

UTHUKELA DISTRICT MUNICIPALITY CONTRACT MANAGEMENT POLICY



This document must be read together with the relevant Supply Chain Management Regulations, Contract Management Framework, Practice Notes, Instruction Notes and Circulars issued in terms of the Municipal Finance Management Act, Act 56 of 2003.

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1. DEFINITIONS AND ABBREVIATIONS

In this Policy, unless the context indicated otherwise:

Accounting Officer	Municipal official referred to in section 60 of the MFMA (2003) and include a person acting as the accounting officer.
Act or MFMA	Local government: Municipal Finance Management Act, 2003 (Act no. 56 of 2003).
AO/AA	Accounting Officer/ Accounting Authority
B-BBEE	Broad-Based Black Economic Empowerment
B-BBEEA	Broad-Based Black Economic Empowerment Act, Act No 53 of 2003
BEE	Black Economic Empowerment
BVA	BEE Verification Agency
CCA	Close Corporation Act
Circular 62	Communication from National Treasury by means of a circular to enhance compliance and accountability to SCM regulations and the MFMA of 2003.
Construction Industry Development Board (CIDB)	A national body establishment by an Act of Parliament (Act 38 of 2000) to oversee the sustainability and growth of construction enterprises across the country.
Bid	A written offer or stipulated form, in response to an invitation by an uThukela District Municipality for the provision of services or goods, > R500 000 for Departments in value.
Cession	Means when a contract/agreement is relinquished to another individual/uThukela District Municipality.
Closeout	Means when a contract is considered complete and the service provider has complied with all terms and conditions of the contract, and the uThukela District Municipality has inspected and accepted the goods/services or works.
Consortium	A consortium is an association of two or more individuals/companies with the objective of participating in a common activity or joining their resources to achieve a common goal.
Contract Amendment	Means changing the scope, nature, duration, purpose or objective of the agreement or contract.
Contract Life Cycle	The stages of a contract encompassing planning, creation, collaboration, execution, administration, and closeout or renew.
Contract	Agreement (explicit or implied) legally binding two or more parties to the terms of the agreement.
Contract Management	Means the holistic term for all activities in the contract lifecycle that is undertaken by all role players involved in a contract and include the, Contract Manager, Contract Owner, contract champion and supplier.
Contract Manager	Means the official responsible for overall contract management in an uThukela District Municipality.

Contract Administrator	Means the official that is responsible for the continuous updating of the contract register and management and control of all documentation relating to the contract.
Contract Owner	Means the official that is ultimately accountable for the deliverables during the contract lifecycle relevant to the service delivery target that the contract seeks to achieve.
Contract Price	The all-inclusive price of the contract over the complete duration of the contract and includes price escalations, cost of contract variations, disbursements, VAT, etc.
Service provider	The contracting party that represents a Supplier, Service Provider or Vendor.
Deliverable	Any measurable, tangible, verifiable outcome, result or item that must be produced, delivered, or constructed to meet the strategic objectives and service delivery targets of an uThukela District Municipality.
Extension	Means when an uThukela District Municipality decides to increase the term of a contract/agreement mutually agreed upon in writing, but for no longer than six months in terms of Treasury Regulations.
Finance Lease	A lease that transfers substantially the risks and rewards of ownership of an asset. A lease that transfers substantially the risks and rewards of ownership of an asset.
Firm Price	The price that appears on the Purchase Order and is not affected by price fluctuations due to specific industry price escalations for the duration of the contract.
Goods	Tangible movable products that are purchased from a Supplier and consumed by the uThukela District Municipality, excluding purchases of capital assets.
Joint Venture	Means a business arrangement in which two or more parties agree to join their resources for the purpose of completing a project.
Operating Lease	A lease other than a finance lease and is regarded as a current payment.
Project	The project named in the contract on the cover page.
Purchaser	The acquiring public sector entity or uThukela District Municipality.
Renewal	Means to allow a contract/agreement to continue for a defined period if the existing contract/agreement provides for a renewal period after the termination date.
Service Provider/ Supplier/ Vendor	The contracting party named in the contract that is required to provide goods, services and or works to the uThukela District Municipality.
Services	The tasks to be performed by the Service Provider pursuant to the contract as described in the Terms of Reference advertised in the Invitation to Bid.
Contract Price	The all-inclusive price of the contract over the complete duration of the contract and includes price escalations, cost of contract variations, disbursements, VAT, etc.
Service provider	The contracting party that represents a Supplier, Service Provider or Vendor. The contracting party named in the contract that is required to provide goods, services and or works to the uThukela District Municipality.
uThukela District Municipality	Department or Public Entity.

Contract Life Cycle	The stages of a contract encompassing planning, creation, collaboration, execution, administration, and close-up.
Contract Owner	The official that is ultimately accountable for all activities during the life cycle of the contract, relevant to his/her directorate.
EME	Exempted Micro Enterprises
Enterprise Contract Management	A strategic model providing a holistic view over, and an uThukela District Municipality culture for the activities necessary to manage all contracts in the uThukela District Municipality throughout all stages in the Contract Life Cycle.
Force Majeure	The expression used to denote irresistible superior force which might cause damage or prevent the execution of an obligation; therefore, suppliers is not liable for damage caused by force majeure or for failure to carry out a contract if prevented (terms and conditions in this regard will be determined by every individual contact/s).
Allocation of Panels	Means a bid for the supply of goods, services or construction works, which are of an ad-hoc or repetitive nature on an “as instructed basis” where the terms are approved for use over a predetermined period of time without guaranteeing any quantum of expenditure utilizing the contract
GCC	General Conditions of Contract
MFMA	Municipal Finance Management Act, Act No 56 of 2003
MSA	Municipal System Act, 2000 (Act No 32 of 2000)
NT	National treasury established by Section 05 of the Public Finance Management Act
PFMA	Public Finance Management Act, Act No 01 of 1999 as amended by Act 29 of 1999
PPPFA	Preferential Procurement Policy Framework Act
QSE	Qualifying Small Enterprises
SANAS	South African National Accreditation System
SASAE	South African Standard on Assurance Engagements
SCC	Special Conditions of Contract
SDA	Service Delivery Agreement
SLA	Service Level Agreement
Supplier	The individual or organization providing goods or services to the government uThukela District Municipality (opposite of buyer).
Supply Chain Management (SCM)	Encompasses management of demand, acquisition, logistics, disposal, and supply chain performance.
Supply Chain Management Framework	Legislation, regulations, treasury instructions and guiding materials issued by government pertaining to SCM.
Supply Chain Management Unit	In any government uThukela District Municipality referred to in Treasury Regulation 16A4.1
ToR	Terms of Reference
Treasury Regulation/s	Regulations to the Public Finance Management Act.

