

**NQUTHU MUNICIPALITY**



**SUPPLY CHAIN MANAGEMENT POLICY**

**2026-27**

**(AMENDED IN LINE WITH 15 DECEMBER 2023 REGULATIONS AMENDMENTS)**

*Adopted in terms of section 111 of the Municipal Finance Management Act,  
No.56 of 2003 and the Municipal Supply Chain Management Regulations*

**Council resolves in terms of section 111 of the Local Government  
Municipal Finance Management Act (No. 56 of 2003), to adopt the Supply  
Chain Management Policy of Nquthu Local Municipality. Adoption date  
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## Definitions

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

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

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

“**blacklisting/restricting**” means the act of disqualifying a person or service provider from participating in the procurement process of Nquthu Local municipality.

“**Disability**” means in respect of a person, a permanent means, a permanent impairment of a physical, intellectual, or sensory function, which results in restricted, or lack of ability to perform an activity in the manner, or within the range, considered normal for a human being;

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

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

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

**“formal written price quotations”** means quotations referred to in paragraph 12(1)(b) of this Policy;

**“highest acceptable tender”** means a tender that complies with all specifications and conditions of tender and that has the highest price compared to other tenders;

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

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

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

**“lowest acceptable tender”** means a tender that complies with all specifications and conditions of tender and that has the lowest price compared to other tenders;

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

**“municipality”** means the Nquthu Local Municipality

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

**“other applicable legislation”** means any other legislation applicable to municipal supply chain management, including –

- (a) the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);
- (b) the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003); and
- (c) the Construction Industry Development Board Act, 2000 (Act No.38 of 2000);
- (d) the Constitution of the Republic of RSA, 1996

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

**“price”** means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;

**“rand value”** means the total estimated value of a contract in Rand, calculated at the time of the tender ;

**“SMMEs”** means small businesses; as defined in section 1 of the National Small Business Act, 1996 a separate and distinct business entity. Including co-operative e branches or subsidiaries if any, and non-government organisations managed by one owner or more which including its branches or subsidiaries, if any, is predominantly carried on in any sector or sub sector of the economy mentioned in Column 1 of the Schedule and which can be classified as a micro-, a very small. A small or medium enterprise by satisfying the criteria 40 mentioned in columns 3.4 and 5 of the schedule opposite the smallest relevant size or class mentioned in column 2 of the Schedule;

**“specific goals”** means specific goals contemplated in section 2(1)(d) of the Act which may include contracting with persons, or categories of persons. Historically disadvantage by unfair discrimination on the basis of race, gender and disability including the implementation of programmes of the RDP Programme as published in Government Gazette No. 16085 dated 23 November 1994;

**“tender”** means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisage in legislation; to an invitation for the origination of income-generating contracts

**“tender for income-generating contracts”** means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisage in legislation that will result in a legal agreement between the organ of state and a third party that produce revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auction;

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

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

**“the Regulations”** means the Local Government: Municipal Finance Management Act, 2003, Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000), Municipal Supply Chain Management Regulations published by Government Notice 47452 of 2022;

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

## CHAPTER 1

### IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

#### 2. Supply chain management policy

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

- (3) This Policy, except where provided otherwise, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Act, including –
  - (a) water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and
  - (b) electricity from Eskom or another public entity, another municipality or a municipal entity.

### **3. Amendment of the supply chain management policy**

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

### **4. Delegation of supply chain management powers and duties**

- (1) The council hereby delegates all powers and duties to the municipal manager which are necessary to enable the municipal manager –

- (a) to discharge the supply chain management responsibilities conferred on accounting officers in terms of –
    - (i) Chapter 8 of the Act; and
    - (ii) this Policy;
  - (b) to maximise administrative and operational efficiency in the implementation of this Policy;
  - (c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of this Policy; and
  - (d) to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.
- (2) Sections 79 of the Act apply to the sub-delegation of powers and duties delegated to an accounting officer in terms of sub-paragraph (1).
- (3) The municipal manager may not sub-delegate any supply chain management powers or duties to a person who is not an official of municipality or to a committee which is not exclusively composed of officials of the municipality, unless it complies with the exemption granted in GG 43281 dated 5 May 2020 regarding compliance with MSCM Regulation 4(3) and 29(2).
- (4) This paragraph may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this Policy.

