**INKOSI LANGALIBALELE MUNICIPALITY**

****

**SUPPLY CHAIN MANAGEMENT POLICY**

TABLE OF CONTENTS

1. Definitions

CHAPTER 1

IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

2. Supply chain management policy

3. Amendment of supply chain management policy

4. Delegation of supply chain management powers and duties

5. Subdelegations

6. Oversight role of Municipality

7. Supply chain management units

8. Training of supply chain management officials

CHAPTER 2

SUPPLY CHAIN MANAGEMENT SYSTEM

9. Format of supply chain management system

*Part 1: Demand management*

10. System of demand management

*Part 2: Acquisition management*

11. System of acquisition management

12. Range of procurement processes

13. General preconditions for consideration of written quotations or bids

14. Lists of accredited prospective providers

15. \Petty cash purchases

16. Written or verbal quotations

17. Formal written price quotations

18. Procedures for procuring goods or services through written or verbal

 quotations and formal written price quotations

19. Competitive bidding process

20. Process for competitive bidding

21. Bid documentation for competitive bids

22. Public invitation for competitive bids

23. Procedure for handling, opening and recording of bids

24. Negotiations with preferred bidders

25. Two-stage bidding process

26. Committee system for competitive bids

27. Bid specification committees

28. Bid evaluation committees

29. Bid adjudication committees

30. Procurement of banking services

31. Procurement of IT related goods or services

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

33. Procurement of goods necessitating special safety arrangements

34. Proudly SA Campaign

35. Appointment of consultants

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

37. Unsolicited bids

38. Combating of abuse of supply chain management system

39. Urgent and emergency procurement delegations

*\Part 3: Logistics, Disposal, Risk and Performance Management*

40. Logistics management

41. Disposal management

42. Risk management

43. Performance management

*Part 4: Other matters*

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

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

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

47. Ethical standards

48. Inducements, rewards, gifts and favours

## 49. Sponsorships

50. Objections and complaints

51. Resolution of disputes, objections, complaints and queries

52. Contracts providing for compensation based on turnover

53. Local emerging contractor

54. Subcontracting

CHAPTER 3

GENERAL

55. Emergencies

56. Fronting of suppliers

57. Participation in HIV/Aids programmes by service providers

58. Savings on projects

59. Meeting of Committees

60. Meeting procedures of Committees

61. Access to meetings of the Committees

62.Commencement

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 –

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

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

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

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

**e) “in the service of the state”** means to be –

 (1) a member of –

 (i) any municipality Council;

 (ii) any provincial legislature; or

 (iii) the National Assembly or the National Council of Provinces;

 (2) a member of the board of directors of any municipality entity;

 (3) an official of any Municipality or municipality entity;

 (4) 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);

 (5) a member of the accounting authority of any national or provincial public entity; or

(6) an employee of Parliament or a provincial legislature;

f) “long term contract” means a contract with a duration period exceeding one year;

g) “list of accredited prospective providers” means the list of accredited prospective providers which the municipality must keep in terms of paragraph 14 of this policy;

 h) “other applicable legislation” means any other legislation applicable to municipality supply chain management, including –

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

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

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

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

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

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

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

**m) "Inkosi Langalibalele Local Municipal area"** is the municipality boundary of KZN237 as defined in the Local Government: Municipality Structures Act, Act 117 of 1998 as amended.

**n)** **"Historically disadvantaged individuals (HDIs)"** means all South African citizens:

1. who had no franchise in national elections prior to the introduction of the 1983 and 1993 constitutions; or
2. who are women; or
3. who are disabled persons

iv Persons who obtained South African citizenship after the first democratic election in April 1994 cannot qualify for preference as an HDI.

**o)** **"Youth"** is defined as a South African citizen between and including the ages of 18 to 35 years.

**p) “Black”** is a generic term which means Africans, Coloureds and Indians

**q)** **“Broad-Based Black Economic Empowerment”** means the economic empowerment of all black people including women, workers, youth, people with disabilities and people living in rural areas through diverse but integrated socio-economic strategies that include, but are not limited to-

(a) increasing the number of black people that manage, own and control enterprises and productive assets

(b) investment in enterprises that are owned and managed by black people

**r) “An emergency”** is defined as a situation that may give rise to

* + threats to human life or safety i.e. as a result of natural disaster or beyond human control

º threats to interruptions in the provision of services to the community

* + the threat of major expense to KZN237.

Poor planning is not a justifiable cause of an emergency or urgent situation. Written motivation must be provided, detailing the reasons as to why procurement must be done under circumstances of urgency or emergency

**s)** **“Cover quoting”** Where two or more independent tenders have been received for a single contract from a single supplier via business entities that the supplier owns, manages or controls or in joint venture with other business entities.

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 municipalitymust 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) A municipal entity (should there be one), must, in addition to complying with subparagraph (1), apply this Policy, to the extent determined by the parent municipality, in a way that and that is consistent with the supply chain management policy of the parent municipality.

 (3) This Policy applies when the municipality. (a) procures goods or ervices;

 (b) disposes goods no longer needed; or

 (c) selects contractors to provide assistance in the provision of municipality services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies.

(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 municipality entity; and

 (b) electricity from Eskom or another public entity, another municipality or a municipality entity.

Amendment of the supply chain management policy

3. (1) The accounting officer must –

 (a) at least annually review the implementation of this Policy; and

 (b) when the accounting officer considers it necessary, submit proposals for the amendment of this Policy to the Council.

 (2) If the accounting officer submits proposed amendments to the Council that differs from the model policy issued by the National Treasury, the accounting officer must –

 (a) ensure that such proposed amendments comply with the Regulations; and

 (b) report any deviation from the model policy to the National Treasury and the relevant Provincial Treasury.

 (3) When amending this supply chain management policy, the need for uniformity in supply chain practices, procedures and forms between organs of state in all spheres, particularly to promote accessibility of supply chain management systems for small businesses, must be taken into account.

Delegation of supply chain management powers and duties

4. (1) The Council hereby delegates all powers and duties to the accounting officer which are necessary to enable the accounting officer –

 (a) to discharge the supply chain management responsibilities conferred on accounting officers in terms of –

 (i) Chapter 8 or 10 of the Act; and

 (ii) this Policy;

 (b) to maximise administrative and operational efficiency in the implementation of this Policy;

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

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

 (2) Sections 79 and 106 of the Act apply to the 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 council or to a committee which is not exclusively composed of officials of the council.