Table 1: Definitions

2. GLOSSARY

AA	Accounting Authority
AO	Accounting Officer
ASB	Accounting Standards Board
CLMS	Contract Life-Cycle Management System
CMD	Contract Management Database
ECM	Electronic Content Management
GCC	General Conditions of Contract
MOA	Memorandum of Agreement
MTEF	Medium-Term Expenditure Framework
NT	National Treasury
PFMA	Public Finance Management Act, Act No. 1 of 1999
PPP	Public Private Partnership
SBD	Standard Bidding Documents
SCC	Special Conditions of Contract
SCM	Supply Chain Management
SLA	Service Level Agreement
TR	Treasury Regulations

Table 2: Glossary

3. PRE-AMBLE

3.1 Policy Statement

To establish sound and consistent contract management practices with respect to contract management activities within the Council.

uThukela District Municipality contracting must be conducted in a manner that will:

- a) Stand the test of public scrutiny in matters of discretion and integrity, encourage competition, and reflect fairness in the spending of public funds.
- b) Ensure the supremacy of functioning requirements; and
- c) Comply with the Government's obligations under the related legislative and policy prescripts.

3.2 Purpose of the Policy

The purpose of the uThukela District Municipal Contract Management policy is to establish sound and consistent management practices with respect to municipal contracts. It describes the processes and assigns responsibilities to effectively administer contracts from:

- ✓ Preparation of contracts.
- ✓ Maintenance of contract register.
- ✓ Monitoring payments.
- ✓ Control contract variation and price adjustments.
- ✓ Assess and monitors performance of the contractor.
- ✓ Manage the close-out of contracts.

The objective of uThukela District procurement contracting is to acquire goods, services and/ or works and to carry out contracts in a manner that enhances access, competition and fairness and results in best value or, if appropriate, the optimal balance of overall benefits to the uThukela District Municipality and the people of uThukela District at large.

Contracts need to be properly managed to ensure that services are delivered within specifications and at the agreed cost. Improperly managed contracts may impact negatively on the performance of the municipality, both financially and delivery of services.

All contracts must be managed throughout the contract Life Cycle, based on the level of management control appropriate for the classification of that contract.

Improperly managed contracts may impact negatively on service delivery. Adverse effects of poor contract management included but not limited to:

- a. Goods and services outside of specification.
- b. Cost overruns.
- c. Poor supplier, buyer, or other stakeholder relations.
- d. Negative public perception; and Potentially complete service delivery failure.

Hence, good contract management by all stakeholders involved is essential for good financial management and will contribute greatly to the effectiveness and efficiency of service delivery. In effect, it would give strategic direction to all directorates following a centralized strategy of contract management. **This policy must be read in coincidence with the SCM Policy of the uThukela District.**

Good contract management:

- * Optimizes delivery of large capital projects,
- * Specifies management techniques and processes for all types of contracts,
- * Encourages achievement of value for money and continuous improvement,
- * Identifies savings and additional revenue opportunities,
- * Enhances risk management,
- * Provides clear and complete records for audit, and
- * Encourages communication between all parties to contracts.

Failure to implement adequate management could result in:

- * Paying for goods and services which do not meet the standards set out in the contract,
- * Significantly higher costs,
- * Customer and supplier dissatisfaction,
- * Erroneous payments,
- * Negative public perception,
- * Protracted legal disputes,
- * Poor service delivery.

Key requirements

A contract management plan must address the following:

- * Monitoring compliance with contract conditions,
- * Identification of milestones and key deliverables\ outcomes,
- * Roles and responsibilities of participants,
- * Effective financial management and monitoring,
- * Monitoring of risks,
- * Project performance reporting requirement.