## **5. Sub-delegations**

- (1) The municipal manager may in terms of section 79 of the Act sub-delegate any supply chain management powers and duties, including those delegated to the accounting officer in terms of this Policy, but any such

subdelegation must be consistent with sub-paragraph (2) of this paragraph and paragraph 4 of this Policy.

- (2) The power to make a final award –
  - (a) above R10 million (VAT included) may not be sub-delegated by the municipal manager;
  - (b) above R2 million (VAT included), but not exceeding R10 million (VAT included), may be sub-delegated but only to –
    - (i) Chief Financial Officer;
    - (ii) Director Technical Services; or
    - (iii) Director Corporate Services;
  - (c) not exceeding R2 million (VAT included) may be sub-delegated but only to –
    - (i) Chief Financial Officer;
    - (ii) Other departments Senior Managers; or
    - (iii) a bid adjudication committee.
  
- (3) An official or bid adjudication committee to which the power to make final awards has been sub-delegated in accordance with subparagraph (2) must within five days of the end of each month submit to the municipal manager a written report containing particulars of each final award made by such official or committee during that month, including–
  - (a) the amount of the award;
  - (b) the name of the person to whom the award was made; and
  - (c) the reason why the award was made to that person.
  
- (4) A written report referred to in sub-regulation (3) must be submitted—
  - (a) to the accounting officer, in the case of an award by—
    - (i) the chief financial officer;
    - (ii) a senior manager; or

- (iii) a bid adjudication committee of which the chief financial officer or a senior manager is a member; or
- (b) to the chief financial officer or the senior manager responsible for the relevant bid, in the case of an award by—
  - (i) a manager referred to in sub-regulation (2)(c)(iii); or
  - (ii) a bid adjudication committee of which the chief financial officer or a senior manager is not a member.
- (5) Sub-regulations (3) and (4) do not apply to procurements out of petty cash.
- (6) This regulation may not be interpreted as permitting an official to whom the power to make final awards has been subdelegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in regulation 26.
- (7) No decision-making in terms of any supply chain management powers and duties may be delegated to an advisor or consultant.

## **6. Oversight role of council**

- (1) The council reserves its right to maintain oversight over the implementation of this Policy.
- (2) For the purposes of such oversight the municipal manager must –
  - (a) (i) within 30 days of the end of each financial year, submit a report on the implementation of this policy, to the council of Nquthu Local Municipality; and
  - (ii) whenever there are serious and material problems in the implementation of this policy, immediately submit a report to the council.
- (3) The municipal manager must, within 10 days of the end of each quarter, submit a report on the implementation of the supply chain management policy to the mayor and to KZN PT SCMU.

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

**7. Supply chain management unit**

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

**8. Training of supply chain management officials**

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

## CHAPTER 2 SUPPLY CHAIN MANAGEMENT SYSTEM

### 9. Format of supply chain management system

This Policy provides systems for –

- (i) demand management;
- (ii) acquisition management;
- (iii) logistics management;
- (iv) disposal management;
- (v) risk management; and
- (vi) performance management.

#### *Part 1: Demand management*

### 10. System of demand management

- (1) The municipal manager must establish and implement an appropriate demand management system in order to ensure that the resources required by Nquthu Local Municipality support its operational commitments and its strategic goals outlined in the Integrated Development Plan.
- (2) The demand management system must –
  - (a) include timely planning and management processes to ensure that all goods and services required by the municipality are quantified, budgeted for and timely and effectively delivered at the right locations and at the critical delivery dates, and are of the appropriate quality and quantity at a fair cost;
  - (b) take into account any benefits of economies of scale that may be derived in the case of acquisitions of a repetitive nature; and
  - (c) provide for the compilation of the required specifications to ensure that its needs are met.

