

UTHUKELA DISTRICT MUNICIPALITY



KWAZULU-NATAL

SUPPLY CHAIN MANAGEMENT

POLICY

01 MARCH 2013

The Supply Chain Management Policy Framework should be read with the objective of ensuring that uniform procedures and processes are implemented at all KwaZulu – Natal Municipalities

This document must be read together with relevant SCM Legislation, Practice Notes, MFMA Circulars and the Municipality's SCM Delegations and Standard Operating Procedures

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CHAPTER 1: POLICY APPROVAL

1.1 PURPOSE OF THE SCM POLICY

This SCM Policy is intended to be a guide for Municipal Supply Chain Management activities and ensure compliance with National and Provincial guidelines. The aim of this policy is to ensure efficiency, effectiveness and uniformity in the procurement of goods and/or services required for the proper functioning of the uThukela District Municipality, whilst developing, supporting and promoting Broad Based Black Economic Empowerment goals.

The SCM Policy is structured around six (6) chapters namely:

Chapter 1: Policy Approval;

Chapter 2: Abbreviations;

Chapter 3: Legislative Requirements;

Chapter 4: Supply Chain Management System;

Chapter 5: Code of Conduct; and

Chapter 6: Targeted Procurement Strategy.

This Supply Chain Management Policy shall give effect to the implementation of Supply Chain Management within the uThukela District Municipality. All Supply Chain Management activities shall be executed in line with this SCM Policy.

This policy is subject to the provisions of any other Act of Parliament, as amended from time to time. Where any doubt exists with regard to the interpretation or application of this policy, the Accounting Officer must be approached through the normal service channels for a decision and finalisation.

1.2 COUNCIL APPROVAL

TITLE	Supply Chain Management Policy
VERSION	Version 1. 0
COMPILED BY	Supply Chain Management Unit
EFFECTIVE DATE	01 March 2013
SUMMARY	This document is the Supply Chain Management Policy applicable to the UThukela District Municipality

NAME	DESIGNATION	SIGNATURE	DATE
	Councillor		
	Councillor		
	Councillor		
	Councillor		
	Councillor		
	Councillor		
	Councillor		
	Executive Mayor		
	Municipal Manager		
	Chief Financial Officer		
	Manager: Supply Chain Management		

CHAPTER 2: ABBREVIATIONS

“AO”	Accounting Officer
“BAC”	Bid Adjudication Committee
“BBBEE”	Broad-Based Black Economic Empowerment
“BBBEEA”	Broad-Based Black Economic Empowerment Act
“BEC”	Bid Evaluation Committee
“BEE”	Black Economic Empowerment
“BSC”	Bid Specification Committee
“CFO”	Chief Financial Officer
“CIDB”	Construction Industry Development Board
“DTI”	Municipality of Trade and Industry
“EXCO”	Executive Committee
“HDI”	Historically Disadvantaged Individuals
“MBD”	Municipal Bid Documents
“MFMA”	Municipal Finance Management Act, 2003 (Act 56 of 2003)
“MM”	Municipal Manager
“NIPP”	National Industrial Participation Programme
“PDI”	Previously Disadvantaged Individuals
“PPPFA”	Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000)
“SAPS”	South African Police Service
“SARS”	South African Revenue Service
“SCM”	Supply Chain Management
“SCMU”	Supply Chain Management Unit
“SITA”	State Information Technology Agency
“SMME”	Small, Medium and Micro Enterprise

CHAPTER 3: LEGISLATIVE REQUIREMENTS

The implementation of Supply Chain Management places a large responsibility on each Municipality to ensure that adequate controls are in place to prevent over or under expenditure. It also has to ensure that anti-corruption and anti-fraud mechanisms are implemented. The decentralized Supply Chain Management system introduces greater responsibility to ensure that goods and services can be delivered cost-effectively and more efficiently.

Supply Chain Management is an integral part of prudent financial management. It introduces internationally accepted best practice principles, whilst at the same time addressing Government’s Preferential Procurement Policy Objectives.

Supply Chain Management operates within the parameters set down by the Constitution and is supported by different legislative mandates. These legislative mandates form the basis for the implementation of Supply Chain Management in the Municipality. The figure below provides a simplified graphic overview of the legislative building blocks for SCM in the Municipality.

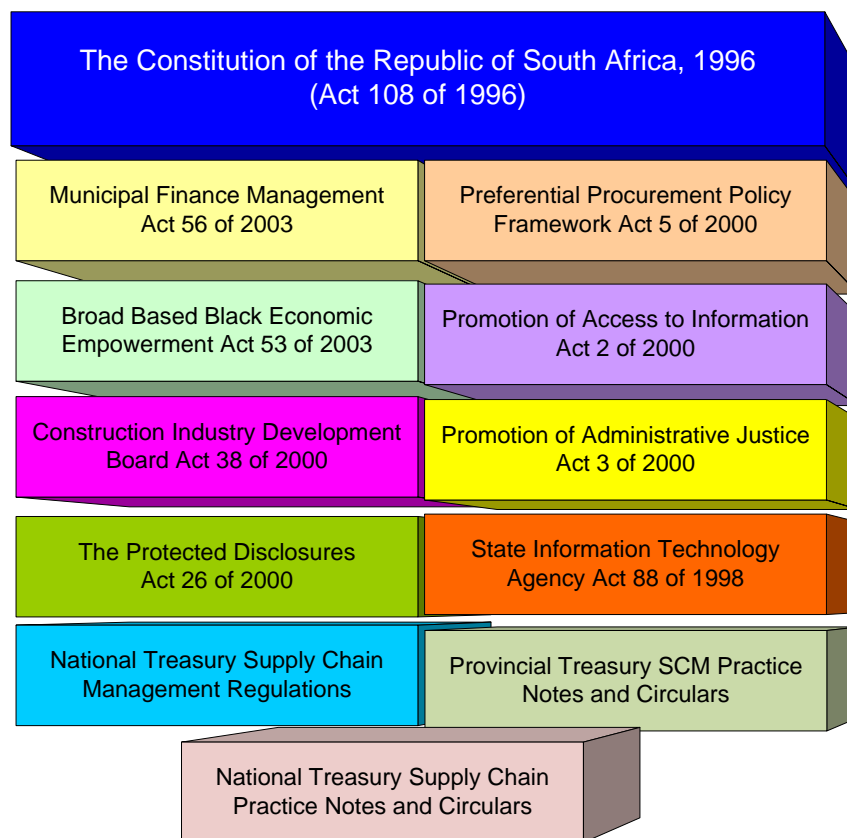


Figure 1: Legislative Framework

All officials employed by the uThukela District Municipality will comply with the following legislative requirements that the Municipality is bound and guided by:

