEMENT POLICY
LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003

6. Oversight role of council

- 6.1. The **council** reserves its right to maintain oversight over the implementation of this Policy.
- 6.2. For the purposes of such oversight the accounting officer must –
- a) within 30 days of the end of each financial year, submit a report on the implementation of this Policy and the supply chain management policy of any municipal entity under the sole or shared control of the municipality, to the council of the municipality; and
 - b) whenever there are serious and material problems in the implementation of this Policy, immediately submit a report **to the council**.
- 6.3. 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 finance committee, chaired by the **mayor**.
- 6.4. The reports must be made public in accordance with section 21A of the Municipal Systems Act.

7. Supply chain management unit

- 7.1. A supply chain management unit is hereby established to implement this, Policy.
- 7.2. The supply chain management unit operates under the direct supervision of the Chief Financial Officer. The head of the supply chain management unit reports directly to the Chief Financial Officer in terms of supply chain management regulations.

8. Training of supply chain management officials

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

**CHAPTER 2
SUPPLY CHAIN MANAGEMENT SYSTEM**

9. Format of supply chain management system

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

Part 1: Demand management

10. System of demand management

10.1. The accounting officer must establish and implement an appropriate demand management system to ensure that the resources required by **the municipality** support its operational commitments and its strategic goals outlined in the Integrated Development Plan.

Part 2: Acquisition management

11. System of acquisition management

11.1. The accounting officer must implement the system of acquisition management set out in this Part in order to ensure –

- a) that goods and services are procured by **the municipality** in accordance with authorised processes only.
- b) that expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the Act.
- c) that the threshold values for the different procurement processes are complied with.
- d) that bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation; and
- e) that any Treasury guidelines on acquisition management are properly taken into account.

11.2. When procuring goods or services contemplated in section 110(2) of the Act, the accounting officer must make public the fact that such goods or services are procured otherwise than through the **municipality's** supply chain management system, including -

- a) the kind of goods or services; and
- b) the name of the supplier.

12. Range of procurement processes

12.1. Goods and services may only be procured by way of –

- a) petty cash purchases, up to a transaction value of R2 000 (VAT included) excluding regular or routine items.
- b) written quotations for procurements of a transaction value over R2 000 up to R10 000 (VAT included).
- c) formal written price quotations for procurements of a transaction value over R10 000 up to R200 000 (VAT included); and
- d) a competitive bidding process for–
 - i. procurements above a transaction value of R200 000 (VAT included); and
 - ii. the procurement of long-term contracts.
- e) Procurement through established panels.

**UMGUNGUNDLOVU DISTRICT MUNICIPALITY SUPPLY CHAIN MANAGEMENT POLICY
LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003**

- 12.2. The **accounting** officer may, in writing, recommend to Council that the range of procurement be amended in the policy; provided such recommendation does not violate the Act (Municipal Finance Management Act, No 56 of 2003) and its regulations.
- 12.3. Goods or **services** may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of the policy. When determining transaction values, a requirement for goods or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction.

13. General preconditions for consideration of written quotations or bids

- 13.1. A written quotation or bid may not be considered unless the provider who submitted the quotation or bid –
- a) has furnished that provider's –
 - i. full name.
 - ii. identification number or company or other registration number; and
 - iii. tax reference number and VAT registration number, if any.
 - b) has submitted the quotation or bid using the service provider's letterhead or other equivalent company documentation.
 - c) has submitted proof of compliance with tax matters e.g., SARS Verification PIN, Central Supplier Database Summary Report; or submitted such proof of compliance to the municipality within 7 working days of request from a municipal official.
 - d) has indicated –
 - i. whether he or she is in the service of the state or has been in the service of the state in the previous twelve months.
 - ii. if the provider is not a natural person, whether any of its directors, managers, principal shareholders, or stakeholder is in the service of the state, or has been in the service of the state in the previous twelve months; or
 - iii. whether a spouse, child, or parent of the provider or of a director, manager, shareholder, or stakeholder referred to in subparagraph (ii) is in the service of the state or has been in the service of the state in the previous twelve months.

14. Lists of accredited prospective providers

- 14.1. The accounting officer must –
- a) refer to/consult the National Treasury Central Supplier Database (CSD) for a list of accredited service providers. Suppliers that are not registered on CSD will not be included into the list of accredited prospective providers.
 - b) 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; and

UMGUNGUNDLOVU DISTRICT MUNICIPALITY SUPPLY CHAIN MANAGEMENT POLICY
LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003

- c) evaluations will continue with the verification of other listing criteria which are not currently validated by CSD, for instance B-BBEE certificates and CIDB rating certificates.

15. Petty cash purchases

- 15.1. The conditions for the procurement of goods by means of petty cash purchases referred to in paragraph 12 (1) (a) of this Policy, are as follows–
- a) Petty cash purchases have been delegated to the Chief Financial Officer. Heads of Department will request in writing, to the CFO, who will authorize purchases.
 - b) The maximum amount is R 2,000 per month.
 - c) Petty Cash purchases are to be made in accordance with the municipality’s petty cash policy.
 - d) A monthly reconciliation report from the expenditure clerk must be provided to the chief financial officer, including –
 - i. the total amount of petty cash purchases for that month; and
 - ii. receipts and appropriate documents for each purchase.