3.3 Scope and Application

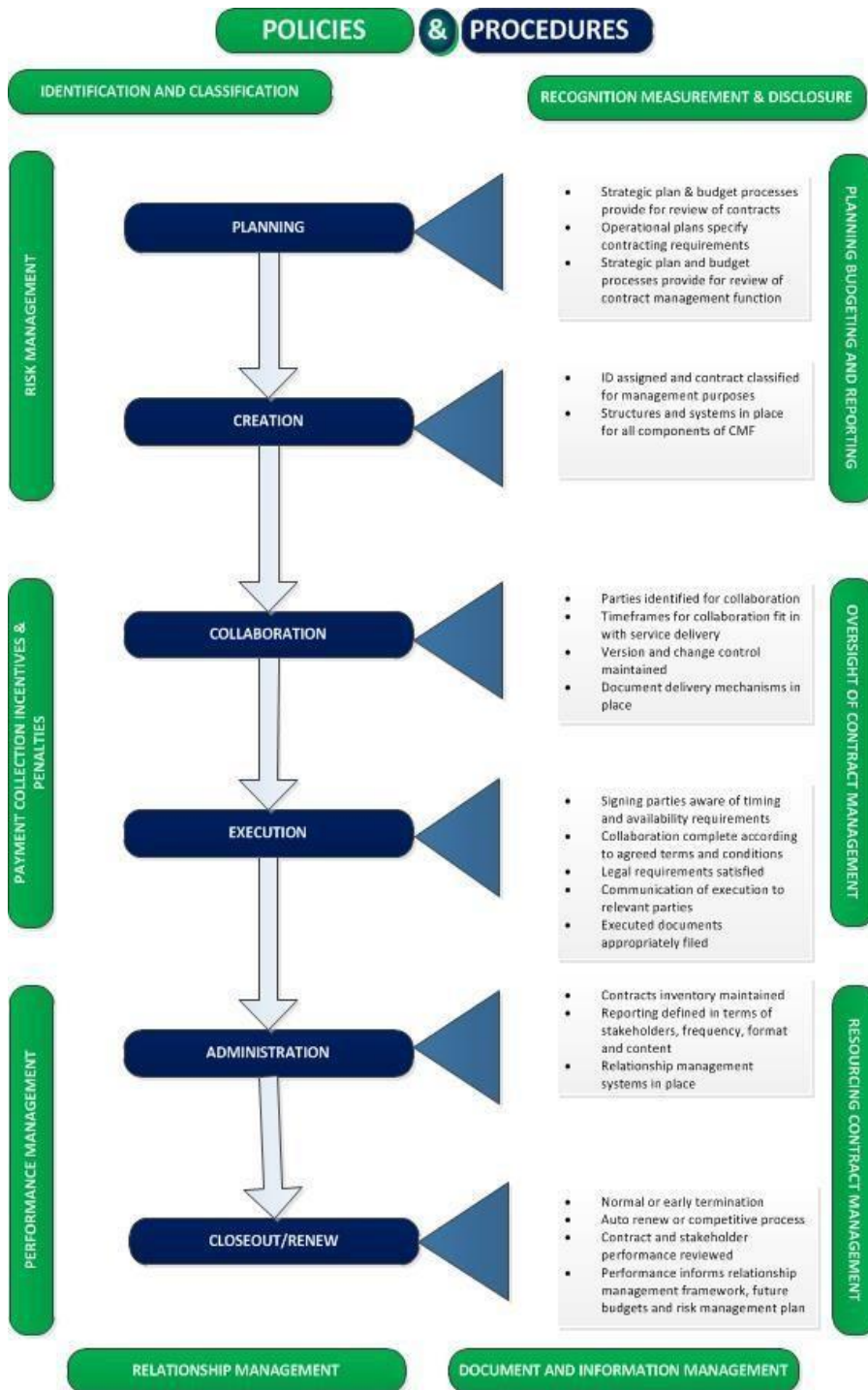
All contracts and other documents which create legally binding obligations of the uThukela District Municipality, but not limited to, supply chain and procurement contracts. This Policy will apply to a contract until contractual obligations have been concluded.

This Policy Framework is applicable to KwaZulu-Natal Provincial Government Departments and Public Entities, for contracts that are valued greater than R200 000.

3.4. Exclusions

- 3.4.1 Employment Contracts
- 3.4.2 non-binding memoranda of understanding

This framework addresses the contract management lifecycle using the policies in the following diagram:



4. TERMS AND DEFINITIONS

<i>Accounting Officer</i>	the Accounting Officer or in the other cases of public entities the Accounting Authority as defined in the PFMA.
<i>Contract</i>	Agreement (explicit or implied) legally binding two or more parties to the terms of the agreement.
<i>Contract Life Cycle</i>	The stages of a contract encompassing: planning, creation, collaborations, execution, administration, and closeout.
<i>Contract Management (CM)</i>	The activities necessary to manage a contract throughout all stages in the Contract Life Cycle.
<i>Enterprise CM (ECM)</i>	A strategic model providing a holistic view over, and an uThukela District Municipality culture for, the activities necessary to manage all contracts in the uThukela District Municipality throughout all stages in the Contract Life Cycle.
<i>Contract Manager</i>	The person within the uThukela District Municipality responsible for monitoring the contract trigger points, and delivery under the contract's terms and conditions.
<i>Contract Owner</i>	The person within the uThukela District Municipality benefits from the contract. From goods or services being procured or sold, or from other relationships established by the contract.
<i>Government uThukela District Municipality/s</i>	National and provincial departments, constitutional uThukela District Municipality's, and public entities (municipalities and municipal entities are excluded for the purposes of the CMF).
<i>GRAP</i>	Generally Recognized Accounting Practice.
<i>SCM</i>	Supply Chain Management encompasses management of: demand, acquisition, logistics, disposal, and supply chain performance.
<i>SCM Framework</i>	Legislation, regulations, treasury instructions, and guiding material issued by the government pertaining to SCM.
<i>SCM Unit</i>	Supply Chain Management Units in any government uThukela District Municipality referred to in Treasury Regulation 16A4.1.
<i>Treasury Regulation/s</i>	Regulations to the Public Finance Management Act.

5. OBJECTIVES:

- a. To give effect to Section 217 of the Constitution of South Africa (1996) that stipulate:
 - i. When an organ of state in the national, provincial, or local sphere of government, or any other uThukela District Municipality identified in national legislation, contracts for goods or services, it must do so in accordance with a system which is: **Equitable, Transparent, Competitive Cost-effective and Fair.**
- b. The effective and efficient control procured through the SCM system ensures:
 - i. Proper recording and enforcement of contracts throughout the contract life cycle (specifications to contract reviews),
 - ii. Support to the demand management framework as set out in circular 62 of National Treasury (August 2012), optimizing proper planning, resulting in effective service delivery,
 - iii. Management of Contract Performance.
 - iv. Compliance with the regulatory framework,
 - v. To assist officials in understanding their legal and managerial responsibilities with regard to contract management,
 - vi. The optimization of the efficient and sustainable financial well-being of the municipality, resulting in lower cost drivers, and
 - vii. The continuous development of effective Management Information Systems, resulting in strategic support and risk prevention.
 - viii. To ensure that no contract procurement takes place outside of the SCM System.