NO.	LEGAL PRESCRIPT	APPLICABILITY	CONDITIONS	RESPONSIBILITY
1.	Constitution of the RSA,1996 (Act No. 108 of 2006) Section 217 (1)	Provides that all procurement for goods and / or services must be done in accordance with a system that is fair, equitable, transparent, competitive and cost-effective.	<ul style="list-style-type: none"> ✓ The nomination of Suppliers/ Service Providers must be fair, equitable and transparent. The nomination of Suppliers/ Service Providers must be done on a rotational basis entitling Suppliers/ Service Providers to an equal opportunity to quote for goods and/ or services. ✓ In ensuring competitiveness, the vendor database must provide a minimum of three (3) Suppliers/ Service Providers that should be afforded the opportunity to quote for goods and/or services on offer. ✓ The nomination of Suppliers/ Service Providers must be done in an electronic system that allows for vendor rotation. ✓ Bids must be invited following the competitive bidding process and advertised in at least the Provincial Government Bulletin/ Gazette. (Website and Notice Boards?) ✓ The Preference Points System as contained in the PPPFA must be used to score each quotation/ bid received for Price and BBBEE. 	CFO SCMU BSC BEC BAC

uThukela District Municipality

NO.	LEGAL PRESCRIPT	APPLICABILITY	CONDITIONS	RESPONSIBILITY
2.	Constitution of the RSA,1996 (Act No. 108 of 2006) Section 217 (2)	Provision is made for: <ul style="list-style-type: none"> ✓ Categories of preference in the allocation of contracts; and ✓ The protection or advancement of persons, or categories of persons, disadvantaged by unfair discrimination. 	The AO must ensure strict compliance with the provisions of the following legislation: <ul style="list-style-type: none"> ✓ Preferential Procurement Policy Framework Act, No. 5 of 2000 (PPPFA); ✓ Preferential Procurement Regulations, 2001; ✓ Broad Based Black Economic Empowerment Act, No. 53 of 2003 (BBBEEA); and ✓ Preferential Procurement Regulations, 2011. 	AO CFO SCMU BSC BEC BAC
3.	Constitution of the RSA,1996 (Act No. 108 of 2006) Section 217 (3)	Confers an obligation for National Legislation to prescribe a framework providing for preferential procurement to address the social and economic imbalances of the past.		
4.	Municipal Finance Management Act (Act No. 56 of 2003) Section 2 (f)	Highlights that the objective of the Act is to secure sound and sustainable management of fiscal and financial affairs of Municipalities and Municipal Entities by establishing norms and standards and other requirements for Supply Chain Management.	The AO should delegate his responsibilities in terms of the MFMA to the CFO, officials within the SCMU and Bid Committees to implement a system that is fair, equitable, transparent, competitive and cost-effective.	AO CFO SCMU BSC BEC BAC
5.	Municipal Finance Management Act (Act No. 56 of 2003) Sections 110-119	Each Municipality and each Municipal Entity must develop and implement a Supply Chain Management policy that is within the prescribed framework and ensure a fair, equitable, transparent, competitive and cost-effective procurement process is implemented.	All Councillors, Bid Committees, the Municipal Manager, S57 Managers and Municipal Officials must comply with the detailed provisions of: <ol style="list-style-type: none"> 1. SCM Policy 2. SCM Delegations 3. Standard Operating Procedures for SCM Practitioners 4. Standard Operating Procedures for End Users. 	Councillors Committees AO CFO S57 Managers Municipal Officials BSC BEC BAC

NO.	LEGAL PRESCRIPT	APPLICABILITY	CONDITIONS	RESPONSIBILITY
			These incorporate all the legal requirements of Sections 110-119 in the MFMA.	
6.	Preferential Procurement Policy Framework Act, (Act No. 5 of 2000) and its accompanying Regulations	Bids or quotations with a value equal to R30 000 and above are to be evaluated on the basis of a preferential point system which includes points for price as well as the achievement of specified preferential procurement goals, which were replaced in 2011 by the BBBEE Generic Scorecard.	<p>The Act and its Regulations provides for the following preference points system:</p> <ul style="list-style-type: none"> ✓ Bids/ Quotations with an estimated value equal to or above R30 000 and up to R1 000 000 will use the 80/20 preferential point system. ✓ Bids/ Quotations with an estimated value above R1 000 000 will use the 90/10 preferential point system. ✓ The 80 and 90 points will be used to score price and the 20 and 10 points for BBBEE. 	CFO SCMU BSC BEC BAC
7.	Broad-Based Black Economic Empowerment Act, (Act No. 53 of 2003)	<p>Broad-Based Black Economic Empowerment is measured using seven pillars, each with a relative weighting.</p> <p>Direct Empowerment:</p> <ul style="list-style-type: none"> ✓ Equity Ownership – 20% ✓ Management – 10% <p>Indirect Empowerment:</p> <ul style="list-style-type: none"> ✓ Employment Equity – 15% ✓ Skills Development – 15% ✓ Preferential Procurement – 20% ✓ Enterprise Development – 15% ✓ Socio-economic Development – 5% 	<p>For qualifying Generic Enterprises and Qualifying Small Enterprises:</p> <ul style="list-style-type: none"> ✓ The SCMU must be in possession of an original valid BBBEE Verification Certificate that is issued by an Accredited BBBEE Verification Agent for all bids/ quotations received from Suppliers/ Service Providers. ✓ In cases where no BBBEE Verification Certificate is submitted, that Supplier/ Service Provider is not disqualified but awarded zero (0) preference points. <p>For qualifying Exempted Micro Enterprises:</p>	CFO SCMU BSC BEC BAC

NO.	LEGAL PRESCRIPT	APPLICABILITY	CONDITIONS	RESPONSIBILITY
		<p>All enterprises in South Africa are divided into one of three categories:</p> <ul style="list-style-type: none"> ✓ Generic Enterprises (turnover greater than R35 Million) ✓ Qualifying Small Enterprises (turnover between R5 Million and R35 Million) ✓ Exempted Micro Enterprises (turnover Less than R5 Million) 	<ul style="list-style-type: none"> ✓ The SCMU must be in possession of an original valid BBBEE Verification Certificate that is issued by an approved Accounting Officer in terms of the Close Corporation Act, for all bids/quotations received from Suppliers/ Service Providers. ✓ In cases where no BBBEE Verification Certificate is submitted, that Supplier/ Service Provider is not disqualified but awarded zero (0) preference points. 	
8.	The Construction Industry Development Board Act, (Act No. 38 of 2000)	The Act is applicable to all organs of state involved in procurement relating to the construction industry. It establishes a means by which the Board can promote and implement policies, programmes, and projects aimed at procurement reform, standardization, and uniformity in procurement documentation, practices and procedures within the framework of the procurement policy of government. It establishes a national register of contractors to manage public sector procurement risk.	The CIDB Regulations and Practice Notes must be complied with for all construction projects. The standard bid documents and contracts developed by the CIDB must be utilised for construction contracts.	AO CFO SCMU BSC BEC BAC