16. Formal written price quotations

- 16.1. The conditions for the procurement of goods or services through formal written price quotations, are as follows:
- a) 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.
 - b) 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 regulation 14(l)(b) and (c).
 - 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; and
 - d) that the accounting officer must record the names of the potential providers and their written quotations; and
- 16.2. A designated official referred to in sub regulation (1)(c) must within three days of the end of each month report to the chief financial officer on any approvals given during that month by that official in terms of that sub regulation.

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

- 17.1. The procedure for the procurement of goods or services through written quotations and formal written price quotations is as follows:
- a) When using the list of accredited prospective providers, the accounting officer must promote ongoing competition amongst providers by inviting providers to submit quotations on a rotation basis.

UMGUNGUNDLOVU DISTRICT MUNICIPALITY SUPPLY CHAIN MANAGEMENT POLICY
LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003

- b) 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 16, be advertised for at least seven working days on the official notice board of the municipality.
- c) that the accounting officer must take all reasonable steps to ensure that the procurement of goods and services through formal written price quotations is not abused.
- d) that the accounting officer or chief financial officer must on a monthly basis be notified in writing of all formal written price quotations accepted by an official acting in terms of a sub delegation.
- e) offers received must be evaluated on a comparative basis taking into account unconditional discounts.
- f) offers must be awarded based on the highest points scored in terms of the guidelines of the PPPFA Regulations.
- g) 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.
- h) A register of all requests received from the user departments to be maintained. Minimum fields would include date request received, user department, and date of requisition, requisition number and name of the buyer.
- i) In instances where there were no responsive bids received for a formal written price quotation advert, the requisition must be re-advertised for a second period. If again there are no responsive bids received, then quotations must be requested in writing from at least three different providers whose names appear on the list of accredited prospective providers of the municipality or be referred back to the user department to revise their specifications.

18. Competitive bids

- 18.1. Goods or services above a transaction value of R200 000 (VAT included) and long-term contracts may only be procured through a public bidding process, subject to paragraph 11(2) of this Policy.
- 18.2. No requirement for goods or services above an estimated transaction value of R200 000 (VAT included), may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a public bidding process.
- 18.3. The municipality may allow price adjustments based on escalation. A careful analysis of escalation clauses and formulae should be undertaken to ensure the best interests of the municipality are served.
- 18.4. If the Accounting Officer resolves to allow escalations, this must be specified in the bid documents, including the formula and time frames at which intervals such price escalations will be considered.
- 18.5. Exchange rate fluctuations must be considered when items are imported or have imported content and forward exchange contracts will be compulsory on imports.

UMGUNGUNDLOVU DISTRICT MUNICIPALITY SUPPLY CHAIN MANAGEMENT POLICY
LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003

- 18.6. Extra works or variations must be authorized in writing by the Accounting Officer. Contracts may be expanded or varied by not more than 20% for construction related goods, services and/or infrastructure projects and 15% for all other goods and/or services of the original value of the contract. Requests for variations must be submitted to the Accounting Officer for consideration and approval. Approved variation requests must be submitted to the Manager: Supply Chain Management to be filed.
- 18.7. Variations in excess of the 20% for construction related goods, services and/or infrastructure projects and 15% for all other goods and/or services must be subjected to the conditions of Section 116(3) of the Act. Contract Owners must submit a report to the accounting officer who shall present the request to the council for approval.

19. Process for competitive bidding

- 19.1. The procedures for the following stages of a competitive bidding process are as follows -
- a) Bid specification committee to create bid specifications as detailed in paragraph 26.
 - b) Compilation of bidding documentation as detailed in paragraph 20.
 - c) Public invitation of bids as detailed in paragraph 21.
 - d) Site meetings or briefing sessions as detailed in paragraph 21.
 - e) Handling of bids submitted in response to public invitation as detailed in paragraph 22; bids placed in a sealed envelope deposited into the tender box.
 - f) Evaluation of bids as detailed in paragraph 27.
 - g) Adjudication of bids as detailed in paragraph 28.
 - h) Award of contracts as detailed in paragraph 28.
 - i) Administration of contracts
 - i. After approval of a bid, the accounting officer and the bidder must enter into a written agreement.
 - j) Proper record keeping
 - i. Original / legal copies of written contracts agreements should be kept in a secure place for reference purposes.

20. Bid documentation for competitive bids.

- 20.1. The criteria to which bid documentation for a competitive bidding process, *must comply*, with the following–
- a) take into account –
 - i. the general conditions of contract and any special conditions of contract, if specified.
 - ii. any Treasury guidelines on bid documentation; and
 - iii. the requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure.
 - b) include the preference points system to be used, goals as contemplated in the Preferential Procurement Regulations and evaluation and adjudication criteria, including any criteria required by other applicable legislation.

UMGUNGUNDLOVU DISTRICT MUNICIPALITY SUPPLY CHAIN MANAGEMENT POLICY
LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003

- c) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted.
- d) if the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish—
 - i. if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements –
 - for the past three years; or
 - since their establishment if established during the past three years.
 - ii. a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days.
 - iii. particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract.
 - iv. a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality or municipal entity is expected to be transferred out of the Republic; and
- e) stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law.