- (d) To undertake appropriate industry analysis and research to ensure that innovations and technological benefits are maximized.
- (e) Compile the annual procurement plan of the municipality with end-users' inputs and submit to the AO for approval on or before 30 June annually.
- (f) Prepare quarterly reports on progress made with the implementation of the annual procurement plan that will be submitted to council and KZN PT SCMU,
- (g) Update the procurement plan quarterly if needed and ensure the AO sign the updated procurement plan and submit to Council and KZN PT SCMU,

### ***Part 2: Acquisition management***

#### **11. System of acquisition management**

- (1) The municipal manager must implement the system of acquisition management set out in this Part in order to ensure –
  - (a) that goods and services are procured by the municipality in accordance with authorised processes only;
  - (b) that expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the Act;
  - (c) that the threshold values for the different procurement processes are complied with;
  - (d) that bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation; and
  - (e) that any Treasury guidelines on acquisition management are properly taken into account.
- (2) When procuring goods or services contemplated in section 110(2) of the Act, the municipal manager must make public the fact that such goods or services are procured otherwise than through the municipality's supply chain management system, including -

- (a) water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and
- (b) electricity from Eskom or another public entity, another municipality or a municipal entity.

**12. Range of procurement processes**

- (1) Goods and services may only be procured by way of –
  - (a) petty cash purchases, up to a transaction valued from R1 up to R2 000(VAT included)
  - (b) formal written price quotations for procurement transactions valued from R1
  - (c) a competitive bidding process for–
    - (i) procurement above a transaction value of R300 000 (VAT included); and
    - (ii) the procurement of long-term contracts.
- (2) The municipal manager may, in writing-
  - (a) lower, but not increase, the different threshold values specified in subparagraph (1); or
  - (b) direct that –
    - (i) formal written price quotations be obtained for any specific procurement of a transaction value from R1; or
    - (ii) a competitive bidding process be followed for any specific procurement of a transaction value lower than the competitive bidding thresholds specified in sub regulation (1)(c)(i) to (iii).”
- (3) Goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of the policy. When determining transaction values, a requirement for goods or services

consisting of different parts or items must as far as possible be treated and dealt with as a single transaction.

- (4) A supply chain management policy must, subject to SCM regulation 11(2), provide for the procurement of goods and services by way of—
  - (a) petty cash purchases, up to a transaction value of R2 000 (VAT included);
  - (b) formal written price quotations for procurements of a transaction value over R2000 up to R10 000 (VAT included);
  - (c) formal written price quotations for procurements of a transaction value over R2 000 up to R300 000 (VAT included); and
  - (d) a competitive bidding process for—
    - (i) procurements above a transaction value of R300 000 (VAT included); and
    - (ii) the procurement of long-term contracts.

**13. General preconditions for consideration of formal written price quotations or bids**

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

- (a) has furnished –
  - (i) full name;
  - (ii) identification number or company or other registration number; and
  - (iii) tax reference number, SARS PIN number and VAT registration number, if any;
- (b) has submitted a tax clearance from the South African Revenue Services that the provider’s tax matters are in order; and
- (c) has indicated –
  - (i) whether he or she is in the service of the state, or has been in the service of the state in the previous twelve months;
  - (ii) if the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of

the state, or has been in the service of the state in the previous twelve months; or

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

**14. Accredited prospective providers**

- (1) The municipal manager must –
  - (a) ensure credible information of accredited prospective service providers is sourced from CSD platform and maintain accurate information of accredited prospective providers of goods and services that will be used for the procurement requirements through formal written price quotations.
  - (b) ensure that accredited prospective providers are registered in Central Supplier Database and
  - (c) at least once a year through newspapers commonly circulating locally, the website and any other appropriate ways, invite prospective providers of goods or services to register on the municipality's database of accredited prospective service providers for goods and services they can supply. (d) specify the consideration criteria for accredited prospective providers; and
  - (e) disallow positive consideration of any prospective provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector.
- (2) The municipality may in its discretion keep the list /database of prospective bidders, however the information of all suppliers will be vetted against CSD database. The list /database must be updated at least quarterly to include any additional prospective providers and any new commodities or types of services. Prospective providers must be allowed to submit applications for listing at any time.
- (3) The list must be compiled per commodity and per type of service.