NO.	LEGAL PRESCRIPT	APPLICABILITY	CONDITIONS	RESPONSIBILITY
9.	The Promotion of Access to Information Act, (Act No. 2 of 2000)	This Act gives effect to Section 32 of the Constitution by setting out how anyone can get access to information held by the state. By so doing, it promotes transparency and prevents government from operating in secret.	<ul style="list-style-type: none"> ✓ The SCMU must ensure that invitations and awards of quotations are advertised in at least the notice board at the uThukela District Municipality. ✓ The SCMU must ensure that invitations and awards of bids are advertised in at least the Provincial Government Bulletin/ Gazette. 	AO CFO SCMU BSC BEC BAC
10.	The Promotion of Administrative Justice Act, (Act No. 3 of 2000)	This Act gives effect to Section 33 of the Constitution. It ensures that decisions that affect the public are taken in a way that is procedurally fair and it gives people the right to request written reasons for decisions they disagree with. In this way, it creates greater transparency - people may be less tempted to act corruptly if they know they will have to explain themselves to the public.	<ul style="list-style-type: none"> ✓ The SCMU must make available any information that is legally requested. ✓ SCM Practitioners and Bid Committee members must comply with the Code of Conduct. 	
11.	The Protected Disclosures Act, (Act No. 26 of 2000)	The Act was passed to encourage employees to disclose information about unlawful and irregular behaviour in the workplace. It offers protection from victimisation for 'whistleblowers', as long as they meet the requirements and follow the procedure set out in the Act.		
12.	State Information Technology Act,	Requires that SITA must act as the procurement agency for	The SCMU must ensure that all information technology software,	CFO SCMU

NO.	LEGAL PRESCRIPT	APPLICABILITY	CONDITIONS	RESPONSIBILITY
	(Act No.88 of 1998)	the Municipality's information technology requirements.	hardware and its related services are procured in line with the Service Level Agreement signed with the State Information Technology Act.	BSC BEC BAC IT
13.	National Treasury Supply Chain Management Regulations, Practice Notes, Instruction Notes, MFMA Circulars	The Municipality shall apply the Treasury Regulations issued in terms of the MFMA as it pertains to SCM. It serves as a formal requirement for the Municipality, to ensure the establishment and implementation of an	The AO must ensure strict compliance with the provisions of the following : ✓ National Treasury Practice Notes and Instruction Notes available electronically on the National Treasury's website at: http://www.treasury.gov.za .	CFO SCMU BSC BEC BAC
14.	KZN Provincial Treasury Supply Chain Management Practice Notes and Circulars	effective and efficient Supply Chain Management Unit (SCMU). It also stipulates the establishment of an effective and efficient SCMU within the office of the Chief Financial Officer (CFO), as an integral part of their financial systems. A Supply Chain Management system must be utilised and provide at least for the following: ✓ Demand Management; ✓ Acquisitions Management; ✓ Logistics Management; ✓ Disposal Management; ✓ Risk Management; and ✓ Supply Chain Performance and Reporting.	✓ KZN Provincial Treasury Practice Notes and Instruction Notes available electronically on the Provincial Treasury's website at: http://www.kzntreasury.gov.za .	

Please refer to the following SCM Circulars for detailed guidance:

Circular No	Circular Title	Circular Date	Status
MFMA Circular 2	Supply Chain Management	21 July 2004	Valid
MFMA Circular 6	Workshops, Supply Chain Management	13 Sept 2004	Informative
MFMA Circular 16	Supply Chain Management Training	20 April 2005	Informative
MFMA Circular 22	Model Policy Supply Chain Management	25 August 2005	Valid
MFMA Circular 25	Guide and Bid Documents	3 October 2005	Valid
MFMA Circular 29	Supply Chain Management Issues	31 January 2006	Valid
MFMA Circular 33	Supply Chain Management Issues	27 March 2006	Valid
MFMA Circular 34	Supply Chain Management Issues	28 June 2006	Valid
MFMA Circular 40	Implementation Checklist	20 October 2006	Valid
MFMA Circular 43	Restriction of Suppliers	25 May 2007	Valid
MFMA Circular 46	Checking the prohibition status of recommended bidders.	17 March 2008	Valid
MFMA Circular 52	Prohibition of Restrictive Practices	30 July 2010	Valid
MFMA Circular 53	Amended Guidelines on Functionality for Evaluation of Bids	3 September 2010	Valid
MFMA Circular 56	Database of Restricted Suppliers and Training on the Revised Preferential Procurement Regulations, 2011	9 September 2011	Valid

Table 1: MFMA Circulars

In addition to the above mentioned legislative framework the Municipality will also comply with the provisions of the following legislation that will impact on the supply chain environment:

1. The Supply Chain Management Guide for Accounting Officers;
2. Municipal Systems Act, Act No. 32 of 2000;
3. Municipal Structures Act, Act No. 117 of 1998;
4. The Prevention and Combating of Corrupt Activities Act, Act 12 of 2004;
5. The National Small Business Act, Act 102 of 1996;
6. Provincial Growth and Development Strategy;
7. The Competition Act, Act No 89 of 1998; and
8. The King Report on Corporate Governance for South Africa.

CHAPTER 4: SUPPLY CHAIN MANAGEMENT SYSTEM

The Accounting Officer shall develop and implement an effective and efficient supply chain management system that maintains the principles of:

- ✓ Fairness, equity, transparency, competitiveness and cost-effectiveness.
- ✓ The system shall be consistent with the PPPFA and the BBBEEA.
- ✓ Regular assessment of supply chain performance.

The SCM system shall provide for at least the following SCM structures:

- ✓ An SCM Unit.
- ✓ A Bid Specification Committee.
- ✓ A Bid Evaluation Committee.
- ✓ Award structures, including a Bid Adjudication Committee.
- ✓ A Disposal Committee.

The SCMU shall be responsible for:

Demand Management:

- ✓ Perform needs analysis, historical spend analysis and market research.
- ✓ Develop Institutional BBBEE targets.
- ✓ Facilitate procurement planning workshops.
- ✓ Consolidate procurement plans.
- ✓ Draft specifications.
- ✓ Determine strategic sourcing strategies.

Vendor Database Administration:

- ✓ Advertise annual registration of vendors.
- ✓ Capturing of vendor database forms.
- ✓ Vetting of vendors' Information.
- ✓ Filing of vendor database forms.
- ✓ Updating of existing vendor information.
- ✓ Provide help desk support services.

Acquisitions Management:

✓ **Bids Management:**

- Compile bid documents.
- Confirm specifications, Terms of Reference, Request for Proposals with End Users.
- Provide technical advice on Special Conditions of Contract and evaluation criteria.
- Advertise competitive bids (Invitation and Award).
- Perform Bid Committee secretariat functions.
- Pre-screening of bid documents.
- Open and close bid evaluations.

✓ **Quotations Management:**

- Complete the invitation for quotation form.
- Source vendors from database.
- Request quotations.
- Observe closing periods.
- Update closing schedule.
- Complete comparative schedule.
- Schedule quotation evaluation meeting.
- Evaluate and adjudicate quotes (committees).
- Inform successful vendor.

Logistics Management:

✓ **Inventory Management:**

- Issue orders.
- Capture commitments on BAS.
- Check quality and quantity of goods received.
- Distribute goods to End Users.
- Reconcile and batch requisition, order and delivery note/invoice/ statement.
- Manage optimum stock levels.
- Conduct physical stock counts.

✓ **Payments:**

- Check payment vouchers and supporting documentation.
- Verify vendor performance prior to processing payments.
- Capture payments on BAS.
- Maintain Accruals Register and follow up on outstanding invoices.

Disposals Management (Inventory items only):

- ✓ Identify inventory items for disposal.
- ✓ Prepare inventory items for disposal.
- ✓ Recommend disposal methods.
- ✓ Create a Disposal Committee.
- ✓ Provide secretariat functions for Disposal Committee.
- ✓ Implement recommended disposal method.

Performance Reporting:

- ✓ Prepare monthly reports.
- ✓ Monitor vendor performance.