21. Public invitation for competitive bids

21.1. The procedure for the invitation of competitive bids, is as follows:

- a) Any invitation to prospective providers to submit bids must be by means of a public advertisement in newspapers commonly circulating locally, the website of the **municipality, on the National Treasury eTender Publication Portal** or any other appropriate ways (which may include an advertisement in the Provincial Government Gazette); and
- b) the information contained in a public advertisement, must include –
 - i. the closure date for the submission of bids, which may not be less than 30 days (including weekends and public holidays) in the case of transactions over R10 million (VAT included), or which are of a long-term nature, or 14 days (including weekends and public holidays) in any other case, from the date on which the advertisement is placed in a newspaper, subject to subparagraph (2) of this policy;
 - ii. date, time and venue of any proposed site meetings or briefing sessions.
 - iii. where procurement opportunities for designated groups have been identified, tenders must be advertised with a clear tendering condition that the tenders will be prequalified based on one or more of the criteria.

21.2. 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

**UMGUNGUNDLOVU DISTRICT MUNICIPALITY SUPPLY CHAIN MANAGEMENT POLICY
LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003**

grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process. The end-user department must submit a written motivation to the accounting officer for the request of a shortened advertising period.

- 21.3. Bids submitted must be sealed and properly bound.
- 21.4. The invite must indicate that late bids cannot be accepted.
- 21.5. A validity period of 90 calendar days is to be used for all tenders except in construction projects where the latest CIDB regulations regarding the validity period are to be adhered to.
- 21.6. The Bid Evaluation Committee, after identifying that they will not complete the evaluation on time, must immediately make a submission to the Accounting Officer to extend the validity period for an extension period not exceeding 30 days. The Accounting Officer will assess the reasons and make the decision. If the decision is approved, then letter/(s) will be sent to suppliers informing them of the extension. The validity period must not exceed 180 days in total from the closing date of the tender.
- 21.7. Once the validity period expired, no further extension can be made, and that bid should be cancelled.

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

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

- a) Bids–
 - i. must be opened only in public.
 - ii. must be opened at the same time and as soon as possible after the period for the submission of bids has expired; and
 - iii. received after the closing time should not be considered and returned unopened immediately.
- b) 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.

23. Negotiations with preferred bidders

23.1. 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 -

UMGUNGUNDLOVU DISTRICT MUNICIPALITY SUPPLY CHAIN MANAGEMENT POLICY
LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003

- 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.

23.2. The Municipality may-

- a) negotiate a market-related price with the tenderer scoring the highest points or cancel the tender.
- b) If the tenderer does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the second highest points or cancel the tender.
- c) The tenderer scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the third highest points or cancel the tender.

23.3. If a market-related price is not agreed as envisaged above, the tender must be cancelled.

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

24. Two-stage bidding process

24.1. 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.

24.2. 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.

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

25. Committee system for competitive bids

25.1. 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.

25.2. The accounting officer appoints the members of each committee, taking into account section 117 of the Act; and

25.3. 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.

UMGUNGUNDLOVU DISTRICT MUNICIPALITY SUPPLY CHAIN MANAGEMENT POLICY
LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003

25.4. The committee system must be consistent with –

- a) paragraph 26, 27 and 28 of this Policy; and
- b) any other applicable legislation.

25.5. The accounting officer may apply the committee system to formal written price quotations.

26. Bid specification committees.

26.1. A bid specification committee must compile the specifications for each procurement of goods or services by the **municipality**.

26.2. Specifications –

- a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services.
- b) must take into account of any accepted standards such as those issued by Standards South Africa, the International Standards Organisation, or an authority accredited or recognised by the South African National Accreditation System with which the equipment or material or workmanship should comply.
- c) must, where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design.
- d) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labeling of conformity certification.
- e) may not make reference to any particular trademark, 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”.
- f) must indicate each specific goal for which points may be awarded in terms of the points system set out in the Preferential Procurement Regulations 2022.
- g) must be approved by the Accounting Officer prior to publication of the invitation for bids in terms of regulation 21.

26.3. A bid specification committee must be composed of two or more officials of the **municipality** preferably the manager responsible for the function involved, one official from the supply chain management unit; and may, when appropriate, include external specialist advisors. A quorum is constituted by at least 50% of the number of permanent committee members, plus one member.

26.4. 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.

UMGUNGUNDLOVU DISTRICT MUNICIPALITY SUPPLY CHAIN MANAGEMENT POLICY
LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003

27. Bid evaluation committees.

27.1. A bid evaluation committee must –

- a) evaluate bids in accordance with –
 - i. the specifications for a specific procurement; and
 - ii. the points system set out in terms of paragraph 26(2) (f).
- b) evaluate each bidder's ability to execute the contract.
- c) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears. For service providers with more than one office branch, the proof of municipal account provided must reflect that of the nominated branch which will undertake the required works, and;
- d) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.