**15. Petty cash purchases**

A supply chain management policy must stipulate the conditions for the procurement of goods by means of petty cash purchases referred to in regulation 12(1)(a), which must include conditions—

- (a) determining the terms on which a manager may delegate responsibility for petty cash to an official reporting to the manager;
- (b) limiting the number of petty cash purchases or the maximum amounts per month for each manager;
- (c) excluding any types of expenditure from petty cash purchases, where this is considered necessary; and
- (d) requiring monthly reconciliation reports from each manager to the chief financial officer, including—
  - (i) the total amount of petty cash purchases for that month; and
  - (ii) receipts and appropriate documents for each, purchase

**16. Formal written price quotations**

- (1) A supply chain management policy must stipulate the conditions for the procurement of goods or services through formal written price quotations, which must include conditions stating—
  - (a) that quotations must be obtained in writing from at least three different providers whose names appear on the list of accredited prospective providers of the municipality or municipal entity;
  - (b) that quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria in the supply chain management policy required by regulation 14(1)(b) and (c);
  - (c) that if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the chief financial officer or an official designated by the chief financial officer; and
  - (d) that the accounting officer must record the names of the potential providers and their written quotations; and

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

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

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

- (a) when using Central Supplier Database, the accounting officer must promote ongoing competition amongst providers by inviting providers to submit quotations on a rotation basis;
- (b) all quotations are to be procured by means of formal written price quotations must, in addition to the requirements of Section 4(1), be scored on price and targeted goals points designed in terms of the Preferential Procurement Points Framework Act (PPPFA) of 2022, be advertised for at least seven days on the website and an official notice board of Nquthu Local Municipality.
- (c) offers received must be evaluated on a market price comparative basis taking into account relevant vetting processes on platforms that keep credible supplier information;
- (d) the municipal manager or chief financial officer must on a monthly basis be notified in writing of all formal written price quotations accepted by an official acting in terms of a sub delegation.
- f) acceptable offers, which are subject to the preference points system (Preferential Procurement Points Framework Act (PPPFA) of 2022 and its regulations PPPFA of 2022 and associated regulations), must be awarded to the bidder who scored the highest points;
- (g) for proper record keeping and audit purposes, the following documentation must be kept by Finance and department procuring goods or services;

- i. the authorised purchase requisition produced by the department requiring goods and services.
  - ii. formal written price quotations and the order authorised by the Chief Financial Officer.
  - iii. formal signed delivery note/ GRN submitted by the successful supplier.
  - iv. formal invoice or certificate of work performed submitted by the successful supplier.
  - v. goods received voucher, as prepared by expenditure: creditors section.
  - vi. the authorized payment voucher with all required signatures
  - vii. Any minutes of a bid resolution by the Bid Adjudication or Awarding Committee.
  - viii. Proof of authorised direct payment (cash focus) processed for each transaction
- (h) use of established Quotations Evaluation Committee
- (i) the municipality must use the establishment of the Quotation Evaluation Committee to ensure alignment with Section 26 of the Municipal Supply Chain Management Regulations. The PPPFA Regulations amendments increased the threshold for quotation processes from R200 000 to R300 000 which poses a threat for abuse in the supply chain management processes by suppliers and officials, therefore quotations with a value of R30 000 to R300 000.
  - (ii) quotations evaluation committee members will be appointed by the Accounting Officer of Nquthu Local Municipality in writing.
  - (iii) the appointed members of the committee will serve a period of one year and a new appointment is effected.
  - (iv) the chairperson of the committee will also be appointed by Accounting Officer of the municipality.
  - (v) the members of the committee will be appointed on a rotational basis at the discretion of the Accounting Officer.
  - (vi) the committee should comprise of four members and the quorum of the meeting should be 50% plus one.

- (vii) the committee will comprise of the officials of Nquthu Local Municipality unless an expert advice is sourced from an external person in which case an invitation can be extended to that external person.
- (viii) the members must inform the chairperson of the meeting or secretariat if they are unable to a meeting at least 24 hours before the meeting. The committee should sign declaration of interest and confidentiality and other documents that are deemed necessary. An attendance register should be kept and secretariat takes minutes of the meeting and must keep all records for audit purposes.