Risk Management:

- ✓ Conduct a risk assessment within the SCMU.
- ✓ Implement appropriate risk management strategies.
- ✓ Ensure compliance with Fraud Prevention and Anti-corruption Strategies.

Contract Management:

- ✓ Manage the drafting and signing of contracts.
- ✓ Maintain central repository of contracts.
- ✓ Capture contracts on register.
- ✓ Co-ordinate financial and legal reviews.
- ✓ Manage actionable and informative clauses in the contract.
- ✓ Ensure value-for-money spending against contracts.
- ✓ Manage contractual risks.

CHAPTER 5: CODE OF CONDUCT

The Supply Chain Management Framework compels the Municipality to implement a policy of fair dealing and integrity in conducting its Supply Chain Management (SCM) activities. The Municipality's Code of Conduct shall incorporate the Code of Conduct for SCM Practitioners and all those involved in the Supply Chain Management System and shall direct all SCM officials and the role players in their conduct within the Municipality.

Non-compliance shall be subject to the appropriate action as deemed necessary by the Accounting Officer. All SCM officials and role players are required to promote an environment where business will be conducted in a fair and reasonable manner and with integrity.

5.1 SUPPLY CHAIN MANAGEMENT PRINCIPLES

The uThukela District Municipality will adhere to the principles as noted hereunder:

- (i) **Transparency:** The procurement process shall be open and shall afford each prospective bidder timely access to the same and accurate information.
- (ii) **Effectiveness:** The uThukela District Municipality shall strive for effectiveness and shall carry out its procurement processes as cost-effectively as possible.
- (iii) **Efficiency:** The uThukela District Municipality shall strive to standardise and simplify procedures where appropriate, to enhance efficiency. The uThukela District Municipality shall strive to build relationships with providers and shall ensure good working practices.
- (iv) **Competitiveness:** The uThukela District Municipality shall satisfy its requirements through competition unless there are justifiable reasons to the contrary.
- (v) **Fairness:** All bidders and contractors shall be dealt with fairly and without unfair discrimination.
- (vi) **Ethics:** All suppliers shall be treated equally whilst promoting specified empowerment objectives. All stakeholders shall conduct business and themselves professionally, fairly, reasonably and with integrity, all interests shall be disclosed and any breach shall be reported.
- (vii) **Proportionality:** The product/ service requirements stipulated in the specification/ terms of reference must be appropriate, necessary and in reasonable proportion to the product/ service being procured.

- (viii) **Uniform application:** The uThukela District Municipality shall ensure the application of a procurement policy and procedure manual. The procurement process shall be simple and adaptable to advances in modern technology to ensure efficiency and effectiveness.
- (ix) **Accountability:** Management shall be accountable for their decisions and actions relative to their procurement responsibilities, the procurement process as well as the implementation of concluded contracts.
- (x) **Openness:** The uThukela District Municipality shall ensure a procurement process in line with the best practice procurement principles.
- (xi) **Value for money:** The uThukela District Municipality shall achieve value for money through the optimum combination of cost and quality while maximising efficiency, effectiveness and flexibility.

5.2 ETHICS AND FAIR DEALING IN SUPPLY CHAIN MANAGEMENT

All officials should ensure that they perform their duties efficiently, effectively and with integrity, in accordance with the relevant legislation and regulations.

An official involved with SCM who becomes aware of a breach of or failure to comply with any aspect of the SCM system must immediately report the breach or failure to the Internal Audit Unit, in writing.

5.3 ETHICAL STANDARDS IN THE SUPPLY CHAIN MANAGEMENT ARENA

- 5.3.1 All officials and other role players must comply with the highest ethical standards in order to promote:
 - (i) Mutual trust and respect;
 - (ii) An environment where business can be conducted with integrity and in a fair manner; and
 - (iii) Preserve integrity, impartiality and objectivity.

- 5.3.2 The officials and role players:
 - (i) Must treat all providers or potential providers equally whilst still promoting the BBBEEA and PPPFA objectives;
 - (ii) May not use their position for private gain or to improperly benefit another person; and
 - (iii) Should ensure that officials are scrupulous in their use of Municipality's funds and property.

- 5.3.3 The Accounting Officer shall take all reasonable steps to prevent abuse, corruption and collusion through at least regular internal audit reviews and external audit as well as risk assessments in the procurement environment.
- 5.3.4 All allegations of corruption, improper conduct or compliance failure shall be reported to the **Internal Audit Unit** and investigated by the AO or his/her delegate and:
- (i) Take steps against such official or other role player and inform the relevant treasury of such steps; and
 - (ii) Report any conduct that may constitute an offence to the SAPS.
- 5.3.5 The Accounting Officer shall ensure that the Municipality considers all complaints received and shall respond thereto in a timely manner. All bidders and contractors shall be made aware of the ethical standards of the institution, its expectations of them and the consequences of non-compliance.

5.4 CONFLICT OF INTEREST

All officials and other role players must recognise and disclose any interest and determine any possible conflict that may arise. Officials, to the extent required by their position, should declare any business, commercial and financial interest or activities undertaken for financial gain that may raise a possible conflict of interest.

The Accounting Officer shall determine whether the interest declared, constitutes conflict of interest where it is not clear that it presents a conflict. Officials or other role players should not place themselves under any financial or other obligation to individuals or organisations that might seek to influence them in the performance of their official duties.

5.5 EQUAL TREATMENT

Municipal officials associated with procurement, particularly those dealing directly with service providers/ suppliers or potential service providers/ suppliers, are required to:

- (i) Provide all assistance in the elimination of fraud and corruption;
- (ii) Be fair and efficient; and
- (iii) Achieve the highest professional standards in the awarding of contracts.

5.6 ACCOUNTABILITY

All officials and other role players must be accountable for their decisions and actions to the public as well as to the uThukela District Municipality. The Accounting Officer or his/ her delegate is fully responsible and should be held accountable for any expenditure relating to SCM within its line of responsibility.

5.7 OPENNESS

Officials should give reasons for their decisions and actions.

5.8 CONFIDENTIALITY

Matters of a confidential nature in the possession of officials should be kept confidential unless legislation, the performance of duty or the provisions of law requires otherwise. Any information that is the property of the uThukela District Municipality or its suppliers/ service providers should be protected at all times. No information regarding any Bid/ Quotation/ Contract/ Bidder/ Contractor may be revealed as such an action will infringe on the relevant Bidder's/ Contractor's personal rights.

5.9 INDEPENDENCE

All officials and role players may not use their position for private gain or to improperly benefit another person. If an official or other role player's immediate family member, partner or associate of such official or role player, has any private or business interest in any quotation/ bid to be submitted or to be awarded, such interest must be disclosed and recorded and the party with the interest must withdraw from participating in the evaluation process relating to the quotation/ bid if there is a conflict of interest.

5.10 GIFTS AND HOSPITALITY

All officials and other role players must:

- (i) Ensure that officials do not compromise the credibility or integrity of the uThukela District Municipality through the acceptance of gifts or hospitality or any other related act. Officials should exercise caution in the acceptance of such gifts.
- (ii) The uThukela District Municipality shall maintain a register for gifts which officials may accept and which gifts and/ or value level may not be considered at all.