 (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.

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.

(2) The power to make a final award –

 (a) above R10 million (VAT included) may not be sub-delegated by the accounting officer;

 (b) above R2 million (VAT included), but not exceeding R10 million (VAT included), may be sub-delegated but only to –

 (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

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

 (i) the chief financial officer;

 (ii) a senior manager;

 (iii) a manager directly accountable to the chief financial officer or a senior manager; or

 (iv) a bid adjudication committee.

 (3) An official or bid adjudication committee to which the power to make final awards has been sub-delegated in accordance with subparagraph (2) must within five days of the end of each month submit to the official referred to in subparagraph (4) a written report containing particulars of each final award made by such official or committee during that month, including–

(a) the amount of the award;

(b) the name of the person to whom the award was made; and

(c) the reason why the award was made to that person.

(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.

1. Subparagraphs (3) and (4) of this policy do not apply to procurements out of petty cash.
2. This paragraph may not be interpreted as permitting an official to whom

 the power to make final awards has been sub delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this Policy.

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

Oversight role of Municipality

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

1. For the purposes of such oversight the accounting officer must –

 *In the case of the Municipality*

1. (i) within 30 days of the end of each financial year, submit a report on the implementation of this Policy and the supply chain management policy of any municipal entity under the sole or shared control of the Council, to the Council; and

 (ii) whenever there are serious and material problems in the implementation of this Policy, immediately submit a report to 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 mayor.

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

Supply chain management unit

7. (1) A supply chain management unit is hereby established to implement this Policy.

 (2) The supply chain management unit operates under the direct supervision of the chief financial officer or an official to whom this duty has been delegated in terms of section 82 of the Act.

8. Training of supply chain management officials

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

Format of supply chain management system

9. This Policy provides systems for –

(i) demand management;

(ii) acquisition management;

(iii) logistics management;

(iv) disposal management;

(v) risk management; and

(vi) performance management.

Part 1: Demand management

**System of demand management**

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

 (2) The demand management system must –

1. include timely planning and management processes to ensure that all goods and services required by the municipalityare 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;
2. take into account any benefits of economies of scale that may be derived in the case of acquisitions of a repetitive nature; and
3. provide for the compilation of the required specifications to ensure that its needs are met.
4. undertake appropriate industry analysis and research to ensure that innovations and technological benefits are maximized.

*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) thatgoods 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) thatthe threshold values for the different procurement processes are complied with;

(d) thatbid 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.

 (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’ssupply 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) petty cash purchases up to a transaction value of R2000 (VAT inclusive)

(b) written or verbal quotations for procurements of a transaction valued over R2 000.00 up to R10 000.00 (VAT included);

(c) formal written price quotations for procurements of a transaction value over R2 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.

(2) The accounting officer may, in writing-

(a) lower, but not increase, the different threshold values specified in subparagraph (1); or

(b) direct that –

 (i) written or verbal quotations be obtained for any specific procurement of a transaction value lower than R2 000;

 (ii) a competitive bidding process be followed for any specific procurement of a transaction value lower than R200 000.

 (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.

12.2 Planning and Stipulation of Preference Point System to be Utilized, Evaluation of Bids on Functionality, Preference Point System and Broad-Based Black Economic Empowerment Status, Award of Contracts to Bidders not Scoring the Highest Number of Points and the Cancellation and Re-Invitation of Bids

* + 1. Planning and stipulation of preference point system to be utilized

An organ of state must, prior to making an invitation for bids-

1. properly plan for, and, as far as possible, accurately estimate the costs of the provision of services, works or goods for which an invitation for bids is to be made;
2. determine and stipulate preference point system to be utilized in the evaluation and adjudication of the bids; and
3. determine whether the services works or goods for which an invitation for bidders is to be made has been designated for local production and content in terms of regulation 9.
	* 1. Evaluation of bids on functionality
4. An organ of state must indicate in the invitation to submit a bid if that bid will be evaluated on functionality.
5. The evaluation criteria for measuring functionality must be objective.
6. When evaluating bids on functionality, the-
7. evaluation criteria for measuring functionality;
8. weight of each criterion;
9. applicable values; and
10. minimum qualifying score for functionality,must be clearly specified in the invitation to submit bid.
11. No bid must be regarded as an acceptable bid if it fails to archive the minimum qualifying score for functionality as indicate in the bid invitation.
12. Bids that have archive the minimum qualification score for functionality must be evaluated further in terms of the preference point systems prescribed in terms of the preference point systems prescribed in regulations 5 and 6.

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

1. The following formula must be used to calculate the points for price in respect of bids (including price quotations) with a Rand value equal to, or above R30 000.00 and up to a Rand value of R50 000 000.00 (all applicable taxes included).



Where

Ps = Points scored for comparative price of bid or offer under consideration;

Pt = Comparative price of bid or offer under consideration; and

Pmin = Comparative price of lowest acceptable bid or offer.

1. Organs of state may apply the formula in paragraph (a) for price quotations with a value less than R30 000.00 if and when appropriate

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

|  |  |
| --- | --- |
| **B-BBEE Status Level of Contributor** | **Number of points (80/20 system)** |
| 1 | 20 |
| 2 | 18 |
| 3 | 16 |
| 4 | 12 |
| 5 | 8 |
| 6 | 6 |
| 7 | 4 |
| 8 | 2 |
| Non-compliant contributor | 0 |

3) A maximum of 20 points may be allocated in accordance with sub-regulation (2).

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

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

**12.2.4. 90/10 Preference point system (for acquisition of services, works or goods with a Rand value above R1million) (all applicable taxes included)**

1. The following formula must be used to calculate the points for price in respect of bids with a Rand value above R50 000 000.00 (all applicable taxes included)

****

Where

Ps = Points scored for comparative price of bid or offer under consideration

Pt = Comparative price of bid or offer under consideration

Pmin = Comparative price of lowest acceptable bid or offer.

1. Subject to sub-regulation (3) points must be awarded to a bid for attaining the B-BBEE status level of contributor in accordance with the table below:

|  |  |
| --- | --- |
| **B-BBEE Status Level of Contributor** | **Number of points (90/10 system)** |
| 1 | 10 |
| 2 | 9 |
| 3 | 8 |
| 4 | 5 |
| 5 | 4 |
| 6 | 3 |
| 7 | 2 |
| 8 | 1 |
| Non-compliant contributor | 0 |

3) A maximum of 10 points may be allocated in accordance with sub-regulation (2).