### **18. Competitive bids**

A supply chain management policy must specify-

- (a) that goods or services above a transaction value of—
  - (i) R300 000 (VAT included), in the case of a local municipality; may be procured by the municipality only through a competitive bidding process, subject to regulation 11(2); and (b) that no requirement for goods or services above an estimated transaction value of—
    - (i) R300 000 (VAT included), in the case of a local municipality, may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.

### **19. Process for competitive bidding**

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

- (a) Compilation of bidding documentation as detailed in paragraph 20;
- (b) Public invitation of bids as detailed in paragraph 21;
- (c) Site meetings or briefing sessions as detailed in paragraph 21;
- (d) Handling of bids submitted in response to public invitation as detailed in paragraph 22;
- (e) Evaluation of bids as detailed in paragraph 27;

- (f) Award of contracts as detailed in paragraph 29;
- (g) Administration of contracts
  - (i) After approval of a bid, the accounting officer and the bidder must enter into a written agreement.
- (h) Proper record keeping
  - (i) Original / legal copies of written contracts agreements should be kept in a secure place for reference purposes.

**20. Bid documentation for competitive bids**

The criteria with which bid documentation for a competitive bidding process must –

- (a) take into account –
  - (i) the general conditions of contract and any special conditions of contract, if specified;
  - (ii) any Treasury guidelines on bid documentation; and
  - (iii) the requirements of the Construction Industry Development Board (CIDB), in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;
- (b) include the preference points system to be used, specific goals as contemplated in the Preferential Procurement Regulations of 2022 and evaluation and adjudication criteria, including any criteria required by other applicable legislation;
- (c) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;
- (d) if the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish–
  - (i) if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements –
    - (aa) for the past three years; or
    - (bb) since their establishment if established during the past three years;

- (ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;
- (iii) particulars of any contracts awarded to the bidder by Nquthu municipality during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
- (iv) consider the requirements of MFMA Circular 62-
  - (a) The end user and CFO to confirm in writing to the BSC that budget is available for the procurement and all additional requirements.
  - (b) The CFO to confirm in writing to the BAC that budget is available specifically if the project will be completed over more than one financial year.
  - (c) The AO can request Internal Audit to verify that all procurement processes were followed, and all requirements complied with.
- (v) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from Nquthu Local Municipality is expected to be transferred out of the Republic; and
- (e) stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law.

**21. Public invitation for competitive bids**

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

- (a) Any invitation to prospective providers to submit bids must be by means of a public advertisement in newspapers commonly circulating locally, the website of the municipality or any other appropriate ways (which may include an advertisement in the Government Tender Bulletin); and
- (b) The information contained in a public advertisement, must include –
  - (i) the closure date for the submission of bids, which may not be less than 30 days in the case of transactions over R10 million (VAT included), or which are of a long-term nature, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to sub-paragraph (2) of this policy;
  - (ii) a statement that bids may only be submitted on the bid documentation provided by Nquthu Local Municipality; and
  - (iii) date, time and venue of any proposed site meetings or briefing sessions.;
  - (iv) statement stating that no late bid proposal will be accepted.
  - (v) a statement stating that, no tender will be awarded to a contractor who has work with the municipality that is less than 95% complete **in terms of project progress report.**
- (2) The municipal manager may determine a closure date for the submission of bids which is less than the 30- or 14-days requirement, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process.
- (3) Bids submitted must be sealed.
- (4) Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies.
- (5) Use of panels of service providers
  - 5.1 Composition of panels:
    - When a panel needs to be established a competitive bid process will be used.

- Functionality will form the evaluation criteria.
- Specific criteria and if necessary, sub criteria need to be developed to test the bidder's ability and capability to be able to render the required goods, services, works/infrastructure when listed as a panel member.

#### 5.2 Procurement from an established panel of suppliers:

- The procurement from an established panel of suppliers can include one or both of the following procurement processes-
  - An RFQ or Bid document can be sent to all panel members to provide a price proposal at a closing time or date;
  - Service providers must be rotated in a fair, equitable and transparent manner. Service providers who are party to a panel may be listed according to CSD registration numbers (MAAA Numbers) and such should also be stated in the bid documentation. A rotation process can also be used through sequentially listing service providers alphabetically, and a minimum of 3 suppliers are requested to submit a RFQ or bid at a time and rotation takes place for each procurement.
  - When goods and/or services are required, the End User must send a detailed scope of work to the Supply Chain Management Unit for processing in accordance with the panel rules. End Users may not directly procure from a Panel without the Supply Chain Management process being observed.
  - Evaluation of quotations and bids will be according to the current system of delegations. Procurements with an estimate value of R 300 000- and above (Including all applicable taxes) will be evaluated by the BEC and BAC. The BAC will within their delegated powers either award or make a recommendation to the AO for the award.