5.11 FRAUD AND CORRUPTION

The Prevention and Combating of Corrupt Activities Act, Act No 12 of 2004 shall be adhered to. Fraud Prevention and Anti-Corruption Strategies should be instituted.

Contractors and service providers shall observe the highest standard of ethics during the selection and execution of the contract. Corrupt and fraudulent practices can be defined as follows:

- (i) Corrupt practice means the offering, giving, receiving, or soliciting of anything of value to influence the action of a Municipal official in the selection process or in contract execution.
- (ii) Fraudulent practice means a misrepresentation of facts in order to influence a selection process or the execution of a contract to the detriment of the Accounting Officer and includes collusive practices designed to establish prices at artificial, non-competitive levels and to deprive the Accounting Officer of the benefits of competition.
- (iii) Contractors and service providers must assist in combating corruption in procurement in line with the Prevention and Combating of Corrupt Activities Act, by not giving, receiving or soliciting any item of value to influence the action of an official dealing with procurement.
- (iv) Contractors, service providers and officials must assist in combating procurement fraud through awareness, vigilance and consistent assessment in line with the Prevention and Combating of Corrupt Activities Act.
- (v) All officials and other role players must assist the Municipality in combating corruption and fraud.

The Accounting Officer or his/ her delegate must reject a proposal for award if he/ she determine that the supplier/ service provider recommended for award, has engaged in corrupt or fraudulent activities in competing for the contract in question.

5.12 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) Exploiting errors in tenders; and
- (iii) Soliciting bids from bidders whose names appear on the list of restricted tenders/ suppliers/ persons.

5.13 FRONTING

The uThukela District Municipality should ensure that, where possible, fronting is timeously identified before the contract is awarded. The vetting of supplier information to check possibility of fronting will be done by the Municipal Internal Audit and the Supply Chain Management Demand Management Units to ensure independence.

Where, after the successful award of a contract, it becomes evident that the award made to an organisation based on incorrect information constitutes fronting, the appropriate action is to be taken in accordance with all legal remedies available.

The Municipality shall ensure that Regulation 13 of the PPPFA is adhered to in respect to equity ownership, active management and active control.

Where the Municipality becomes aware of a possible fronting case, the process in accordance with the Constitution, the Rule of Administrative Law and the Promotion of Administrative Justice Act, shall be followed as a starting point.

If a possibility of fronting is identified, the Municipality shall inform the bidder/ contractor of the alleged or suspected offence including:

- (i) If a bidder is suspected of contravening Regulation 13 of the Preferential Procurement Regulations;
- (ii) If the bidder has promised, offered or given a bribe during the bidding process and/ or after the conclusion of the contract;

- (iii) If a bidder has acted in a fraudulent manner or in bad faith or in any other improper manner during the bidding process or after conclusion of the contract;
- (iv) If the contract was entered into with the bidder on the strength of information furnished by the bidder, and it becomes apparent after conclusion of such agreement that the information provided was incorrect.

In line with the above, the bidder must be informed as follows:

- (i) The bidder should be afforded an opportunity to state their case. This is the application of the principle of natural justice, with particular reference to the audi alteram partem rule.
- (ii) The organ of state shall follow the requirements for procedural fairness as outlined in Section 3 of the Promotion of Administrative Justice Act, 3 of 2000 which makes the following provisions:
 - ✓ An administrator must give a person adequate notice of the nature and purpose of the proposed administrative action.
 1. A reasonable opportunity to make representations.
 2. A clear statement of the administrative action.
 3. Adequate notice of any right of review or internal appeal, where applicable.
 4. Adequate notice of the right to request reasons.

CHAPTER 6: PREFERENTIAL PROCUREMENT IMPLEMENTATION GUIDELINES

The uThukela District Municipality is committed to contributing to social and economic transformation in KwaZulu-Natal and will actively pursue the following targeted procurement strategy to advance government's pledge to address poverty, unemployment and job creation.

6.1 PRIORITIES

The uThukela District Municipality has committed itself to the following key priorities with respect to all procurement dealings:

- (i) Providing second economy opportunities through Black Economic Empowerment;
- (ii) Increased usage of local resources and emerging contractors;
- (iii) Promoting growth and ensuring sustainable SMME's;
- (iv) Contributing to socio-economic transformation;
- (v) Creation of opportunities for job creation and poverty alleviation;
- (vi) Commitment to skills development and transfer; and
- (vii) Fast tracking service delivery.

6.2 OBJECTIVES

- (i) The policy is simple so that it can be understood by everyone and easy to apply;
- (ii) It meets all the legal requirements including provisions of the Constitution to avoid or minimize any possible legal challenges;
- (iii) The policy is as flexible as possible to allow creativity in the implementation of targeted procurement;
- (iv) It sets targets to be achieved so that performance can be measured through reliable monitoring mechanisms; and
- (v) The policy is all encompassing in that it covers everything that is procured and/ or disposed of by the Municipality and embraces all its citizens.

6.3 INTENDED OUTCOMES

The intended outcomes of this policy are to ensure:

- (i) Preference for employment equity and economic empowerment;
- (ii) The inclusion of priority groups that have not benefited from the implementation of the current policy;
- (iii) To have a significant contribution towards job creation, poverty alleviation and economic growth; and
- (iv) To ensure that the UThukela District Municipality impacts significantly on improving the quality of life of the majority of KwaZulu-Natal citizens/beneficiaries, by optimising employment and economic empowerment in all its dealings, resulting in the annual procurement spend reflecting KwaZulu-Natal demographics.

6.4 IMPLEMENTATION GUIDELINES – PREFERENTIAL PROCUREMENT REGULATIONS

6.4.1 Purpose

This Guide is intended to assist the Accounting Officer with the implementation of the Preferential Procurement Regulations, 2011 issued in terms of section 5 of the Preferential Procurement Policy Framework Act, Act Number 5 of 2000 (PPPFA).

The Guide should be read and utilized in conjunction with other relevant SCM related prescripts, instructions, circulars and guidelines.

6.4.2 Preference Points System

- (i) The 80/20 preference point system is applicable to bids* with a Rand value equal to, or above R30 000 and up to a Rand value of R1 million (all applicable taxes included). The Municipality may apply the 80/20 preference point system to price quotations with a value less than R30 000 if and when appropriate.
- (ii) The 90/10 preference point system is applicable to bids with a Rand value above R1 million (all applicable taxes included).
- (iii) The value referred to in paragraphs (i) and (ii) distinguishing the 80/20 and 90/10 preference point systems has been increased from R500 000 to R1 million.

(iv) It must be pointed out that the prescribed threshold values within which the Accounting Officer may procure services, works or goods by means of petty cash, verbal / written price quotations or advertised competitive bids are not affected by the Preferential Procurement Regulations, 2011.

* Which is referred to as tenders in the PPPFA and the Preferential Procurement Regulations, 2011 include advertised competitive bids, written price quotations or proposals.