6. LEGISLATIVE FRAMEWORK

THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1996 (Act 108 of 1996)

Municipal Finance Management Act (MFMA) (No. 56 of 2003)

Preferential Procurement Policy Framework Act (No. 5 of 2000) and its Regulations

Broad Based Black Economic Empowerment Act (BBBEE) (No. 53 of 2003)

Municipal Supply Chain Management Regulations and SCM Policy (May 2005)

7. STATUTORY AND REGULATORY FRAMEWORK FOR MANAGING CONTRACTS

7.1 Application and Framework of the Contract Management Policy

7.1.1 All officials and other role players in the uThukela District Municipality must implement this Policy in a way that gives effect to:

- 7.1.1.1 Section 217 of the Constitution
- 7.1.1.2 Section 116 and 33 of the MFMA
- 7.1.1.3 SCM Policy
- 7.1.1.4 Promotion of Access to Information Act 2 of 2000
- 7.1.1.5 Construction Industry Development Board Act 38 of 2000
- 7.1.1.6 Provincial Treasury Practice Notes and Circulars.
- 7.1.1.7 Any other regulations pertaining to Supply Chain Management

7.1.2 This Policy applies when the Municipality:

- 7.1.2.1 Procures goods or service
- 7.1.2.2 Disposes of goods no longer needed and
- 7.1.2.3 Selects service providers and suppliers to provide assistance in the provision of municipal services including circumstances where Chapter 8 of the Municipal System Act applies

7.2 Adoption, Amendment, and Implementation of the Contract Management Policy

7.2.1 The accounting officer must:

- 7.2.1.1 At least annually review the implementation of this Policy
- 7.2.1.2 When the accounting officer consider it necessary, submit proposals for the amendment of the Policy to the Council
- 7.2.1.3 In terms of Section 62(1) (f) (IV) of the Act, take all reasonable steps to ensure that the Contract Management Policy is implemented

7.3 Conditions of Contract

7.3.1 A contract or agreement procured through the Supply Chain Management System of the uThukela District Municipality must:

- 7.3.1.1 Be in writing
- 7.3.1.2 Stipulate the terms and conditions of the contract or agreement which must provide for:
 - 7.3.1.2.1 The termination of the contract or agreement in case of non or underperformance
 - 7.3.1.2.2 Dispute resolution mechanisms to settle disputes between the parties

- 7.3.1.2.3 A periodic review of the contract or agreement once every three years in case of a contract or agreement for longer than three years and
- 7.3.1.2.4 Any other matters that may be prescribed

7.4 Administrative Capacity

- 7.4.1 The relative Director with delegated powers from the Municipal Manager as a contract owner must establish capacity in the administration of the municipality to assist the accounting officer in carrying out the duties set out in Section 116(2) of the MFMA.

7.5 Management of Contracts

- 7.5.1 The accounting officer and delegated officials must take all reasonable steps to:
 - 7.5.1.1 Ensure that a contract or agreement procured through the supply chain management policy of the municipality is properly enforced
 - 7.5.1.2 Monitor on a monthly basis the performance of the contract under the contract or agreement
 - 7.5.1.3 Administrate the contract with the necessary competencies and delegations, ensuring effective management of contracts
 - 7.5.1.4 The Contract Owner ensures that contract champions submit suppliers' performance reports to the contract manager within 05 business days after the end of each month.
 - 7.5.1.5 The Contract Owner submits a consolidated report for their Directorate to the Contract Manager within 10 business days after the end of each quarter.
 - 7.5.1.6 The Contract Manager submits a consolidated report on the performance of contracts or agreements to the Accounting Officer within 15 business days of the end of each quarter.

7.6 Amendment of Contracts

- 7.6.1 A contract or agreement procured through the supply chain management policy of the municipality may be amended by the parties, in exceptional circumstances in order to mitigate abuse, in perception after the fact to prevent financial inefficiencies and influencing financial sustainability.
- 7.6.2 In terms of Section 116(3) of the MFMA, (56 OF 2003) amendments (in compliance with SCM procedures) may only be made after:
 - 7.6.2.1 The reason for the proposed amendment have been tabled in the Bid Adjudication Committee and the council,
 - 7.6.2.2 The local community has been given 14 (fourteen) calender days notice of the intention to amend the contract or agreement in

Construction works once the contract variation value has exceeded 20%; and the local community has been invited to submit presentations as per 7.6.2.2

- 7.6.3 Amendments of contracts where the expansion or variation is not more than (NT Circular62):
- 7.6.3.1 **20%** (construction-related goods, service, and /or infrastructure projects), contracts may be expanded or varied by not more than 20% (including all applicable taxes) for construction related goods, work and or /services
 - 7.6.3.2 **15%** (all other goods and /or services) of the original value of the contract must 15% (including all applicable taxes) for all other goods and /or services of the original value of the contract be submitted directly to the Contract Management Office for approval and further reference to the SCM Bid Committee for approval in terms of the relevant delegations.
- 7.6.4 Amendments of contracts where the expansion or variation is more than the threshold prescribed by National Treasury (Circular 62), must be dealt with in terms of the provisions of Section 116 (3) of the MFMA and are exempt from this process.
- 7.6.5 Amendments to the contract, without influencing the value or term of the contract, within the scope of the original terms and conditions, may be altered, provided that both parties have consensus on the amendment and the contract amendment is in writing and signed by both parties.
- 7.6.6 When an amendment has a budgetary implication for a term longer than 03 (three) years, Section 33 of the MFMA will apply to this amendment. Section 116 (3) of the MFMA will be followed with section 33, when amending an existing contract for longer than three (3) years
- 7.6.7 No agreement to amend or vary a contract shall be valid and of any force unless such agreement to amend or vary is entered into in writing and signed by the contracting parties.
- 7.6.8 Amendment of contract duration/extension of contracts must be accompanied by the drafting and approval of a letter which must be sent to the service provider/contractor, and a copy must be kept for Contract Management records.
- 7.6.9 No contract can be amended after the original contract has ceased to exist