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

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

12.2.5. Award of contracts to bidders not scoring the highest number of points

1. A contract may be awarded to bidder that did not scored the highest total number of point, only in accordance with section 2 (1) (f) of the Acts.

12.2.6. Cancellation and re-invitation of bids

1. (a) In the event that, in the application of the 80/20 preference point system as stipulated in the bid document, all bids received exceed the estimated Rand value of R50 000 000.00, the bid invitation must be cancelled.
2. If one or more of the acceptable bids received are within the prescribed threshold of R50 000 000.00, all bids received must be evaluated on the 80/20 preference point system.
3. (a) In the event that, in the application of the 90/10 preference point

 system as stipulated in the bid document, all bids received are equal

 to, or below Rand R50 000 000.00, the bid must be cancelled.

1. If one or more of the acceptable bids received are above the prescribed threshold of R50 000 000.00, all bids received must be evaluated on the 90/10 preference point system.
2. An organ of state which has cancelled a bid invitation as contemplated in sub- regulations (1) (a) and (2) (a) must re-invite bids and must, in the bid documents, stipulate the correct preference point system to be applied.
3. An organ of state may, prior to the award of bid, cancel a bid if-
4. Due to changed circumstances, there is no longer a need for the services, works or goods requested; or
5. Funds are no longer available to cover the total envisaged expenditure; or
6. No acceptable bids are received.

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

General preconditions for consideration of written quotations or bids

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

 (a) has furnished that provider’s –

 (i) full name;

 (ii) identification number or company or other registration number; and

 (iii) tax reference number and VAT registration number, if any;

(b) has furnished the municipality with a tax clearance certificate, if applicable; and

(c) has indicated –

(i) whether he or she is in the service of the state, or has been in the service of the state in the previous twelve months;

(ii) if the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the state, or has been in the service of the state in the previous twelve months; or

1. whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in subparagraph (ii) is in the service of the state, or has been in the service of the state in the previous twelve months.

Lists of accredited prospective providers

14. (1) The accounting officer must –

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

(b) at least once a year through newspapers commonly circulating locally, the website and any other appropriate ways, invite prospective providers of goods or services to apply for evaluation and listing as accredited prospective providers;

(c) specify the listing criteria for accredited prospective providers; and

(d) disallow the listing of any prospective providerwhose 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.

#  i) Hierarchy of Supplier selection

 When searching for or selecting suppliers for any

contract or order, KZN237 will consider

the following when rotating suppliers within business

classifications:

* Distribution of work amongst previously procured businesses

who have not received business before;

* Equity suppliers

 These preferred businesses must be given preferences first then other business can follow afterwards. Only three suppliers will be asked each time to quote.

**Database forms should be obtainable from the SCM office at no cost to public or bidders**

Petty cash purchases

1. Petty Cash purchases are used for items for which the value does not exceed R2000.00 including VAT. Petty cash will be controlled by a designated, responsible person. The SCM Regulations pertaining to petty cash payments contain the following conditions that must be included in petty cash systems:
	* Custody of cash and vouchers - delegated authority for petty cash purchase must determine the terms on which a manager may delegate responsibility for petty cash to an official reporting to that manager.
	* Must limit the number of petty cash purchases or the maximum amounts per month for each manager.
	* Require monthly reconciliation reports from each manager to be forwarded to the Chief Financial Officer.
	* Total petty cash may not exceed R50 000.00 for each calendar month for the whole municipality.
	* Managers with delegated responsibility for petty cash purchases must on a monthly basis report to the Chief Financial Officer:
2. The total amount of petty cash purchases for that month and
3. Receipt and supporting document for each purchase i.e. record keeping

Written or verbal quotations

16. The conditions for the procurement of goods or services through written or verbal quotations, are as follows:

(a) Quotations from R2 000.00 to R10 000.00 must be obtained from at least three different providers preferably from, but not limited to, providers whose names appear on the list of accredited prospective providers of the municipality, provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria set out in paragraph 14(1)(b) and (c) of this Policy;

(b) to the extent feasible, providers must be requested to submit such quotations in writing;

(c) if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the Chief Financial Officer;

(d) a designated official referred to in paragraph (c) above 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 paragraph

(d) the accounting officer must record the names of the potential providers requested to provide such quotations with their quoted prices; and

(e) if a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider.

(f) and /or to apply Risk Management Policy, Delegation of Power Authority, SCM Policy, Delegation of Powers MFMA, Petty Cash as well as Budgeting Policy.

Formal written price quotations

17. (1) The conditions for the procurement of goods or services through formal written price quotations, are as follows:

(a) quotations must be obtained in writing from at least three different providers whose names appear on the list of accredited prospective providers of the municipality.

1. 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;
2. 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
3. the accounting officer must record the names of the potential providers and their written quotations.

 (2) A designated official referred to in subparagraph (1) (c) must within three days of the end of each month report to the chief financial officer on any approvals given during that month by that official in terms of that subparagraph.

Procedures for procuring goods or services through written or verbal

quotations and formal written price quotations

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

(a) when using the list of accredited prospective providers the accounting officer must promote ongoing competition amongst providers by inviting providers to submit quotations on a rotation basis;

(b) all requirements to the value of R30 000.00 and above (VAT inclusive) that are to be procured by means of formal written price quotations must, in addition to the requirements of paragraph 17, be scored on price and targeted goals points designed in terms of the Preferential Procurement Points Framework Act (PPPFA) and its regulations and Broad Based Black Economic Empowerment Act (Act 53 of 2003) and be advertised for at least seven days on the website and on an official notice board of KZN237;

(c) all offers must be awarded based on compliance to specifications and conditions of contract

(d) the accounting officer or chief financial officer must on a monthly basis be notified in writing of all written or verbal quotations and formal written price quotations accepted by an official acting in terms of a subdelegation;

(e) requirements for proper record keeping.

### 1. Procurement process

(i) The official authorised to complete RFQ’s (Request For Quotations) for the department, must fill in the RFQ (Request For Quotations), obtain the valid signature(s) and thereafter forward the original copy to the Supply Chain Management Unit.

(ii) The Supply Chain Management Unit will select three suppliers from the approved supplier database on a rotational basis and request for the necessary written quotations. Once written quotations have been received from the supplier, the Supply Chain Management Unit will complete a Quotation Summary and together with the RFQ and written quotes, forward it to the Budget office for funds availability approval. Once approved, the quotation summary together with the attachments will be forwarded to the respective Head of Department or his/her delegate for authorisation, thus confirming that purchase order number may be issued.