## 22. e Tender publication portal

- (a) The municipal manager may also implement e Tender publication portal as another mechanism where municipalities and municipal entities are required to advertise all their bids and publish notices of all awarded bids, cancellations and deviations, variations, and extensions of existing contracts.
- (b) All bids advertised on the eTender Publication Portal must at least contain the following information:
  - (i) Bid description;
  - (ii) Bid number;
  - (ii) Name of Municipality or Entity;
  - (iv) The physical location where the goods, services or works specified in the bid are required;
  - (v) The closing date and time of the bid;
  - (vi) Municipality or entity's contact details (postal and physical address, telephone number, email address, etc.);
  - (vii) The physical location where hard copies of bids can be collected;
  - (viii) The physical location where bids should be delivered; and
  - (ix) The bid documents (MBDs, Terms of Reference, GCC and any other relevant documents)

### **23. Procedure for handling, opening and recording of bids**

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

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

- (b) Any bidder or member of the public has the right to request that the names of the bidders who submitted bids in time must be read out and, if practical, also each bidder's total bidding price;
- (c) No information, except the provisions in subparagraph (b), relating to the bid should be disclosed to bidders or other persons until the successful bidder is notified of the award; and
- (d) The municipal manager must –
  - (i) record in a register all bids received in time;
  - (ii) make the register available for public inspection; and
  - (iii) publish the entries in the register and the bid results on the website.

**24. Negotiations with preferred bidders**

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

**25. Two-stage bidding process**

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

- (3) In the second stage final technical proposals and priced bids should be invited.

**26. Committee system for competitive bids**

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

- (a) a bid specification committee;
- (b) a bid evaluation committee; and
- (c) a bid adjudication committee;

- (2) The municipal manager appoints the members of each committee in writing for a specific period of time indicating the start and end date and the position of each appointee, taking into account section 117 of the Act; and

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

- (4) The committee system must be consistent with –

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

- (5) The municipal manager may apply the committee system to formal written price quotations.

**27. Bid specification committees**

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

- (a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
  - (b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organisation, or an authority accredited or recognised by the South African National Accreditation System with which the equipment or material or workmanship should comply;
  - (c) must, where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;
  - (d) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labeling of conformity certification;
  - (e) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the word “equivalent”;
  - (f) must state in the invitation to tender that service providers who have not reached 95% progress **in terms of project progress report** with current projects in Nquthu municipality will not be considered.
  - (g) must indicate each specific goal for which points may be awarded in terms of the points system set out in the Preferential Procurement Regulations 2022 and the proof required from the supplier if claiming points for specific goals; and
  - (h) must be approved by the municipal manager prior to publication of the invitation for bids in terms of paragraph 21 of this Policy.
- (3) A bid specification committee must be composed of:
- (a) two officials of the municipality who must serve as standing members; one from the Supply Chain Management Unit who will chair and the other

- from Technical Services.
- (b) an official to be co-opted from the end user department preferably a manager and a knowledgeable official responsible for the function involved;
  - (c) co-opted external specialised expert.
  - (d) must be appointed in writing for a period of 12 months which is in line with the financial year end of the municipality, subject to the annual reviewal of this policy;
  - (e) the quorum must be equal to 50% of the number of permanent (as opposed to co-opted) committee members, plus one member.
- (4) No person, advisor or corporate entity involved with the bid specification committee, or director of such a corporate entity, may bid for any resulting contracts.