6.4.3 Broad-Based Black Economic Empowerment (B-BBEE) Status Level Certificates

- (i) Bidders are required to submit original and valid B-BBEE Status Level Verification Certificates or certified copies thereof together with their bids, to substantiate their B-BBEE rating claims.
- (ii) Bidders who do not submit B-BBEE Status Level Verification Certificates or are non-compliant contributors to B-BBEE do not qualify for preference points for B-BBEE but should not be disqualified from the bidding process. They will score points out of 90 or 80 for price only and zero (0) points out of 10 or 20 for B-BBEE.
- (iii) A trust, consortium or joint venture must submit a consolidated B-BBEE Status Level Verification Certificate for every separate bid.
- (iv) Public entities and tertiary institutions must also submit B-BBEE Status Level Verification Certificates together with their bids.
- (v) If the Municipality is already in possession of a valid and original or certified copy of a bidder's B-BBEE Status Level Verification Certificate that was obtained for the purpose of establishing the database of possible suppliers for price quotations or that was submitted together with another bid, it is not necessary to obtain a new B-BBEE Status Level Verification Certificate each time a bid is submitted from the specific bidder. Such a certificate may be used to substantiate B-BBEE rating claims provided that the closing date of the bid falls within the expiry date of the certificate that is in the Municipality's possession.
- (vi) Each time this provision is applied, cross-reference must be made to the B-BBEE Status Level Verification Certificate already in possession for audit purposes.
- (vii) The Accounting Officer must ensure that the B-BBEE Status Level Verification Certificates submitted are issued by the following agencies:
 - ✓ Bidders other than EMEs
 - Verification agencies accredited by SANAS; or
 - Registered auditors approved by IRBA.
 - ✓ Bidders who qualify as Exempted Micro Enterprises
 - Accounting officers as contemplated in the Close Corporations Act, Act No. 69 of 1984; or

- Verification agencies accredited by SANAS; or
- Registered auditors. (Registered auditors do not need to meet the prerequisite for IRBA's approval for the purpose of conducting verification and issuing EMEs with B-BBEE Status Level Certificates)

6.4.4 Planning, Stipulation of Preference Point System to be Utilised and the Determination of Designated Sectors

Prior to the invitation of bids, the Accounting Officer is required to:

- (i) Properly plan for the provision of services, works or goods in order to ensure that the resources that are required to fulfil the needs identified in the strategic plan of the Municipality are delivered at the correct time, price, place and that the quantity and quality will satisfy those needs.
- (ii) As far as possible, accurately estimate the costs for the provision of the required services, works or goods. This is in order to determine and stipulate the appropriate preference point system to be utilised in the evaluation and adjudication of the bids and to ensure that the prices paid for the services, works and goods are market related.
- (iii) Estimated costs can be determined by conducting an industry and commodity analysis whereby prospective suppliers may be approached to obtain indicative market related prices that may be utilised for benchmarking purposes. Based on the findings, the relevant preference point system (80/20 or 90/10) to be utilised for the evaluation of the bid must be stipulated in the bid documents.
- (iv) Determine whether the services, works and/or goods for which an invitation is to be made, has been designated for local production and content in terms of Regulation 9 of the Preferential Procurement Regulations. This will entail the inclusion of a specific condition in the bid documents that only locally produced services, works or goods or locally manufactured goods with a stipulated minimum threshold for local production and content will be considered. This will subsequently have a direct impact on the evaluation of the bid.

6.4.5 Bids Based On Functionality as a Criterion

- (i) In general, not all bids should be invited on the basis of functionality as a criterion. The need to invite bids on the basis of functionality as a criterion depends on the nature of the required commodity or service taking into account quality, reliability, viability and durability of a service and the bidder's technical capacity and ability to execute a contract.

- (ii) When the Municipality invites a bid that will also be evaluated on the basis of functionality as a criterion, the Accounting Officer of his/her delegate must clearly specify the following aspects in the bid documents:
- ✓ Evaluation criteria for measuring functionality.
 - ✓ The evaluation criteria may include criteria such as the bidder's relevant experience for the assignment, the quality of the methodology; the qualifications of key personnel; transfer of knowledge, etc.
 - ✓ Weight of each criterion.
 - ✓ The weight that is allocated to each criterion should not be generic but should be determined separately for each bid on a case by case basis.
 - ✓ Applicable value.
 - ✓ The applicable values that will be utilised when scoring each criterion should be objective. As a guide, values ranging from 1 being poor, 2 being average, 3 being good, 4 being very good and 5 being excellent, may be utilised.
 - ✓ Minimum qualifying score for functionality.
 - ✓ The minimum qualifying score that must be obtained for functionality in order for a bid to be considered further should not be generic. It should be determined separately for each bid on a case by case basis. The minimum qualifying score must not be prescribed so low that it may jeopardise the quality of the service required nor so high that it may be restrictive to the extent that it jeopardizes the fairness of the SCM system.

6.4.6 Local Production and Content

(i) *Designated Sectors*

- ✓ Bids in respect of services, works or goods that have been designated for local production and content, must contain a specific bidding condition that only locally produced goods, services or works or locally manufactured goods with a stipulated minimum threshold for local production and content will be considered.
- ✓ The Accounting Officer or His/her delegate must stipulate in bid invitations that the exchange rate to be used for the calculation of local content (local content and local production are used interchangeably) must be the exchange rate published by the SARB at 12:00 on the date, one week (7 calendar days) prior to the closing date of the bid.
- ✓ Only the South African Bureau of Standards (SABS) approved technical specification number SATS 1286:201x must be used to calculate local content.

The following formula to calculate local content must be disclosed in the bid documentation:

The local content (LC) as a percentage of the bid price must be calculated in accordance with the SABS approved technical specification number SATS 1286: 201x as follows:

$$LC = 1 - \left(\frac{x}{y}\right) \times 100$$

Where

x = imported content

y = bid price excluding value added tax (VAT)

Prices referred to in the determination of x must be converted to Rand (ZAR) by using the exchange rate published by the SARB at 12:00 on the date, one week (7 calendar days) prior to the closing date of the bid.

- ✓ For the purpose of the paragraphs above, the SBD 6.2 (Declaration Certificate for Local Content) must form part of the bid documentation.
- ✓ The Declaration Certificate for Local Content (SBD 6.2) must be completed and duly signed. The Accounting Officer or his/her delegate is required to verify the accuracy of the rates of exchange quoted by the bidder in paragraph 6.4.3 of this Certificate.

PLEASE NOTE: The implementation of local content calculations has been postponed till further notice (see circular 8 Dec 2011).

(ii) Non-Designated Sectors

- ✓ Where there is no designated sector, the Accounting Officer or his/her delegate may decide to include a specific bidding condition that only locally produced goods, services or works or locally manufactured goods with a stipulated minimum threshold for local production and content, will be considered, on condition that such prescript and threshold(s) are in accordance with the specific directives issued for this purpose by the National Treasury in consultation with the DTI.
- ✓ Accounting Officer or his/her delegate must stipulate in bid invitations that the exchange rate to be used for the calculation of local content must be the exchange rate published by the SARB at 12:00 on the date, one week (7 calendar days) prior to the date of closure of the bid.
- ✓ Only the South African Bureau of Standards approved technical specification number SATS

1286:201x as indicated above must be used to calculate local content.