27.2. A bid evaluation committee must as far as possible be composed of-

- a) officials from departments requiring the goods or services; and
- b) at least one supply chain management practitioner of the **municipality**
- c) may include a supply chain management practitioner who is also a member of the bid specification committee.
- d) A quorum is constituted by at least 50% of the number of permanent committee members, plus one member.

28. Bid adjudication committees.

28.1. A bid adjudication committee (BAC) must –

- a) consider the report and recommendations of the bid evaluation committee.
- b) The chairperson of the BAC must submit a report on the decisions of the BAC, and
- c) either –
 - i. depending on its delegations, make a final award (for bid values not exceeding R5 000 000) or a recommendation to the accounting officer to make the final award (for bid values greater than R5 000 000); or
 - ii. make another recommendation to the accounting officer on how to proceed with the relevant procurement.

28.2. A bid adjudication committee must consist of at least four senior managers of the **municipality** which must include –

- a) the chief financial officer or, if the chief financial officer is not available, another manager in the budget and treasury office reporting directly to the chief financial officer and designated by the chief financial officer; and
- b) at least one senior supply chain management practitioner who is an official of the **municipality**; and
- c) a technical expert in the relevant field who is an official, if such an expert exists and is required by the adjudication committee.

UMGUNGUNDLOVU DISTRICT MUNICIPALITY SUPPLY CHAIN MANAGEMENT POLICY
LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003

- 28.3. The Bid Adjudication Committee cannot undertake business without a quorum present, consisting of half plus one of its total memberships with voting power.
- 28.4. 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 over the meeting.
- 28.5. 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.
- 28.6. The bid adjudication committee may not award a tender to more than one bidder unless the tender document specifically mentioned that the tender may be awarded to more than one bidder.
- 28.7. If the bid adjudication committee decides to –
- a) award a bid other than the one recommended by the bid evaluation committee, the bid adjudication committee must prior to awarding the bid –
 - i. check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears. For service providers with more than one office branch, the proof of municipal account provided must reflect that of the nominated branch which will undertake the required works and;
 - ii. notify the accounting officer at all times.
 - b) The accounting officer may –
 - i. after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in paragraph (a); and
 - ii. If the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.
- 28.8. The accounting officer may at any stage of a bidding process, refer any recommendation made by the evaluation committee or the adjudication committee back to that committee for reconsideration of the recommendation.
- 28.9. During competitive bidding and adjudication processes or before the award of a contract, the accounting officer may, at his or her discretion, specifically request the internal audit function to carry out audit procedures and provide an opinion on compliance of the bidding process with the Municipal Supply Chain Management Regulations.
- 28.10. Where bids involve internal audit service, the audit of the bidding process may be outsourced to an independent external service provider or internal audit function of another organ of state, subject to the oversight of the audit committee.
- 28.11. The accounting officer may, at his or her discretion, decide to have a specific contract audited by external service providers prior to the award of the contract.

UMGUNGUNDLOVU DISTRICT MUNICIPALITY SUPPLY CHAIN MANAGEMENT POLICY
LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003

28.12. The accounting officer must comply with section 114 of the Act within 10 working days. Section 114 of the Act refers:

- i. If a tender other than the one recommended in the normal course of implementing the supply chain management policy of a municipality or municipal entity is approved, the accounting officer of the municipality or municipal entity must, in writing, notify the Auditor-General, the relevant provincial treasury and the National Treasury and, in the case of a municipal entity, also the parent municipality, of the reasons for deviating from such recommendation.
- ii. Subsection (1) does not apply if a different tender was approved in order to rectify an irregularity.

29. Procurement of banking services

29.1. A contract for banking services –

- a) must be procured through competitive bids.
- b) must be consistent with section 7 or 85 of the Act; and
- c) may not be for a period of more than five years at a time.

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

29.3. The closure date for the submission of bids may not be less than 60 days from the date on which the advertisement is placed in a newspaper in terms of paragraph 22(1). Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

30. Procurement of IT related goods or services

30.1. 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.

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

30.3. 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).

30.4. If SITA comments on the submission and the **municipality** disagree with such comments, the comments, and the reasons for rejecting or not following such comments must be submitted to the council, the National Treasury, the Provincial Treasury and the Auditor General.

UMGUNGUNDLOVU DISTRICT MUNICIPALITY SUPPLY CHAIN MANAGEMENT POLICY
LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003

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

- 31.1. The accounting officer may procure goods or services under a contract secured by another organ of state, but only if –
- a) The contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state.
 - b) there is no reason to believe that such contract was not validly procured.
 - c) There are demonstrable discounts or benefits to doing so.
 - d) that other organ of state and the provider have consented to such procurement in writing; and
 - e) consent has been received from the KZN Provincial Treasury to proceed with regulation 32.
- 31.2. Subparagraphs (1) (c) and (d) do not apply if –
- a) a municipal entity procures goods or services through a contract secured by its parent municipality; or
 - b) a municipality procures goods or services through a contract secured by a municipal entity of which it is the parent municipality.
- 31.3. The municipality must not participate on a panel secured by another organ of state as a panel of consultants or a list of service providers or a panel of approved service providers is not a contract. The municipality may only participate on framework agreements arranged by organs of state, for example, State Information Technology Agency (SITA), the relevant treasury; that are empowered by legislation to arrange such on behalf of other organs of state.
- 31.4. The accounting officer must also publish the details of the participation contract award on the municipality or municipal entity's official website in line with section 75 of the MFMA.