(iii) After receipt of duly signed quotation summary together with attachments, the Supply Chain Management Unit will then place an order and simultaneously advise the preparer of the RFQ of the PO number together with expected delivery date and place of delivery. The Procurement section will also send a duplicate copy of the Purchase order to the Head of Department or delegate, for assisting with the tracking of the delivered goods.

(iv) The Supply Chain Management Unit will thereafter forward duly completed quotation summary together with attachments to the Creditors section.

(v) Upon receipt of goods and/or services, the recipient must submit a duly signed delivery note and/or invoice attached to the copy purchase order to the Creditors section for processing and payment.

(vi) The Creditors section will collate documents alluded to in (v) above to the quotation summary and its attachments and thereafter only process information for payment once it is satisfied that all quantities, description and price of invoice agree to that of our internal documentation

(2) Payment method

i) Upon delivery

 Requisitioning department must ensure that the supplier deliver with the original invoice.

ii) Invoice must be verified by the department concerned in terms of description, quantity and price.

iii) Authorised official must certify and stamp the invoice then submit to Creditors Section for processing.

iv) Goods supplied in excess of the original purchase order issued, will not be paid for

v) When a service provider provides a service that does not meet KZN237 standards, the Municipality does not bind itself to pay for that particular supply.

Competitive bids

19. (1) Goods or services above a transaction value of R200 000 (VAT included) and long term contracts may only be procured through a competitive bidding process, subject to paragraph 11(2) of this Policy.

(2) No requirement for goods or services above an estimated transaction value of R200 000 (VAT included), may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.

**Process for competitive bidding**

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

(a) Compilation of bidding documentation as detailed in paragraph 21;

(b) Public invitation of bids as detailed in paragraph 22;

(c) Site meetings or briefing sessions as detailed in paragraph 22;

(d) Handling of bids submitted in response to public invitation as detailed in paragraph 23;

(e) Evaluation of bids as detailed in paragraph 28;

(f) Award of contracts as detailed in paragraph 29;

(g) Administration of contracts

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

(h) Proper record keeping

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

e

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

(a) take into account –

(i) the general conditions of contract and any special conditions of contract, if specified;

(ii) any Treasury guidelines on bid documentation; and

(iii) the requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;

(b) include the preference points system to be used , goals as contemplated in the Preferential Procurement Regulations and evaluation and adjudication criteria, including any criteria required by other applicable legislation;

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

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

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

 (aa) for the past three years; or

 (bb) since their establishment if established during the past three years;

(ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipality 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;

1. 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 municipality entity is expected to be transferred out of the Republic; and
2. stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law.

Public invitation for competitive bids

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

(a) Any invitation to prospective providers to submit bids must be by means of a public advertisement in newspapers commonly circulating locally, the website of the municipality or any other appropriate ways (which may include an advertisement in the Provincial Government Gazzette); and

(b) the information contained in a public advertisement, must include –

(i) the closure date for the submission of bids, which may not be less than 30 days in the case of transactions over R10 million (VAT included), or which are of a long term nature, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to subparagraph (2) of this policy;

1. a statement that bids may only be submitted on the bid documentation provided by the municipality; and
2. 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.

1. Bids submitted must be sealed.

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

Procedure for handling, opening and recording of bids

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

(a) Bids–

 (i) must be opened only in public;

1. must be opened at the same time and as soon as possible after the period for the submission of bids has expired; and
2. received after the closing time should not be considered and returned unopened immediately.
3. 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;
4. 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

1. publish the entries in the register and the bid results on the municipality’s official notice board and on the website if practical.

(e) In cases where the consultant, engineer or project manager is involved in the compilation of bids documents, it must be clearly outlined that they remain the property of the municipality and the issue of safekeeping must be the responsibility of the municipality.

(f) The consultant, engineer or the project manager together with the municipal official present at the site inspection meeting must sign and stamp the Site Inspection Certificate with the municipal dated stamp.

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.

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

Committee system for competitive bids

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

(a) a bid specification committee;

(b) a bid evaluation committee; and

(c) a bid adjudication committee;

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

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

 (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.

Bid specification committees

27. (1) A bid specification committee must compile the specifications for each procurement of goods or services by the municipality.

(2) Specifications –

(a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;

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

(c) must, where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;

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

(e) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the word “equivalent”;

(f) must indicate each specific goal for which points may be awarded in terms of the points system set out in the Preferential Procurement Regulations 2001; and

(g) must be approved by the accounting officer prior to publication of the invitation for bids in terms of paragraph 22 of this Policy.

(3) A bid specification committee must be composed of:

(a) two/three municipal officials who must serve as standing members; one from the Supply Chain Management Unit.

(b) must be appointed in writing for a period of 12 months which is in line with

the financial year end of the municipality, subject to the annual reviewal

of this policy;

(c) one official to be co-opted from the end user department preferably a

 manager and a knowledgeable official responsible for the function

involved; the accounting officer may appoint any person or employee of an organization to be co-opted on to the committee. This person may participate in the bid committee on ad-hoc basis, due to his or her expertise. This member has the same powers/duties as other members of the committee but **no voting rights**

the co-opted membersare subjected to the same rules of conduct as permanent Committee members. If a consultant is co-opted on to the Bid Committee his or her organization may not bid for the same project

(d) co-opted external specialised expert or engineer deemed where necessary, however the final decision is to be made but the Council through the bid committees. Under no circumstances should the engineer’s recommendation be final, where an external expert or engineer is preparing bid documents, he/she should involve the municipal officials in a bid of adding value and capacity to the municipality.

(e) the quorum must be equal to 50% of the number of permanent (as

 opposed to co-opted) committee members, plus one member referred to in (b) above.

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

Bid evaluation committees

28. (1) A bid evaluation committee must –

 (a) evaluate bids in accordance with –

1. the specifications for a specific procurement; and
2. the points system set out in terms of paragraph 27(2)(f).

(b) evaluate each bidder’s ability to execute the contract;

(c) check in respect of the recommended bidder whether municipality rates and taxes and municipality service charges are not in arrears, and;

(d) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.

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

(a) two/three municipal officials who must serve as standing members; one from the Supply Chain Management Unit.