- ✓ For the purpose of the paragraphs above, the SBD 6.2 (Declaration Certificate for Local Content) must form part of the bid documentation.
- ✓ The Declaration Certificate for Local Content (SBD 6.2) must be completed and duly signed. Accounting Officer or his/her delegate is required to verify the accuracy of the rate(s) of exchange quoted by the bidder in paragraph 4.1 of this Certificate.
- ✓ Any enquiries in respect of Local Production and Content may be directed to the Municipality of Trade and Industry (DTI) as follows:

Ms Basani Baloyi

Director: Industrial Development Division (IDD) Tel: (012) 394 3851

Fax: (012) 394 2851

E-mail: BBaloyi@thedti.gov.za

6.4.7 Services Rendered by Tertiary Institutions and Public Entities

- (i) Based on thorough analysis of the market, institutions may invite written price quotations for services that can only be provided by tertiary institutions from the identified tertiary institutions.
- (ii) Where the required service can be provided by tertiary institutions, public entities and enterprises from the private sector, the Municipality must invite competitive bids.

6.4.8 Discounts

- (i) When calculating comparative prices.
- (ii) Unconditional discounts must be taken into account for evaluation purposes.
- (iii) Conditional discounts must not be taken into account for evaluation purposes but should be implemented when payment is affected.

6.4.9 Sub-Contracting

- (i) A bidder must not be awarded the points claimed for B-BBEE status level of contribution if it is indicated in the bid documents that such a bidder intends subcontracting more than 25% of the contract value to any other enterprise that does not qualify for at least the same number of points that the bidder qualifies for,

unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.

- (ii) A contractor is not allowed to sub-contract more than 25% of the contract value to another enterprise that does not have equal or higher B-BBEE status level, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.
- (iii) In relation to a designated sector, a contractor must not be allowed to sub-contract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.

6.4.10 Evaluation of Bids Based on Functionality as a Criterion

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

(i) First stage - Evaluation of functionality

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

- The value awarded for each criterion should be multiplied by the weight for the relevant criterion to obtain the score for the various criteria;
- The scores for each criterion should be added to obtain the total score; and
- The following formula should be used to convert the total score to percentage for functionality:

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

Ps = percentage scored for functionality by bid under consideration

So = total score of bid under consideration

Ms = maximum possible score

- ✓ The percentage of each panel member should be added and divided by the number of panel members to establish the average percentage obtained by each bidder for functionality.

(ii) Second stage - Evaluation in terms of the 80/20 or 90/10 preference point systems:

- ✓ Only bids that achieve the minimum qualifying score / percentage for functionality must be evaluated further in accordance with the 80/20 or 90/10 preference point systems prescribed in Preferential Procurement Regulations 5 and 6.

6.4.11 Evaluation of Bids Based On A Stipulated Minimum Threshold For Local Production And Content

Bids that were invited on the basis of local production and content should be evaluated by following a two stage bidding process:

(i) First stage - Evaluation in terms of the stipulated minimum threshold for local production and content:

- ✓ Bids must be evaluated in terms of the evaluation criteria stipulated in the bid documents. The amendment of the stipulated minimum threshold for local production and content after the closure of bids is not allowed as this may jeopardise the fairness of the process.
- ✓ A bid will be disqualified if:
 - The bidder fails to achieve the stipulated minimum threshold for local production and content; and the Declaration Certificate for Local Content (SBD 6.2) is not submitted as part of the bid documentation.
- ✓ Calculation of Local Content
 - The local content (LC) as a percentage of the bid price must be calculated in accordance with

the SABS approved technical specification number SATS 1286: 201x as indicated in the paragraph above.

- The accuracy of the rates of exchange quoted by the bidder in paragraph the Declaration Certificate for Local Content (SBD 6.2) must be verified.

(ii) *Second stage - Evaluation in terms of the 80/20 or 90/10 preference point systems:*

- ✓ Only bids that achieve the minimum stipulated threshold for local production and content must be evaluated further in accordance with the 80/20 or 90/10 preference point systems prescribed in Preferential Procurement Regulations 5 and 6.
- ✓ Where appropriate, prices may be negotiated only with short listed or preferred bidders. Such negotiations must not prejudice any other bidders.

6.4.12 The Preference Point System

(i) *Step 1: Calculation of points for price*

- ✓ The PPPFA prescribes that the lowest acceptable bid will score 80 or 90 points for price. Bidders that quoted higher prices will score lower points for price on a pro-rata basis.
- ✓ The formulae to be utilised in calculating points scored for price are as follows:
 - 80/20 Preference point system [(for acquisition of services, works or goods up to a Rand value of R1million) (all applicable taxes included)];

$$P_s = 80 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

Where

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

P_t = Comparative price of bid or offer under consideration.

P_{\min} = Comparative price of lowest acceptable bid or offer.

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

$$P_s = 90 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

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.

- ✓ Points scored must be rounded off to the nearest 2 decimal places.

(ii) Step 2: Calculation of points for B-BBEE status level of contributor

- ✓ Points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

B-BBEE Status Level of Contributor	Number of Points (90/10 System)	Number of Points (80/20 System)
1	10	20
2	9	18
3	8	16
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non - Contributor	0	0

Figure 2: B-BBEE Status Level of Contributor

- ✓ A bid must not be disqualified from the bidding process if the bidder does not submit a certificate substantiating the B-BBEE status level of contribution or is a non-compliant contributor. Such a bidder will score zero (0) out of a maximum of 10 or 20 points respectively for B-BBEE.

(iii) Calculation of total points scored for price and B-BBEE status level of contribution

- ✓ The points scored for price must be added to the points scored for B-BBEE status level of contribution to obtain the bidder's total points scored out of 100.

6.4.13 Evaluation of Bids that Scored Equal Points

- (i) In the event that two or more bids have scored equal total points, the successful bid must be the one that scored the highest points for B-BBEE.
- (ii) If two or more bids have equal points, including equal preference points for B-BBEE, the successful bid must be the one scoring the highest score for functionality, if functionality is part of the evaluation process.
- (iii) In the event that two or more bids are equal in all respects, the award must be decided by the drawing of lots.

6.4.14 Cancellation and Re-Invitation of Bids

- (i) In the application of the 80/20 preference point system, if all bids received exceed R1 000 000, the bid must be cancelled. If one or more of the acceptable bid(s) received are within the R1 000 000 threshold, all bids received must be evaluated on the 80/20 preference point system.
- (ii) In the application of the 90/10 preference point system, if all bids received are equal to or below R1 000 000, the bid must be cancelled. If one or more of the acceptable bid(s) received are above the R1 000 000 threshold, all bids received must be evaluated on the 90/10 preference point system.
- (iii) If a bid was cancelled in terms of the above paragraphs, the correct preference point system must be stipulated in the bid documents of the re-invited bid.
- (iv) The Accounting Officer of his/her delegate may, prior to the award of a bid, cancel the bid if:
 - ✓ Due to changed circumstances, there is no longer a need for the services, works or goods requested. [Accounting Officer must ensure that only goods, services or works that are required to fulfil the needs of the Municipality are procured]; or
 - ✓ Funds are no longer available to cover the total envisaged expenditure. [Accounting Officer must ensure that the budgetary provisions exist]; or
 - ✓ No acceptable bids are received. [If all bids received are rejected, the Municipality must review the reasons justifying the rejection and consider making revisions to the specific conditions of contract, design and specifications, scope of the contract, or a combination of these, before inviting new bids].