32. Procurement of goods necessitating special safety arrangements

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

33. Proudly SA Campaign

- 33.1. 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:
- a) firstly –suppliers and businesses within the municipality
 - b) secondly- suppliers and businesses within the province; and
 - c) thirdly – suppliers and businesses within the Republic of South Africa

UMGUNGUNDLOVU DISTRICT MUNICIPALITY SUPPLY CHAIN MANAGEMENT POLICY
LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003

33.2. The requirements of the designated sectors for Local Production and Content as issued by the Department of Trade and Industry may be taken into account.

34. Appointment of consultants

34.1. The accounting officer may procure consulting services provided that any Treasury guidelines in respect of consulting services are taken into account when such procurement is made.

34.2. A contract for the provision of consultancy services must be procured through competitive bids if -

- a) the value of the contract exceeds R200 000 (VAT included); or
- b) the duration period of the contract exceeds one year.

34.3. In addition to any requirements prescribed by this policy for public 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.

34.4. 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 during the consultancy service is vested in the **municipality**.

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

35.1. The accounting officer may –

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

35.2. A deviation authorisation form must be completed and submitted to the relevant Head of Department (HOD) and the Chief Financial Officer (CFO) for consideration before being submitted to the accounting officer for approval in respect of sub-regulation 1 above. The deviation request must be submitted together with proof of tax compliance as well as a declaration of interest form.

UMGUNGUNDLOVU DISTRICT MUNICIPALITY SUPPLY CHAIN MANAGEMENT POLICY
LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003

35.3. 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 finance committee and include as a note to the annual financial statements.

35.4. Subparagraph (2) does not apply to the procurement of goods and services contemplated in paragraph 11(2) of this policy.

36. Unsolicited bids

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

36.2. The accounting officer may decide in terms of section 113(2) of the Act to consider an unsolicited bid, only if –

- a) The product or service offered in terms of the bid is a demonstrably or proven unique innovative concept.
- b) the product or service will be exceptionally beneficial to or have exceptional cost advantages.
- c) the person who made the bid is the sole provider of the product or service; and
- d) the reasons for not going through the normal bidding processes are found to be sound by the accounting officer.

36.3. If the accounting officer decides to consider an unsolicited bid that complies with subparagraph (2) of this policy, the decision must be made public in accordance with section 21A of the Municipal Systems Act, together with –

- a) reasons as to why the bid should not be open to other competitors.
- b) an explanation of the potential benefits if the unsolicited bid were accepted; and
- c) an invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.

36.4. 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 Provincial Treasury for comment.

36.5. 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.

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

36.7. When considering the matter, the adjudication committee must consider –

- a) any comments submitted by the public; and

UMGUNGUNDLOVU DISTRICT MUNICIPALITY SUPPLY CHAIN MANAGEMENT POLICY
LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003

- b) any written comments and recommendations of the National Treasury or the Provincial Treasury.

36.8. 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.

36.9. 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.

37. Combating of abuse of supply chain management system

37.1. The accounting officer must–

- a) take all reasonable steps to prevent abuse of the supply chain management system.
- b) investigate any allegations against an official or other role player of fraud, corruption, favoritism, unfair or irregular practices or failure to comply with this Policy, and when justified –
 - i. take appropriate steps against such official or other role player; or
 - ii. report any alleged criminal conduct to the South African Police Service.
- c) check the National Treasury’s database prior to awarding any contract to ensure that no recommended bidder, or any of its directors, is listed as a person prohibited from doing business with the public sector.
- d) reject any bid from a bidder–
 - i. if any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the **municipality** or to any other municipality or municipal entity, are in arrears for more than three months. For service providers with more than one office branch, the proof of municipal account provided must reflect that of the nominated branch which will undertake the required works; or
 - ii. who during the last five years has failed to perform satisfactorily on a previous contract with the **municipality** or any other organ of state after written notice was given to that bidder that performance was unsatisfactory.
- e) reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract.
- f) cancel a contract awarded to a person if –
 - i. the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
 - ii. an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and
- g) reject the bid of any bidder if that bidder or any of its directors –
 - i. has abused the supply chain management system of the **municipality** or has committed any improper conduct in relation to such system.
 - ii. has been convicted for fraud or corruption during the past five years.

UMGUNGUNDLOVU DISTRICT MUNICIPALITY SUPPLY CHAIN MANAGEMENT POLICY
LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003

- iii. has willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
- iv. has been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).

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

CHAPTER 3

LOGISTICS, DISPOSAL, RISK AND PERFORMANCE MANAGEMENT

38. Logistics management

38.1. Management of inventory must be in accordance with the Inventory Policy to provide for the setting of inventory levels, placing of orders, receiving and distribution of goods, stores and warehouse management and expediting orders.

39. Disposal management

39.1. The disposal management system must provide for the disposal or letting of assets, including unserviceable, redundant, or obsolete assets, subject to Section 14 and 90 of the Act.

39.2. An obsolescence plan must be determined by the user department 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.