Contract Management Practices

8. ADMINISTRATION AND MAINTENANCE

Contract administration ensures the formal governance of the actual contract and changes to the contract documentation. The administrative function is then concerned with the mechanics of the relationship between the Council and the Supplier/Service Provider.

8.1 Contract administration includes all administrative duties associated with a contract once it is adjudicated and implemented. Maintaining an updated contract file, including: a hard, signed copy of the contract that is easily accessible when required and all on-going correspondence and contract information.

8.2 Contractors/service provider will have no claim on the pre-awarded contract before the SCM appeal period and/or appeal has been finalised.

8.3 The contract must be signed by all parties concerned (The relevant official should also ensure that the suppliers have the delegated powers to sign and amend the contractual agreement).

8.4 The contract will only be enforceable after all the signatures of the relevant parties are documented and safe custody of all contract documentation ensured by the relevant stakeholders i.e. Contracts Management Section.

8.5 A signed Service Level Agreement, vetted by Legal services (where and if applicable) must be compiled and signed by the Accounting Officer and will incorporate all the relevant sections of the tender documentation.

8.6 All once-off purchases shall have a specified end delivery date,

8.7 The Contracts Manager must ensure there is regular reporting of contract information, including payments, compliance levels, performance metrics and variations

8.8 An inventory of all contracts must be maintained on a contract register. It is important for the contract register to be updated and maintained daily for all formal and informal contracts. The contract register serves as an early warning signal to identify potential over or under spending, pending closeout contracts or potential renewal contracts.

9. CONTRACT MANAGEMENT ROLES AND RESPONSIBILITIES OF OFFICIALS:

In a contract management system, resource capacity is important to manage the actual contract in particular, high value infrastructure related contracts with a greater operational risk that may require considerable resources. The municipality will ensure that the right municipal personnel are assigned to carry out the contract management activities in crucial projects. The contract management team together with the Contract Manager must:

9.1 Have a detailed knowledge of the specification, governing contract and other relevant issues such as SLAs and KPIs.

9.2 Actively participate in the bidding process or have a full handover from the staff responsible for the tendering/contract award.

9.3 Have the appropriate contract management skills, commercial awareness and industry expertise to manage the contract and resolve any issues.

9.4 Hold the necessary delegated authority to monitor the financials and ensure variations are appropriately approved by Procurement and in accordance with Council requirements as per the relevant Circular.

9. Contract Manager:

9.1.1 The Contract Manager is the SCM official responsible for system administration, status and SCM performance reporting on all contracts related activities.

9.1.2 For the purposes of **contract management** activities performed by the relevant role players, the SCM Contract manager will monitor and report on the following activities:

9.1.2.1 Identification and classification of contracts for management purposes in terms of the SCM processes.

9.1.2.2 Recognition, measurement and disclosure.

9.1.2.3 Oversight of contract management as is provided for in this policy.

9.1.2.4 Document and information management.

9.1.2.5 Relationship management: -

9.1.2.6 Performance management.

9.1.2.7 Contract risk management.

9.1.2.8 Establish procedures and guidelines for managing all contracts

9.1.2.9 Verify payments consistent with the correct with the contract terms and conditions of payment.

9.1.2.10 Contract Champions and Contract Owners are responsible for the electronic capturing of the contract information and maintenance thereof on the Contract Management system.

9.1.2.11 Attend monthly meetings with contractors/ service providers

9.2 Contract Champion

9.2.1 The contract champion is responsible for the following activities:

9.2.1.1 ensuring that all the necessary legal formalities in entering into the contract are adhered to;

9.2.1.2 ensuring that purchase orders are processed on the financial system in accordance with the pricing schedule.

9.2.1.3 maintaining adequate records (paper and/or electronic) in sufficient detail on an appropriate contract file to provide an audit trail.

9.2.1.4 to take appropriate action in consultation with the contract owner and the SCM contract manager, where a contractor is underperforming or is in default or breach of the contract.

9.2.1.5 ensure performance of suppliers is managed appropriately to the terms and conditions of the contract.

9.2.1.6 Authorise payments due in terms of the contract by processing invoices/ goods received notes

9.2.1.7 Submit monthly performance reports, payment vouchers to the contract manager on service provider/ supplier performance in meeting the terms and conditions of the contract including price escalations

9.2.1.8 All parties participate in joint performance reviews where appropriate, and seek improvement opportunities and advise the contract manager of any amendment, deviations, variations, extensions and cancellation of contracts

9.3 Contract Owner

9.3.1 The contract owner is responsible for ensuring that contract champions are assigned to all contracts.

9.3.2 The contract owner is ultimately responsible for management of the activities.

9.3.4 The Contract Owner must monitor delivery under the contract to ensure that it achieves its original objective and effect any necessary changes to the contracts

9.3.5 Submit at the end of a project for construction related projects a close-out report.

9.4 Accounting Officer

9.4.1 The Accounting Officer is responsible for signing of contracts with the relevant service provider, in line with the Delegation of Powers and Duties Policy.