(b) must be appointed in writing for a period of 12 months which is in line with

the financial year end of the municipality, subject to the annual reviewal

of this policy;

(c) one official to be co-opted from the end user department preferably a

 manager and a knowledgeable official responsible for the function

involved;

(d) co-opted external specialised expert deemed where necessary

(e) the quorum must be equal to 50% of the number of permanent (as

 opposed to co-opted) committee members, plus one member referred to in (b) above.

3. The bid evaluation committee must use the following Preferential Point System when evaluating bids for the Municipality

a) THE 80/20 AND 90/10 PREFERENCE POINT SYSTEM

(1) The following formula must be used to calculate the points for price in respect of bids/procurement with a Rand value equal to, or above R30 000.00 (VAT Inclusive) and up a Rand value of R50 000 000 (VAT Inclusive).

|  |  |  |
| --- | --- | --- |
| Ps = 80 | 1 - | Pt - P min |
|  |  |  P min |

Where

Ps = Points scored for price of tender under

consideration

Pt = Rand value of offer tender consideration

Pmin = Rand value of lowest acceptable tender

1. A maximum of 20 points may be awarded to a tenderer for preference points and / or subcontracting with an HDI and/or after assessment of previous work performance and current work load and/or being local and / or achieving any of the specified goals stipulated in section 1.
2. The points scored by a tenderer in respect of the goals contemplated in sub-regulation (2) must be added to the points scored for price.

Bids or proposals with a value equal to R 30 000.00 and above have to be evaluated on the basis of price and functionality (where applicable), as well as the contribution to Preferential Procurement Policy Framework Act (PPPFA). The combined percentages for price and PPPFA should total to 100 points.

* Bids/Quotations with an estimated value equal to or above R 30 000.00 and up to R 200 000.00 will use 80/20 preferential point system.
* Bids/Proposals with an estimated value above R 50 000 000.00 will use the 90/10 preferential point system.
* The 80 and 90 are points for price, while the 20 and 10 are points for PPPFA, and the 20/10 preferential points can be structured in any way depending on the municipal targets.
* The formula on Section 28 (3)(a)(1) will be used for 90/10 points replacing 80/20 with 90/10

Bid adjudication committees

29. (1) A bid adjudication committee must –

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

(b) either –

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

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

1. A bid adjudication committee must consist of at least four senior

 managers of the municipality which must include –

(a) the chief financial officer, who must be the chairperson of the bid adjudication committee,

(b) a technical expert in the relevant field who is an official, if such an expert exists; and

(c) any other two senior executive managers and one supply chain practitioner

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

(3) The accounting officer must appoint the chairperson of the bid committees in writing. If the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside at the meeting.

 (4) Neither a member of a bid evaluation committee, nor an advisor or person assisting the evaluation committee, may be a member of a bid adjudication committee.

(5) (a) If the bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee, the bid adjudication committee must prior to awarding the bid –

(i) check in respect of the preferred bidder whether that bidder’s municipality rates and taxes and municipality service charges are not in arrears, and;

(ii) notify the accounting officer.

(b) The accounting officer may –

(i) after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in paragraph (a); and

(ii) if the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.

 (6) The accounting officer may at any stage of a bidding process, refer any recommendation made by the evaluation committee or the adjudication committee back to that committee for reconsideration of the recommendation.

(7) The accounting officer must comply with section 114 of the Act within 10 working days.

Procurement of banking services

30. (1) A contract for banking services –

 (a) must be procured through competitive bids;

 (b) must be consistent with section 7 or 85 of the Act; and

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

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

 (3) The closure date for the submission of bids may not be less than 60

 days from the date on which the advertisement is placed in a newspaper in terms of paragraph 22(1). Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

Procurement of IT related goods or services

31. (1) The accounting officer may request the State Information Technology Agency (SITA) to assist with the acquisition of IT related goods or services through a competitive bidding process.

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

(3) The accounting officer must notify SITA together with a motivation of the IT needs if –

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

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

(4) If SITA comments on the submission and the municipality disagrees with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the Municipality, the National Treasury, the relevant provincial treasury and the Auditor General.

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

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

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

(b) there is no reason to believe that such contract was not validly procured;

(c) there are demonstrable discounts or benefits to do so; and

(d) that other organ of state and the provider have consented to such procurement in writing.

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

(a) a municipality 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 municipality entity of which it is the parent Municipality.

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

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

Appointment of consultants

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

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

(a) the value of the contract exceeds R200 000 (VAT included); or

(b) the duration period of the contract exceeds one year.

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

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

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

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

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

**36.** (1) The accounting officer may –

(a) dispense with the official procurement processes established by this Policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only –

 (i) in an emergency;

 (ii) if such goods or services are produced or available from a single provider only;

 (iii) for the acquisition of special works of art or historical objects where specifications are difficult to compile;

 (iv) acquisition of animals for zoos and/or nature and game reserves; or

 (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 Municipality and include as a note to the annual financial statements.

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

37. Unsolicited bids

(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 Municipality 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 relevant provincial treasury.

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

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

#### 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 municipality rates and taxes or municipality service charges owed by that bidder or any of its directors to the municipality, or to any other municipality or municipality entity, are in arrears for more than three months; or

 (ii) who during the last five years has failed to perform satisfactorily on a previous contract with the municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;

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

 (f) cancel a contract awarded to a person if –

 (i) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or

 (ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and

 (g) reject the bid of any bidder if that bidder or any of its directors –

 (i) has abused the supply chain management system of the municipality or has committed any improper conduct in relation to such system;

 (ii) has been convicted for fraud or corruption during the past five years;

 (iii) has willfully neglected, reneged on or failed to comply with any government, municipality 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.

**39. URGENT AND EMERGENCY PROCUREMENT DELEGATION**

Should it be impractical to invite competitive bids for a specific procurement in the case of emergency and urgent cases or in case of sole supplier, the Accounting Officer may procure such required goods and services in accordance with MFMA, 2003 Municipal Supply Chain Management Regulations 36 by other means such as price quotations or negotiations. The reasons for deviating from inviting competitive bids should be recorded and approved by the Accounting Officer or the delegated officials. Poor planning is not a justifiable cause of an emergency and urgent procurement situation.

**39.1 DELEGATED OFFICIALS TO DECLARE AND APPROVE URGENT AND EMERGENCY PROCUREMENT OF GOODS AND SERVICES**

1. The **Chief Financial Officer** may approve urgent and emergency procurement of goods and services up to the value of **R200 000.00.**
2. **Accounting Officer (Municipal Manager) has unlimited authority** to approve urgent and emergency procurement of goods and services.