6.4.15 Award of Contracts

- (i) A contract must be awarded to the bidder who scored the highest total number of points in terms of the preference point system.
- (ii) In exceptional circumstances a contract may, on reasonable and justifiable grounds, be awarded to a bidder that did not score the highest number of points. The reasons for such a decision must be approved and recorded for audit purposes and must be defensible in a court of law.

6.4.16 Remedies

- (i) The Accounting Officer must act against the bidder or person awarded the contract upon detecting that the B-BBEE status level of contribution has been claimed or obtained on a fraudulent basis or any of the contract conditions have not been fulfilled.
- (ii) The Municipality may, in addition to any other remedy that it may have against the bidder or person:
 - ✓ Disqualify the bidder or person from the bidding process;
 - ✓ Recover all costs, losses or damages it has incurred or suffered as a result of that person's conduct;
 - ✓ Cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
 - ✓ Restrict the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, from obtaining business from any organ of state for a period not exceeding 10 years, after applying the audi alteram partem (hear the other side) rule; and
 - ✓ Forward the matter for criminal prosecution.
- (iii) The Municipality must involve their legal services when any of the remedies are applied.
- (iv) The details of any restrictions imposed on bidders, persons or contractors must be forwarded to the National Treasury for inclusion on the central Database of Restricted Suppliers.

6.4.17 Tax Clearance

No bid may be awarded to any bidder whose tax matters have not been declared by the SARS to be in order.

6.4.18 Bidding Documents

- (i) The following bidding documents, which have been amended, where necessary, in accordance with the prescripts of the Preferential Procurement Regulations, 2011, and MFMA Circular No.25 must be used:

MBD Description	Document Number
✓ Invitation to Bid	MBD 1
✓ Application for Tax Clearance Certificate	MBD 2
✓ Pricing Schedules	MBD 3.1 to 3.3
✓ Declaration of Interest	MBD 4
✓ National Industrial Participation Programme	MBD 5
✓ Preference claims in terms of the Preferential Procurement Regulations, 2011	MBD 6.1 to 6.12
✓ Formal contract	MBD 7.1 to 7.3

- (ii) The Municipality must customize and utilize the bidding documents by incorporating the Municipality's name, logo and contact details.
- (iii) Other changes to the MBDs, such as variations necessary to address specific contract and project issues, should be kept to a minimum. The standard wording for the Application for Tax Clearance Certificates (MBD 2) and the National Industrial Participation Programme (MBD 5) should not be amended. The formal contract document (MBD 7.1 to 7.3) should not form part of the bidding documents issued to every prospective bidder, but should be made applicable only to the successful bidder after adjudication and award of the bid.
- (iv) The relevant MBDs must be utilized for procurement by means of written price quotations, advertised competitive bids or proposals.

6.4.19 Sale and Letting of Assets

- (i) The preference point system prescribed in the PPPFA and the Preferential Procurement Regulations, 2011 are not applicable to the sale and letting of assets.
- ✓ In instances where assets are sold or leased by means of advertised competitive bids or written price quotations or by auctions the award must be made to the highest bidder.
 - ✓ The tax clearance requirement applies to the sale and letting of assets as well.

6.4.20 SMME Status Table

Industrial Category	Sector	Size of Class	Total Full-Time Employees	Total Turnover	Total Gross Asset Value (Fixed Property excl.)
Agriculture		✓ Medium	✓ 100	✓ R5m	✓ R5m
		✓ Small	✓ 50	✓ R3m	✓ R3m
		✓ Very small	✓ 10	✓ R0, 50m	✓ R0, 50m
		✓ Micro	✓ 5	✓ R0, 20m	✓ R0, 10m
Mining and Quarrying		✓ Medium	✓ 200	✓ R39m	✓ R5m
		✓ Small	✓ 50	✓ R10m	✓ R3m
		✓ Very small	✓ 20	✓ R4m	✓ R0, 50m
		✓ Micro	✓ 5	✓ R0, 20m	✓ R0, 10m
Manufacturing		✓ Medium	✓ 200	✓ R51m	✓ R5m
		✓ Small	✓ 50	✓ R13m	✓ R3m
		✓ Very small	✓ 10	✓ R5m	✓ R0, 50m
		✓ Micro	✓ 5	✓ R0, 20m	✓ R0, 10m
Electricity, Gas & Water		✓ Medium	✓ 200	✓ R51m	✓ R5m
		✓ Small	✓ 50	✓ R13m	✓ R3m
		✓ Very small	✓ 20	✓ R5m	✓ R0, 50m
		✓ Micro	✓ 5	✓ R0, 20m	✓ R0, 10m
Construction		✓ Medium	✓ 200	✓ R26m	✓ R5m
		✓ Small	✓ 50	✓ R6m	✓ R3m
		✓ Very small	✓ 20	✓ R3m	✓ R0, 50m
		✓ Micro	✓ 5	✓ R0, 20m	✓ R0, 10m
Retail, Motor Trade and Repair Services		✓ Medium	✓ 200	✓ R39m	✓ R5m
		✓ Small	✓ 50	✓ R19m	✓ R3m
		✓ Very small	✓ 20	✓ R4m	✓ R0, 50m
		✓ Micro	✓ 5	✓ R0, 20m	✓ R0, 10m
Wholesale Trade, Commercial Agents & Allied Services		✓ Medium	✓ 200	✓ R64m	✓ R5m
		✓ Small	✓ 50	✓ R32m	✓ R3m
		✓ Very small	✓ 20	✓ R6m	✓ R0, 50m
		✓ Micro	✓ 5	✓ R0, 20m	✓ R0, 10m
Catering, Accommodation and other Trade		✓ Medium	✓ 200	✓ R13m	✓ R5m
		✓ Small	✓ 50	✓ R6m	✓ R3m
		✓ Very small	✓ 20	✓ R5, 10m	✓ R0, 50m
		✓ Micro	✓ 5	✓ R0, 20m	✓ R0, 10m
Transport, Storage & Communication		✓ Medium	✓ 200	✓ R26m	✓ R5m
		✓ Small	✓ 50	✓ R13m	✓ R3m

Industrial Category	Sector	Size of Class	Total Full-Time Employees	Total Turnover	Total Gross Asset Value (Fixed Property excl.)
		✓ Very small	✓ 20	✓ R3m	✓ R0, 50m
		✓ Micro	✓ 5	✓ R0, 20m	✓ R0, 10m
Finance and Business Services		✓ Medium	✓ 200	✓ R26m	✓ R5m
		✓ Small	✓ 50	✓ R13m	✓ R3m
		✓ Very small	✓ 20	✓ R3m	✓ R0, 50m
		✓ Micro	✓ 5	✓ R0, 20m	✓ R0, 10m
Community, Social and Personal Services		✓ Medium	✓ 200	✓ R13m	✓ R5m
		✓ Small	✓ 50	✓ R6m	✓ R3m
		✓ Very small	✓ 20	✓ R1m	✓ R0, 50m
		✓ Micro	✓ 5	✓ R0, 20m	✓ R0, 10m

Table 2: SMME Status Table

6.4.21 Payment to SMME`s (Early Payment Cycles)

SMME`s within the Very small and Micro categories will be paid within 30 days of receipt of approved invoice. All other payments are to be within 30 days from date of delivery or in the case of work completed, the date on which the invoice has been approved.