9.4.2 The Accounting Officer is ultimately accountable for the contract.

10. CONTRACTS HAVING BUDGETARY IMPLICATIONS BEYOND THREE FINANCIAL YEARS

uThukela District Municipality may **not** enter into any contract that will impose financial obligations beyond the three years covered in the annual budget for that financial year, unless the requirements of Section 33 of the Municipal Finance Management Act have been fully complied with.

11. RESOLUTION OF DISPUTES, OBJECTIONS, COMPLAINTS AND QUERIES:

The accounting officer is responsible to establish a dispute resolution mechanism as per paragraph 5.4.1.2.2 and also as required by section 116(1) of the MFMA and paragraph 50 of the SCM Policy.

11. CONTRACT PRICE ESCALATIONS:

- 11.1 An appropriate contract price adjustment formula or specified terms of price escalation must be specified in the bid documents
- 11.2 Escalation notification must be in writing and presented timeously before the implementation date thereof. This must be in line with industry provision/ professional body.
- 11.3 User departments/Business Units are responsible for the management, verification and implementation of price escalations as per originally agreed terms and conditions set out in the specifications of the contract. Proof of evidence must be kept for the newly agreed escalations on the contract system for all other relevant stakeholders to access.
- 11.4 No price escalation should preferably be considered for a contract less than twelve (12) Months.
- 11.5 Contractual Price Adjustment may be considered provided that the service provider provides documentary proof or an audit certificate of price adjustment claimed to warrant such adjustment.

11. PERFORMANCE ON CONTRACTS:

- 11.1 In terms of the SCM Policy and the Municipal Systems Act, the Accounting Officer must implement an internal monitoring system in order to determine, on the basis of a retrospective analysis, whether the authorized supply chain management processes were followed and whether the objectives of this Policy were achieved in terms of the Performance Management System Implementation Policy (Paragraph 9).
 - 11.1.1 Municipality's Performance:
 - 11.1.1.1 The uThukela municipality is required to pay creditors within thirty (30) days of receiving all relevant invoice statements.
 - 11.1.1.2 The municipality is also required to create a favourable environment to receive services and goods without preventing the supplier to perform their duties.
 - 11.1.1.3 All parties involved must perform according to the terms and conditions of the relevant contract, within the validity period of the contract.
 - 11.2.1 Supplier Performance:
 - 11.2.1.1 The supplier of goods and services is required to perform as per the terms and conditions agreed upon and should inform the municipality if circumstances prevent them to perform, with reasons provided, within fourteen (14) working days (to be included in all contracts).
 - 11.2.1.2 For all relevant deviations from the agreed terms and conditions of any contract, the key performance indicators (KPI's) should be reviewed as well as the alignment with the strategic objectives as enshrined in the IDP.
 - 11.2.1.3 Suppliers performance will be reviewed by Officials i.e. SCM: Contracts Monitoring on a monthly basis (every 25th of the month) giving effect to section 116 of the MFMA, 2003 and the Performance Management System Implementation Policy
 - 11.2.1.4. Prescribed procedures to evaluate performance of service providers must be complied with. (Refer to the Performance Management Framework Policy)

STANDARD PERFORMANCE CRITERIA AND EVALUATION

Projects of service delivery vary in terms of implementation; therefore, other performance criteria may be added to the ones indicated in this policy.

Departments will be allowed to develop additional assessment criteria, and such addition shall be incorporated in the contract document and approved by the Accounting Officer

12. THE FOLLOWING PROCEDURES NEED TO BE FOLLOWED:

12.1 The requirements of this policy must be included in the contract between the uThukela District Municipality and the Supplier/Service provider.

12.2 The performance of the Supplier/Service provider under the contract or service level agreement must be assessed monthly by the assigned Contract Monitoring Officer.

12.3 The quarterly assessment and reporting must be completed within fifteen (15) working days after the end of each quarter. (Refer to the Performance Management Framework Policy, paragraph 9.2.1).

12.4 The Contract Owner must provide a copy of the assessment to the Service Provider at the end of each quarterly assessment period and on completion or termination of the contract.

12.5 Supply Chain Management Unit (Contract Management Office) will review the quarterly Service Provider assessments within 20 days after the end of each quarter and submit a summary report to Council.

12.6 in the eventuality of under-performance within a contract:-

- a) The uThukela Municipality will facilitate support interventions to service providers in the identified areas of underperformance ideally through the SMME/Enterprise Development initiatives/programmes
- b) Service providers who have been identified as under-performing in identified areas must be informed of these support interventions.
- c) The impact of support interventions must be monitored by the Enterprise/SMME Development component.
- d) Support and corrective action should be documented in writing within the contract management system
- e) The records of the support interventions must be documented, signed by both parties and appropriately filed in the contract management system.

13. Managing Relationships (Supplier Relationship Management)

Relationship management underpins successful contract management and fundamentally it must be established in the earlier stages of the procurement lifecycle. It is then inherently important for the Contracts manager to nurture the relationship between the UThukela District Municipality and Suppliers/Service Providers against awarded contracts. This will ensure that the Contract Management Section is aware of any problems or issues that can arise during the contract cycle.

The Contracts Manager will ensure that an appropriate type of relationship established is based on where the category and the contract sit in its supplier portfolio analysis, which cannot be the same across but not limited to the following: -

- * Number of suppliers in the market place and associated industry dynamics
- * Relationship type between the parties i.e. long term strategic vs. transactional
- * The details of the good or service to be provided and complexity of requirements
- * Duration of contract

14. Contract Monitoring

Contract Monitoring section will focus on collecting and analysing information to provide assurance to the Council that progress is being made in line with agreed timeframes and towards providing the contract deliverables. The Key Performance Indicators (KPIs) must be clearly set within the contract scope of works and then measured, reported and monitored on a regular basis in correlation with the Project Plan. The information provided by a supplier for monitoring purposes must be reviewed and audited, as necessary, to ensure its accuracy and reliability.