**39.2 CONDITIONS ATTACHED TO THE URGENT AND EMERGENCY PROCUREMENT OF GOODS AND SERVICES**.

* + 1. At least three (3) written quotations must be obtained.

39.2.2 If it is not possible to obtain three written quotations, the reasons should be recorded and approved by the Chief Financial Officer or Accounting Officer, as per 39.2.7 above, depending on value.

* + 1. Where only one quotation is received and accepted, all reasonable steps must be taken to ensure that the price is fair and market related.
		2. A comparative schedule must be compiled reflecting (80/20) preference points allocations for any bids which are more than the value of R30 000 up to R50 000 000 and (90:10) preference points allocations for any bids which are more than the value of R50 000 000.
		3. Quotations to be evaluated by the **Bid Evaluation Committee** and therefore make recommendation to the **Bid Adjudication Committee** to approve the quotations.
		4. A contract shall only be awarded to an acceptable supplier who scored the highest points in accordance with the predetermined criteria and registered in the Municipal Suppliers database unless exempted in terms of Supply Chain Management Regulations 11(2).
		5. Approval of acceptance of quotations must be done by the **Chief Financial Officer or** **Accounting Officer (Municipal Manager),** as per 39.2.7 above, depending on value.
		6. If the lowest bid is not chosen or preferred, valid reasons must be provided and must therefore be approved by the **Chief Financial Officer or** **Accounting Officer (Municipal Manager),** as per 39.2.7 above, depending on value,before such purchases may take place.

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

Logistics management

40. The accounting officer must establish and implement an effective system of logistics management, which must include -

1. 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;
2. the setting of inventory levels that includes minimum and maximum levels and lead times wherever goods are placed in stock;
3. the placing of manual or electronic orders for all acquisitions other than those from petty cash;
4. 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;
5. 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;
6. regular checking to ensure that all assets including official vehicles are properly managed, appropriately maintained and only used for official purposes; and
7. monitoring and review of the supply vendor performance to ensure compliance with specifications and contract conditions for particular goods or services.

Disposal management

**41.** (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:

(i) An obsolescence plan must be determined for each asset to ensure that

when the asset can no longer be maintained or used for its original

purpose, that there is a plan to replace it.

(ii) A renewal plan must be determined for assets that have reached the

end of its useful life.

(iii) Asset disposal decisions must be made within an integrated, service

and financial planning framework.

 .

(2) Assets may be disposed of by –

(i) transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;

(ii) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;

(iii) selling the asset; or

(iv) destroying the asset.

1. KZN237 must establish a disposal strategy to determine the best mechanism of disposal for each asset and the the accounting officer must ensure that –
	1. 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.

Risk management

**42.**

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

 (a) risk management aspect must be allocated to the Chief Financial

Officer, the SCM Manager, the internal audit function and the

Audit Committee, each of which shall ultimately be accountable to

the Municipal Manager or the Council for the discharge of their

responsibilities.

(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**

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

*Part 4: Other matters*

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

44. (1) No award above R30 000 may be made in terms of this Policy to a person whose tax matters have not been declared by the South African Revenue Service to be in order.

 (2) Before making an award to a person the accounting officer must first check with SARS whether that person’s tax matters are in order.

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

**Prohibition on awards to persons in the service of the state**

**45.** 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.

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

**46.** The accounting officer must ensure that the notes to the annual financial statements disclose particulars of any awardof 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

47. (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.

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

(a) must treat all providers and potential providers equitably;

(b) may not use his or her position for private gain or to improperly benefit another person;

(c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350;

(d) notwithstanding subparagraph (2) (c), must declare to the accounting officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;

(e) must declare to the accounting officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by, the municipality;

(f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;

(g) must be scrupulous in his or her use of property belonging to municipality;

(h) must assist the accounting officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system; and

(i) must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including –

(i) any alleged fraud, corruption, favouritism or unfair conduct;

(ii) any alleged contravention of paragraph 47(1) of this Policy; or

(iii) any alleged breach of this code of ethical standards

(3) Declarations in terms of subparagraphs (2)(d) and (e) -

 (a) must be recorded in a register which the accounting officer must keep for this purpose;

 (b) by the accounting officer must be made to the mayor of the municipality who must ensure that such declarations are recorded in the register.

(4) The National Treasury’s code of conduct must also be taken into account by supply chain management practitioners and other role players

 involved in supply chain management.

(5) A breach of the code of ethics must be dealt with as follows -

 (a) in the case of an employee, in terms of the disciplinary procedures of the municipality envisaged in section 67(1)(h) of the Municipality Systems Act;

* + 1. in the case a role player who is not an employee, through other appropriate means in recognition of the severity of the breach.
		2. In all cases, financial misconduct must be dealt with in terms of chapter 15 of the Act.

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

48. (1) No person who is a provider or prospective provider of goods or services, or a recipient or prospective recipient of goods disposed or to be disposed of may either directly or through a representative or intermediary promise, offer or grant –

 (a) any inducement or reward to the municipality for or in connection with the award of a contract; or

 (b) any reward, gift, favour or hospitality to –

 (i) any official; or

 (ii) any other role player involved in the implementation of this Policy.

(2) The accounting officer must promptly report any alleged contravention of subparagraph (1) to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury’s database of persons prohibited from doing business with the public sector.

 (3) Subparagraph (1) does not apply to gifts less than R350 in value.

## **Sponsorships**

**49.** 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 –

1. a provider or prospective provider of goods or services; or
2. a recipient or prospective recipient of goods disposed or to be disposed.

**50. Objections and complaints**

Persons aggrieved by decisions or actions taken in the implementation of this supply chain management system may, within 14 days of the decision or action-

1. 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, respond to the complainant in providing reasons for the bidder’s unsuccessful bid.
2. If the bidder is not satisfied within a period of 14 days submit his/her appeal to the Municipal Manager who shall then refer the written appeal or complaint to the independent and impartial person referred to in paragraph 50 for resolution; or

(c) if such complaint or objection is against the award of a bid, lodge a written appeal with the Municipal Bid Appeals Tribunal in accordance with the provisions of paragraph 51A.

51. Resolution of Objections and Complaints against Procurement Process

(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.

(2) The accounting officer, or another official designated by the accounting officer, is responsible for assisting the appointed person to perform his or her functions effectively.