39.3. A renewal plan must be determined for assets that have reached the end of their useful life.

39.4. Asset disposal decisions must be made within an integrated, service, and financial planning framework, where the asset management unit within the budget and treasury office is advised of the plan and the need to procure a new asset in order for them to check the availability of funds before the procurement of an asset proceeds.

39.5. Assets may be disposed of by –

- i. transferring the assets to another organ of state in terms of a provision of the Act enabling the transfer of assets.
- ii. transferring the asset to another organ of state at market related value or, when appropriate, free of charge.
- iii. selling the asset through an auction.
- iv. donating the asset to a non-governmental organisation; and charity organisations or
- v. destroying the asset.

39.6. The Municipality must establish a disposal strategy to determine the best mechanism of disposal for each asset and the accounting officer must ensure that –

UMGUNGUNDLOVU DISTRICT MUNICIPALITY SUPPLY CHAIN MANAGEMENT POLICY
LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003

- 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.
- c) Firearms are not sold or donated to any person or institution within or outside the Republic unless approved by the National Conventional Arms Control Committee.
- d) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise.
- e) All fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed.
- f) where assets are traded in for other assets, the highest possible trade-in price is negotiated; and
- g) in the case of the free disposal of computer equipment, the provincial department of education is first approached to indicate within 30 days whether any of the local schools are interested in the equipment by the SCM unit. The IT department must provide a list of all computers to be disposed of and advise the asset management unit in order for them to make a proper adjustment in the asset register.

39.7. The Municipality may not transfer ownership as a result of a sale or other transaction, or otherwise permanent dispose of a capital asset needed to provide the minimum level of basic municipal services.

39.8. The Municipality may transfer ownership or otherwise dispose of a capital asset other than the one mentioned above, only after the Council, in a meeting open to the public, has approved such disposal.

39.9. The municipality must in addition to paragraph 39 implement the disposal policy set out in the Municipality's Fixed Asset Management Policy. The Accounting Officer must appoint a disposal committee in writing.

40. Risk management

40.1. The Accounting Officer must ensure that the Municipality has and maintains an effective system of risk management for the identification, consideration, and avoidance of potential risks in the SCM system.

40.2. Aspects of risk management must be allocated to the CFO, the SCM 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.

40.3. 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 managing such risks.

UMGUNGUNDLOVU DISTRICT MUNICIPALITY SUPPLY CHAIN MANAGEMENT POLICY
LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003

- c) acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it.
- d) the management of risks in a pro-active manner and the provision of adequate cover for residual risks; and
- e) the assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.

41. Performance management

41.1. The accounting officer must establish and implement an internal monitoring system 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.

CHAPTER 4
OTHER MATTERS

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

42.1. No award above R15 000 may be made in terms of this Policy to a person whose tax matters have not been declared by the South African Revenue Service to be in order. The designated official should verify the bidder's tax compliance status prior to the finalization of the award of the bid or price quotation. 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 within 7 working days, written proof from SARS of their tax compliance status or proof from SARS that they arranged to meet their outstanding tax obligations. Tax status must be checked for all quotations above R15 000.

42.2. Before making an award to a person the accounting officer must first check with SARS whether that person's tax matters are in order. This may be done by verifying the Tax Compliance Status Pin or confirming via the Central Supplier Database (CSD) web portal.

42.3. If the SARS does not respond within 7 working days such person's tax matters may for purposes of subparagraph (1) be presumed to be in order.

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

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

- a) who is in the service of the state.
- b) if that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state; or
- c) a person who is an advisor or consultant contracted with the municipality.

UMGUNGUNDLOVU DISTRICT MUNICIPALITY SUPPLY CHAIN MANAGEMENT POLICY
LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003

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

- 44.1. The accounting officer must ensure that the notes to the annual financial statements disclose particulars of any award of more than R2 000 to a person who is a spouse, child or parent of a person in the service of the state, or has been in the service of the state in the previous twelve months, including –
- a) the name of that person.
 - b) the capacity in which that person is in the service of the state; and
 - c) the amount of the award.

45. Ethical standards

- 45.1. A code of ethical standards as set out in the “*National Treasury’s code of conduct for supply chain management practitioners and other role players involved in supply chain management*” is hereby established for officials and other role players in the supply chain management system of the **municipality** in order to promote –
- a) mutual trust and respect; and
 - b) an environment where business can be conducted with integrity and in a fair and reasonable manner.
- 45.2. 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, favor, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350.
 - d) notwithstanding subparagraph (2) (c), must declare to the accounting officer details of any reward, gift, favor, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person.
 - e) must declare to the accounting officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by, the **municipality**.
 - f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest.
 - g) must be scrupulous in his or her use of property belonging to **the municipality**.
 - h) must assist the accounting officer in combating fraud, corruption, favoritism 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, favoritism 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.

UMGUNGUNDLOVU DISTRICT MUNICIPALITY SUPPLY CHAIN MANAGEMENT POLICY
LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003

- 45.3. A breach of the code of ethics must be dealt with as follows -
- a) in the case of an employee, in terms of the disciplinary procedures of the **municipality** envisaged in section 67(1)(h) of the Municipal Systems Act.
 - b) in the case of 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.