The Project Manager/Business Unit also has responsibility for ensuring that the uThukela District Municipality complies with its responsibilities under the contract.

Details of areas that need to be monitored include:

- a) Specific goods or services provided on time to the required quality.
- b) Client or user satisfaction.
- c) Performance against contract requirements;
- d) Invoicing and payments; and
- e) Council contract compliance.

NB: *Regardless of how the contract monitoring function is performed by the Contract Monitoring section, accountability for accepting contract deliverables remains with the Responsible Department.*

15. Contract Variations

This policy allows for the provisions to ascertain reasonableness in contract variations as a standard feature of all contracts in line with the regulatory parameters. The functionality and execution for varying of the contract scope will be controlled by Contract Management section and approved by the Council within the respective delegations of authority. The variation mechanism system must provide for variations to be agreed between the Council and the Supplier in writing through a written formal amendment of the contract and should only occur in defined circumstances.

Proposed variations would be assessed to ensure that they do not breach legislation, procurement policy and financial delegation levels and the reasons clearly documented.

The Bid Adjudication Committee would receive the variation submissions from the responsible Contract Owner as a governance structure and would then ensure variations are analysed and assessed independently of the Contract Management Section prior to approval and sign off. Necessary negotiations are necessary for significant variations.

The Variation submission may include but not limited to the following in line with the actual Contract:-

- Change in scope of work (positive and negative)
- Change in execution of the work
- Change in resources or facilities required
- Revision of rates
- Extension of the duration of the contract
- Settlement of a claim arising from the contract

NB: *Under no circumstances must Variations be used to mask poor performance or serious underlying problems, as the effect on original timeframes, deliverables and value for money must be assessed. 18*

16. SUPPLIER PERFORMANCE

16.1. All Service Providers or prospective Service Providers must be made aware of the following: -

16.2 Assessment and reporting on Service Provider's performance.

16.2.2 The exchange of information on Service Provider performance reports between Government departments.

16.2.3. The appointed Service Provider must be given an opportunity to discuss the performance criteria with the user department before commencement of the contract.

16.2.4 Any amendments must be agreed to by the parties, be in writing, signed and be incorporated into the Service Level Agreement.

16.2.5 A Service Provider's performance must be assessed in the context of the project as a whole. The roles and obligations of the Municipality and Service Provider under the contract must be taken into account.

16.2.6 Officials preparing or reviewing the performance of a Service Provider must consider whether satisfactory progress or completion of a project has been affected by any matters which are: -

16.2.6.1 Outside the Service Provider's control, or

16.2.6.2 The result of some action by the Municipality,

16.2.7 If there is evidence that the underperformance or non-performance of the Service Provider is due to factors caused by the Municipality the following will happen: -

16.2.7.1 There will be no penalization of the Service Provider.

16.2.7.2 The Accounting Officer, or delegated official must take corrective action where necessary.

16.2.7.3 the performance assessment reports will be made available to inter-departmental and inter-governmental departments, on completion of a contract if there are no pending disputes.

16.2.7.4 The service provider may respond on the assessment in writing and must be filed with the assessment

- 16.2.7.5 The conditions of appointment set in the contract will determine what action will be taken against the service provider if underperformance or non-performance is detected
- 16.2.7.6 Appropriate key performance indicators for the contract must be set by the municipality as a yardstick for measuring performance
- 16.2.7.7 Measurable targets must be set for each key performance indicator
- 16.2.7.8 The key performance indicators must be reviewed annually

17. ALLOCATION OF PANELS

- 17.1 Where consultancy services are required on a recurring basis, a panel of consultants / list of approved service providers for the rendering these services may be established. These panels / lists should be established through the competitive bidding process, usually for services that are of a routine or simple nature where the scope and content of the work to be done can be described in detail.
- 17.2 Take all reasonable steps to ensure that provisions of the contract procured through this policy is properly enforced;
- 17.3 a panel of consultants / list of approved service providers contracts must be captured on the Council SAP system in the form of a price schedule when appropriate as per engagement;
- 17.4 For construction contracts, ensure that all contract administrative requirements of the CIDB are complied with;
- 17.5 Ensure that Engagement letters are enforced.
- 17.6 Ensure that Service Level Agreement are issued for all engagements detailing the scope of works and other relevant issues of the contract

18. Delayed Performance

The GCC provides that the service provider must perform in accordance with the contract specifications within the time schedule set out in the contract. If at any time during the contract period, the service provider is unable to perform in a timely manner, the service provider must notify the uThukela District Municipality in writing of the cause of and the duration of the delay. Upon receipt of the notification, the uThukela District Municipality should evaluate the circumstances and, if deemed necessary, the uThukela District Municipality may extend the service provider's time for performance which will constitute an amendment to the contract. The uThukela District Municipality may decide to impose a delay penalty.

In the event of delayed performance that extends beyond the delivery period, the uThukela District Municipality is entitled to purchase commodities of a similar quantity and quality as a substitution for the outstanding commodities, without terminating the contract, as well as return commodities delivered at a later stage at the service provider's expense. Alternatively, the uThukela District Municipality may elect to terminate the contract and procure the necessary commodities in order to complete the contract.

In the event that the contract is terminated the uThukela District Municipality may claim damages from the service provider in the form of a penalty. The service provider's performance should be captured on the service provider database in order to determine whether or not the service provider should be awarded any contracts in the future.