(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) If the independent and impartial person referred to in paragraph 50.1, is of the view that a matter which should be dealt with in terms of paragraph 50A, he or she shall forthwith refer the matter to the Municipal Bid Appeals Tribunal and that Tribunal shall then hear and determine the matter in accordance with the provisions of paragraph 50A.

(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.

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

51 A. Municipal Bid Appeals Tribunal

(1) The council shall establish a Municipal Bid Appeals Tribunal for its area of jurisdiction to hear and determine an appeal against the award of a bid.

(2) The accounting officer of the municipality, in consultation with the Provincial Treasury, shall appoint the Chairperson, Deputy Chairperson and Members of the Municipal Bid Appeals Tribunal.

(3) The powers, duties and functions of the Municipal Bid Appeals Tribunal, and matters incidental thereto, are set out in the Rules which are appended to this Supply Chain Management Policy and marked Appendix A.

(4) The administrative and secretarial work involved in the performance of the duties and functions of the Municipal Bid Appeals Tribunal shall be performed by officers of the Provincial Treasury as set out in the Rules referred to in paragraph 51A.3.

(5) There shall be no further appeal against a decision of the Municipal Bid Appeals Tribunal.”

52. Contracts providing for compensation based on turnover

If a service provider acts on behalf of municipality to provide any service or act as a collector of fees, service charges or taxes and the compensation payable to the service provider is fixed as an agreed percentage of turnover for the service or the amount collected, the contract between the service provider and the municipality must stipulate –

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

53. Local emerging contractor

### Noting that there are very few local contractors qualifying for major contracts advertised by council, furthermore a lot of cash which could benefit local economic development is not realized within the Inkosi Langalibalele Municipality since most of projects are awarded through the policy to contractors not contributing to the local economy of Inkosi Langalibalele Local Municipality.

### Council resolves to empower grade 1 to grade 3 local contractors residing in Inkosi Langalibalele to bid on an annual basis for projects ring fenced not exceeding R3 million rand, this projects would provide a platform to only local contractors since it give them an opportunity to compete with major contractors coming outside the municipality.

**Bid Specification Committee will determine bids that will require local business contribution including bids outside the construction industry.**

### **54. Subcontracting**

### The service provider shall notify the Municipality in writing of all subcontracts entered into in respect of any award granted where the details of any such subcontracts is not already specified in a bid, quotation or proposal. Such notification, in the original bid or later, shall not relieve the service provider from any liability or obligation under the awarded contract.

### Service providers who are granted construction work contracts with a project value of R 3 000 000-00 or more may be required to subcontract at least 30% of the works to service providers with a CIDB grading of at least 1CE or above whose principal business address is registered, and whose operations are conducted primarily within the jurisdiction of the Inkosi Langalibalele Local Municipality.

### (c ) The service provider may be required to enter into a “cession of a right to direct payment” agreement with the Municipality and the third party subcontractor in order to facilitate the making of direct payment to the third party sub-contractor where necessary.

CHAPTER 3

GENERAL

Emergencies

55. Emergency Situations

(a) Where an emergency arises, the senior Municipal official available decides on the action needed to mitigate the threat. Where procurement of goods or services is involved, he takes the needed action, and within one working day, in writing, informs the procurement Section and department concerned of the action taken and gives them all the necessary information to enable them to place the orders and arrange for payment.

(b) Emergency procurement must be authorised by Head of Department

 only.

 (c) Selection of suppliers providing services on emergencies must be done on rotational basis

56. FRONTING OF SUPPLIERS

Inkosi Langalibalele Local Municipality prohibits fronting of supplier, any supplier that will be found fronting certain people will

 (a) be blacklisted from Inkosi Langalibalele database

 (b) no longer enter into any contract with the Municipality

57. PARTICIPATION IN HIV/AIDS PROGRAMMES BY SERVICE PROVIDERS

 Whereby service providers participate in any kind with regards to AIDS/HIV activities, such involvement must be disclosed to the Municipality.

58. SAVINGS ON PROJECTS

 All monies left on the estimated project value, in order of such monies to be used, the following steps must be followed

 (a) Responsible Head of Department must submit a proposal to Bid Specification Committee indicating scope of work to be done.

 (b) Accountable Officer must compile a report that will show that how savings occurred.

 Once approved by Bid Specification Committee

 (a) Bid Specification Committee must submit a report to Bid Evaluation Committee.

 If the Bid Evaluation Committee is satisfied about spending on savings, then

 (a) It can approve the project and write a report to the Bid Adjudication committee for final decision.

 Once approved by the Bid Adjudication Committee only then savings on project can be used.

59. MEETINGS OF THE COMMITTEES

 (1) Committees must meet-

 (a) whenever necessary;

 (b) at a time determined by the Chairperson; and

 (c) at a venue determined by the Chairperson.

(2) The Chairperson or Deputy Chairperson must preside at a meeting of the Committee, but if both the Chairperson and the Deputy Chairperson are not available, the members present must elect another member to act as chairperson for that meeting.

60. MEETING PROCEDURES OF COMMITTEES

(1) Subject to these regulations, Committees must determine the procedure for its meetings, having regard, amongst others, to the following:

 (a) Adequate written notice of meeting being given to members; and

(b) Members being prohibited from re-entering the committee meeting, whilst it is still in progress.

61. ACCESS TO MEETINGS OF THE COMMITTEES

 A person may only attend or be present at a meeting of the Committee-

 (a) if he or she is an official of Council’s Administration office; or

 (b) when authorised to attend by national or provincial legislation, or an order of court.

61.1 Secretariat

An official from the bid administration section must be made available to act as secretary to bid committees.

61.2 Quorum

A Bid Committee meeting is properly constituted only if at least sixty percent (60%) of its members are present.

61.2.1 Secundi

For the purpose of continuity and not to delay meetings the Accounting officer/Authority may also appoint secundi to temporarily replace members that are absent from meetings due to illness,leave,etc. The Accounting officer/Authority will also decide whether or not such secundi will have the same powers as members.

61.2.2 Notice of Meetings

The agenda of a meeting serves as the programme of the meeting and unless the committee decides otherwise, the items and sequence may not be changed during the meeting. In order to afford members the opportunity to prepare for meeting, the agenda shall be made available to members at least three (3) working days before the actual meeting.

61.2.3 Minutes

The minutes will be the written record reflecting a brief clear and impartial manner, the decisions of Bid Committee. The signed minutes will serve as proof of the decisions of that Committee.