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

- 46.1. No person who is a provider or prospective provider of goods or services, or a recipient or prospective recipient of goods disposed or to be disposed of May either directly or through a representative or intermediary promise, offer or grant –
- a) any inducement or reward to the **municipality** for or in connection with the award of a contract; or
 - b) any reward, gift, favor or hospitality to –
 - i. any official; or
 - ii. any other role player involved in the implementation of this Policy.
- 46.2. 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.
- 46.3. Subparagraph (1) does not apply to gifts less than R350 in value.

47. Sponsorships

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

48. Remedies

- 48.1. If the municipality 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.
- 48.2. After considering the representations referred to in sub regulation (1)(b), the municipality may, if it concludes that such information is false:

UMGUNGUNDLOVU DISTRICT MUNICIPALITY SUPPLY CHAIN MANAGEMENT POLICY
LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003

- a) disqualify the tenderer or terminate the contract in whole or in part; and
- b) If applicable, claim damages from the tenderer.

49. Unsatisfactory performance

- 49.1. The accounting officer must continuously communicate unsatisfactory performance to contractors in writing, compelling the contractor to perform according to the contract and thus to rectify or to restrain from unacceptable actions.
- 49.2. Where the supplier fails to render the services within the stipulated period, or should services rendered be deemed not to the satisfaction of the uMgungundlovu District Municipality, the tenderer will receive written notice of poor performance. Failure to address performance issues could result in penalties being applied and/or the entire contract being reviewed or cancelled.
- 49.3. If the Accounting Officer intends imposing a restriction on a supplier or any person associated with the supplier, the supplier will be allowed a period of not more than fourteen (14) days to provide reasons why the envisaged restriction should not be imposed. Should the supplier fail to respond within the stipulated fourteen (14) days the Accounting Officer may regard the supplier as having no objection and proceed with the restriction.
- 49.4. If a restriction is imposed, the Accounting Officer must, within five (5) working days of such imposition, furnish the National Treasury, with the following information:
- i. the name and address of the supplier and / or person restricted by the purchaser.
 - ii. the date of commencement of the restriction
 - iii. the period of restriction; and
 - iv. the reasons for the restriction.
- 49.5. The **municipality may** disregard the bid of any bidder if that bidder, or any of its directors-
- a) have abused the municipality's SCM system.
 - b) have committed fraud or any other improper conduct in relation to such system; or
 - c) have failed to perform on any previous contract; and
 - d) must inform the Provincial Treasury of any action taken in terms of the aforementioned paragraph.

50. Contract termination

- 50.1. Municipality must cancel a contract awarded to a supplier of goods, services, or works:
- a) If the supplier committed any proven corrupt or fraudulent act during the bidding process or the execution of that contract.
 - b) If any official or other role player committed any proven corrupt or fraudulent act during the bidding process or the execution of that contract that benefited the supplier.
- 50.2. Termination of a contract may be considered for a variety of reasons, as stipulated in the general conditions of contract, such as delayed deliveries for a period of more than 14 working days,

**UMGUNGUNDLOVU DISTRICT MUNICIPALITY SUPPLY CHAIN MANAGEMENT POLICY
LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003**

failing to perform any other contractual obligation or if the supplier has engaged in corrupt and fraudulent practices and insolvency.

- 50.3. Contract termination may be affected if allowed for in the contractual conditions.
- 50.4. The procedures for contract termination must be done in compliance with the applicable General conditions of Contract.
- 50.5. In the case in which, the project is left incomplete by the defaulting contractor:
- a) There will be no automatic award to the second highest scoring bidder in terms of the concluded procurement stage.
 - b) The municipality may request either quotations or bids in line with the range of procurement thresholds, subject to paragraph 35 of this policy.

51. Objections and complaints

- 51.1. Persons aggrieved by decisions or actions taken in the implementation of this supply chain management system may, within 14 calendar days of the decision or action –
- a) if the objection or complaint is against the procurement process, submit a written objection or complaint against the decision or action to the accounting officer of the municipality who shall, in turn, within 48 hours refer the written objection or complaint to an independent and impartial person for resolution; or
 - b) If such a complaint or objection is against the award of a bid, lodge a written appeal with the Municipal Bid Appeals Tribunal (MBAT).

52. Resolution of disputes, objections, complaints, and queries

- 52.1. The accounting officer must appoint an independent and impartial person, not directly involved in the supply chain management processes to assist in the resolution of objections and complaints between the municipality and any other person regarding –
- a) the implementation of the procurement process in terms of the supply chain management system; or
 - b) any matter arising from the implementation of the procurement process in terms of the supply chain management system.
- 52.2. Any municipal entity under the sole control of the municipality purposes of sub-regulation (1) appoint the same person.
- 52.3. 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.
- 52.4. The person appointed must -
- a) strive to resolve promptly all objections or complaints received; and

UMGUNGUNDLOVU DISTRICT MUNICIPALITY SUPPLY CHAIN MANAGEMENT POLICY
LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003

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

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

- a) the objection or complaint is not resolved within 60 days: or
- b) no response is forthcoming within 60 days.