19. Unsatisfactory Performance

When an uThukela District Municipality is not satisfied or there are problems with the service provider's performance, the uThukela District Municipality must:

- a) Review the conditions causing the problems and determine whether or not the uThukela District Municipality itself has significantly contributed to the problem;
- b) Review the contract and other relevant documentation in order to identify the rights and responsibilities of each party; and
- c) Notify the service provider in writing that their performance does not comply with the terms and conditions set out in the contract.

The written notification sent to the service provider should clearly identify the following: a) The problem so as to avoid any misunderstanding.

- b) The corrective actions that are to be taken;
- c) The time frame allowed for the service provider to address and correct the problem; and
- d) The consequences that would arise in the event that the problem is not corrected within the specified period.

20. Dispute Resolutions

The uThukela District Municipality can apply different measures during the preparation and administrative phases of the contract in order to avoid any problems that may lead to a dispute. These measures include the following:

- a) Stating the contractual requirements, such as specifications and delivery dates, as clearly as possible.
- b) Using plain and clear language in the contract itself, as well as all other contract documentation.
- c) Addressing issues or problems as and when they arise to prevent them escalating; and
- d) Maintaining a good working relationship with the service provider.

The policies and procedures with regards to dispute resolution should be detailed in the contract and agreed to by both parties. The resolution options should be listed in order of preference starting with the least severe method moving towards more severe methods.

21. Standard Bidding Documents

All contracts must be based on the GCC, issued by the National Treasury. Where no relevant standard bidding documents (SBD) have been issued, the uThukela District Municipality should use other internationally recognized standard contract forms acceptable to the AO or AA, in concurrence with the relevant Treasury.

The standard wording of the GCC must not be amended. The standard bid documentation and GCC issued by the Construction Industry Development Board must be utilized in cases of bids related to the construction industry.

The bid documents should clearly state the type of contract to be entered into and contain the appropriate contract provisions. The most common types of contracts provide for payments on the basis of lump sum prices, unit prices, reimbursable costs plus fees, or combinations thereof.

Reimbursable cost contracts should be acceptable only in exceptional circumstances, such as contracts with conditions of high risk or where costs cannot be determined in advance with sufficient accuracy. Such contracts should include appropriate incentives to limit costs and may only be concluded subject to the approval of the AO or AA.

22. Contract File

A contract file should be opened for each contract that includes the following documentation: a) Letter of Award;

- b) Pre Awards
- c) Purchase Order;
- d) A contract, signed by all parties post-award;
- e) All correspondence between the contracting parties;
- f) Record of payments;
- g) Evidence of delivery as provided for in the agreement;
- h) Record of amendments to the contract (including extension of time frames or expansion of scope);
- i) Record of reviews and audits conducted on the contract; and
- j) Risk assessment reports, where applicable.

23. Contract Register

A contract register should be created and updated regularly. This register should include the following information:

- a) Contract identifiers (unique ID, corresponding bid/ quotation/ requisition number, and purchase order number);
- b) Contract type and category.
- c) Service provider identifiers (Name of appointed bidder, Provincial database registration number, type of service provider);
- d) Description of Goods/Services/Works/Projects.
- e) Contract Value (if applicable, include percentage escalation and any other financial value);
- f) Contract period (start date, end date, duration, extension date where applicable, and early termination date where applicable); and
- g) Payment history (milestones/deliverables, actual dates of payment, payment penalties levied).

Internal Audit should conduct scheduled audits of the document and information systems that are set up in an uThukela District Municipality. The audit should verify that:

- a) Checks and balances are being implemented for system access controls designed to ensure unauthorized employees do not have access to, and cannot amend or alter, contract information.
- b) Contract files and contract registers exist and are a true record of the status of the contracts.
- c) Payments are made on the basis of verifiable proof of delivery of goods, services or works as provided in the contract.
- d) The uThukela District Municipality conducts periodic quality assurance reviews of the information in the register.
- e) Payments are made in accordance with the terms and conditions of the contract.

24. RECORD KEEPING

- a. Proper records regarding all aspects of the contract must be maintained and kept in accordance with relevant legislation.
- b. All communication related to contract should be linked to the master document on the electronic system.
- c. Safe custody of all contract documents must be enforced by all relevant users.
- d. Users are responsible for the electronic load feedback of contract(s) to the operating system in conjunction with the records department.

25. CONTRACTS HAVING BUDGETARY IMPLICATIONS BEYOND THREE FINANCIAL YEARS

uThukela District Municipality may enter into any contract that will impose financial obligations beyond the three years covered in the annual budget for that financial year, unless the requirements of Section 33 of the Municipal Finance Management Act have been fully complied

26. CONCLUSION

Contract management should deliberately focus on the activities associated with the operational phase of the contract after the contract has been awarded and is up and running. However, it is fully acknowledged that successful contract management is significantly dependent on what happens before, during and after the tendering and award phases.

Procurement planning during the tendering, contract award and the contract management phases should be seen as a continuum, with effective contract management planned from the very start of the procurement process.

27. IMPLEMENTATION AND REVIEW OF CONTRACTS

- ✓ In terms of Section 116(1) of the MFMA, a contract or agreement procured through the Supply Chain Management system must have a periodic review once every three years.
- ✓ The contract owner or champion must conduct as appropriate post contract reviews (at least once a year for contracts longer than three years).
- ✓ Provide contract information to the contract manager and Supply Chain Management unit after a contract has expired.
- ✓ Conduct a contract risk assessment at the review phase of the contract life cycle.

POLICY SECTION:	CONTRACT MANAGEMENT UNIT (CMU)
Department:	Budget and Treasury Office
Effective Date	01 July 2026
Adopted by Council	
Council Resolution	
Effective Date	01 July 2025
Adopted by Council	01 July 2025
Council Resolution	A01/05/25

28. Effective Date

The policy takes effect on the date on which it is adopted by Council and shall be reviewed annually or when the need arises.