Should a member wish to have a specific matter other than a decision recorded, it must be specifically requested. A members reasons for a dissenting voice must also be recorded. Proceedings are also recorded mechanically to enable the secretary to prepare verbatim reports required by court of law.

61.2. 4 Register

Members shall sign a register at each meeting serving as the attendance register as well as an undertaking to confidentiality of that meeting. The register will also provide for the declaration of interest.

Members must declare all gift and invitations accepted to social events received from suppliers or potential suppliers, irrespective of the value of such a gift.

 Such declarations must be captured in the minutes of the meeting and must be reported to the Chief Financial Officer.

Any such gifts and /or invitations accepted by the Chief Financial Officer must be reported to the Accounting Officer.

61.2.5 Chairperson

Each meeting will be presided over by a chairperson. In the absence of the chairperson, the vice-chairperson will preside as chairperson, in which case he/she will occupy the chair for the duration of the meeting, even if the chairperson should arrive during the course of the meeting. Every member attending the meeting owes deference to the chairperson and may be removed if that person does not respect the authority of the chair.

61.2.6 Points of Order

A member may speak on point of order only if he/she is of the opinion that there has been a departure from the rules of order e.g. an objection against improper language used, that a speaker has transgressed etc.

COMMENCEMENT

62. This policy was amended by the council meeting that was held on the…30 MAY 2017….

ANNEXTURE A

CODE OF CONDUCT FOR SUPPLY CHAIN MANAGEMENT PRACTITIONERS AND OTHER ROLE PLAYERS

The purpose of this Code of Conduct is to promote mutual trust and respect and

an environment where business can be conducted with integrity and in a fair and

reasonable manner.

General Principles

The municipal commits itself to a policy of fair dealing and integrity in the

conduction of its business. Officials and other role players involved in supply

chain management (SCM) are in position of trust, implying a duty to act in the

public interest. Officials and other role players should not perform their duties to

unlawfully gain any form of compensation, payment or gratuities from any

person, or provider/contractor for themselves, their family or their friends.

Official and other role players involved in SCM should ensure that they perform

their duties efficiently, effectively and with integrity, in accordance with the

relevant legislation, policies and guidelines. They should ensure that public

resources are administered responsibility.

Official and other role players involved in SCM should be fair and impartial in the

performance of their functions. They should at no time afford any undue

preferential treatment to any group or individual or unfairly discriminate against

any group or individual. They should not abuse the power and authority vested in

them.

Conflict of interest

An official or other role player involved with supply chain management

a) must treat all providers and potential providers equitably;

b) may not use his or her position for private gain or to improperly benefit

another person;

c) may not accept any reward, gift, favour, hospitality or other benefits

directly or indirectly, including to any close family members, partner or

associate of that person, of a value of more than R350;

d) 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, or

in any award of a contract by the municipality;

f) must immediately withdraw from participating in any manner whatsoever

in a procurement or disposal process or in the award of a contract in which

that person, or any close family member, partner or associate, has any

private or business interest;

g) must declare any business, commercial and financial interest or activities

undertaken for financial gain that may raise a possible conflict of interest;

h) should not place him/herself under any financial or other obligation to

outside individuals or organizations that might seek to influence them in

the performance of their official duties; and

* 1. should not take improper advantage of their previous office after leaving
	2. their official position.

**Accountability**

Practitioners are accountable for their decisions and actions to the public.

Practitioners should use public property scrupulously.

Only accounting officers or their delegated have the authority to commit the

municipality to any transaction for the procurement of goods and / or services.

All transactions conducted by a practitioner should be recorded and accounted

for in an appropriate accounting system. Practitioners should not make any false

or misleading entries into such a system for any reason whatsoever.

Practitioners must assist the accounting officer in combating fraud, corruption,

favouritism and unfair and irregular practices in the supply chain management

system.

Practitioners must report to the accounting officer any alleged irregular conduct in

the supply chain management system which that person may become aware of,

including:

(i) any alleged fraud, corruption, favouritism or unfair conduct;

(ii) any alleged contravention of the policy on inducements, rewards, gifts and favours to municipality , officials or other role players; and

(iii) any alleged breach of this code of conduct.

Any declarations made must be recorded in a register which the accounting

officer must keep for this purpose. Any declarations made by the accounting

officer must be made to they mayor who must ensure that such declaration is

recorded in the register.

**Openness**

Practitioners should be as open as possible about all the decisions and actions

that they take. They should give reasons for their decisions and restrict

information only if it is in the public interest to do so.

**Confidentiality**

Any information that is the property of the municipality or its providers should be

protected at all times. No information regarding any bid/contract/bidder/contractor

may be revealed if such an action will infringe on the relevant bidder’s/

contractor’s personal rights.

Matters of confidential nature in the possession of officials and other role players

involved in SCM should be kept confidential unless legislation, the performance

of duty or the provisions of law requires otherwise. Such restrictions also apply to

officials and other role players involved in SCM after separation from service.

 **Bid Specification /Evaluation / Adjudication Committees**

6.1 Bid specification, evaluation and adjudication committees should

implement supply chain management on behalf of the municipality in an

honest, fair, impartial, transparent, cost-effective and accountable manner.

6.2 Bid evaluation/ adjudication committees should be familiar with and

adhere to the prescribed legislation, directives and procedures in respect

of supply chain management in order to perform effectively and efficiently.

6.3 All members of bid adjudication committees should be cleared by the

accounting officer at the level of “CONFIDENTIAL” and should be required

to declare their financial interest annually.

6.4 No person should -

* + 1. interfere with the supply chain management system of the municipality; or
		2. amend or tamper with any price quotation/ bid after its submission.

Matters of confidential nature in possession of officials and other role players and supply chain practitioners involved in SCM should be kept confidential unless legislation, or the provisions of law requires otherwise.

This also applies to officials and other role players involved in SCM even after leaving service.

In accordance with the accounting officer’s / [authority’s] directives/delegated

powers:

The specifications, evaluation and adjudication [team] committees may be authorized to deal with all supply chain management matters and finalize bids, price and quotations.

**Combative Practices**

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

They include but are not limited to;

(i) Suggestions to fictitious lower quotations;

(ii) Reference to non-existent competition;

(iii) Exploiting errors in price quotations / bids;

(iv) Soliciting price quotations / bids from bidders / contractors whose names appear on the Register for Tender Defaulters.