52.6. If the Provincial Treasury does not or cannot resolve the matter, the objection or complaint may be referred to the National Treasury for resolution.

52.7. The municipality does not prohibit any person from approaching a court of law to seek relief.

53. Access to bidding information.

53.1. Information access:

- 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.

53.2. Informing the unsuccessful bidders

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

53.3. Informing the successful bidders

- a) The successful bidder must be notified in writing of the acceptance of their bid within the original validity period of the bid.
- b) the information of other bidders will not be disclosed to the successful bidder.

53.4. Disclosure of information

- a) bids are not available for perusal by the public.
- b) (b) according to sections 36 and 63 of the Promotion of Access to Information Act, Act No 2 of 2000, a public body must refuse a request for access to a record of the body if the record contains:
 - i. trade secrets of a third party.
 - ii. financial, commercial, scientific, or technical information, other than trade secrets, of a third party, the disclosure of which would be likely to cause harm to the commercial or financial interest of the third party.
 - iii. information supplied in confidence by a third party, the disclosure of which could reasonably be expected:

UMGUNGUNDLOVU DISTRICT MUNICIPALITY SUPPLY CHAIN MANAGEMENT POLICY
LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003

- to put that third party at a disadvantage in contractual or other negotiations.
- to prejudice that third party in commercial competition.
- iv. personal information about a third party, including a deceased individual.
- c) When divulging information, a balance must be stricken between one party's right to access of information and the right to confidentiality of the other party.
- d) where no bid has been accepted, particulars of the bids received are not made public.
- e) municipality can withhold information if the release or publication of the information:
 - i. will impede law enforcement; or
 - ii. will be contrary to the public interest; or
 - iii. (Will harm the legitimate interests of municipality; or
 - iv. will hinder fair competition between providers by revealing any proprietary information of any bidder.

53.5. Publishing of award

- a) awards shall be published in the media by means of which the bids were originally advertised.
- b) Awards shall be published on the National Treasury eTender Publication Portal.
- c) information pertaining to the bid number, successful service provider and amount must be made available on the municipality's website.

54. Cancellation of tender

54.1. The municipality may, before the award of a tender, cancel a tender invitation if:

- a) Due to changed circumstances, there is no longer a need for the goods or services specified in the invitation.
- b) Funds are no longer available to cover the total envisaged expenditure.
- c) No acceptable tender is received.
- d) There is a material irregularity in the tender process.

54.2. The decision to cancel a tender invitation must be published on the municipality's website. If the tender is cancelled after the closing of the tender, the municipality must write to each bidder to inform them of the cancellation and reasons thereof.

55. Contracts providing for compensation based on turnover.

55.1. 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 service provider and the municipality must stipulate –

- a) a cap of compensation payable to the service provider, and
- b) that such compensation must be performance based

UMGUNGUNDLOVU DISTRICT MUNICIPALITY SUPPLY CHAIN MANAGEMENT POLICY
LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003

56. Preferential Procurement

56.1. The basket of preference goals as contained in the relevant legislation are listed hereunder and the municipality is to apply specific goals in any combination format depending on their preference targets. Organs of state may include in their policy specific goals as part of their tendering conditions.

56.2. **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. Bidders may score preference points based on company ownership. If the municipality applies ownership as specific goal, the municipality must advertise the tender with a specific tendering preferential procurement requirement that for a tenderer to claim 10 / 20 points for specific goals, a tendering company must have any of the following ownership categories:

- race, (HDI)
- gender (HDI)
- Youth
- disability (HDI)

Ownership verification may be conducted through the Companies and Intellectual Property Commission (CIPC), Central Supplier Database, and/or other means to be dictated in the bid document.

56.3. **Preference Goal 2 – RDP Goals**

Over and above the awarding of preference points in favour of HDIs, 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

UMGUNGUNDLOVU DISTRICT MUNICIPALITY SUPPLY CHAIN MANAGEMENT POLICY
LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003

- k) The upliftment of communities through, but not limited to, housing, transport, schools, infrastructure donations, and charity organisations.

56.4. Preference Goal 3 – Combination of any other goals

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

57. Functionality Tests

57.1. The municipality must state in the tender documents if the tender will be evaluated on functionality.

57.2. The evaluation criteria for measuring functionality must be objective.

57.3. The tender documents must specify-

- a) the evaluation criteria for measuring functionality.
- b) the points for each criterion and, if any, each sub-criterion; and
- c) the minimum qualifying score for functionality.

57.4. The minimum qualifying score for functionality for a tender to be considered further-

- a) must be determined separately for each tender; and
- b) may not be so-
 - 57.4.b.1. low that it may jeopardise the quality of the required goods or services; or
 - 57.4.b.2. high that it is unreasonably restrictive.

57.5. Points scored for functionality must be rounded off to the nearest two decimal places.

57.6. A tender that fails to obtain the minimum qualifying score for functionality as indicated in the tender documents is not an acceptable tender.

57.7. Each tender that obtained the minimum qualifying score for functionality must be evaluated further in terms of price and the preference point system and any objective criteria.

58. Commencement

58.1. This Policy takes effect one month after approval from the council.

59. Annexure A: SCM Procedure Manual