**28. Bid evaluation committees**

- (1) A bid evaluation committee must –
  - (a) evaluate bids in accordance with –
    - (i) the specifications for a specific procurement; and
    - (ii) the points system set out in terms of paragraph 27(2)(f).
  - (b) evaluate each bidder's ability to execute the contract;

- (c) check in respect of the recommended bidder/ its directors whether municipal rates and taxes and municipal service charges are not in arrears and;
- (i) reject any bid from a bidder if any municipal rates and taxes or municipal service charges owed by the bidder or any of its directors to the municipality or any other municipality are in arrears for more than three months.
  - (ii) reject any bid from a bidder who during the last five years has failed to perform satisfactorily on previous contract with the municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory.
  - (iii) Ensure MBD declarations are completed and supported by documents, and;
- (d) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter, the report to be submitted to the BAC must include an administrative compliance report and a technical compliance report for each bidder that submit a bid at closing date and time .
- (2) A bid evaluation committee must as far as possible be composed of -
- (a) officials from department requiring the goods or services; preferably a manager and a knowledgeable official responsible for the function involved;
  - (b) at least one supply chain management practitioner of the municipality.
  - (c) must be appointed in writing for a period of 12 months which is in line with the financial year end of the municipality, subject to the annual reviewal of

this policy

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

**29. Bid adjudication committees**

- (1) A bid adjudication committee must –
  - (a) consider the report and recommendations of the bid evaluation committee; and
  - (b) either –
    - (i) depending on its delegations, make a final award or a recommendation to the municipal manager to make the final award; or
    - (ii) make another recommendation to the municipal manager how to proceed with the relevant procurement.
- (2) A bid adjudication committee must consist of at least four senior managers of the municipality which must include –
  - (a) Chief financial Officer or if the CFO is not available, another manager in the budget and treasury office reporting directly to the CFO and designated by CFO.
  - (b) at least one senior supply chain management practitioner who is an official to the municipality.
  - (c) a technical expert in the relevant field who is an official of the municipality, if municipality has such an expert.
  - (d) the quorum must be equal to 50% of the number of permanent (as opposed to co-opted) committee members, plus one member.

- (3) The municipal manager must appoint the chairperson of the committee. If the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside at the meeting.
- (4) Neither a member of a bid evaluation committee, nor an advisor or person assisting the evaluation committee, may be a member of a bid adjudication committee.
- (5)
  - (a) If the bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee, the bid adjudication committee must prior to awarding the bid –
    - (i) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears, and reject any bid from a bidder if any municipal rates and taxes or municipal service charges owed by the bidder or any of its directors to the municipality or any other municipality are in arrears for more than three months and;
    - (ii) notify the municipal manager.
  - (b) The municipal manager may –
    - (i) after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in paragraph (a); and
    - (ii) if the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.
- (6) The municipal manager may at any stage of a bidding process, refer any recommendation made by the evaluation committee or the adjudication committee back to that committee for reconsideration of the recommendation.

- (7) The municipal manager must comply with section 114 of the Act within 10 working days

**30. Procurement of banking services**

- (1) A contract for banking services –
- (a) must be procured through competitive bids;
  - (b) must be consistent with section 7 of the Act; and
  - (c) may not be for a period of more than five years at a time.
- (2) The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.
- (3) The closure date for the submission of bids may not be less than 60 days from the date on which the advertisement is placed in a newspaper in terms of paragraph 21(1). Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

**31. Procurement of IT related goods or services**

- (1) The municipal manager may request the State Information Technology Agency (SITA) to assist with the acquisition of IT related goods or services through a competitive bidding process.
- (2) Both parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to, SITA.
- (3) The accounting officer must notify SITA together with a motivation of the IT needs if –
- (a) the transaction value of IT related goods or services required in any financial year will exceed R50 million (VAT included); or

- (b) the transaction value of a contract to be procured whether for one or more years exceeds R50 million (VAT included).
- (4) If SITA comments on the submission and the municipality disagrees with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the council, the National Treasury, the KZN Provincial Treasury and the Auditor General.

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

- (1) The municipal manager may procure goods or services under a contract secured by another organ of state, but only if –
  - (a) the contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state; The municipality must obtain copies of the bid advertisements, bid documents, minutes of evaluation and adjudication committee meetings, and any other relevant documents relating to the contract in order to review whether the other organ of state complied with applicable legislation and policies when it procured the contract.
  - (b) there is no reason to believe that such contract was not validly procured;
  - (c) there are demonstrable discounts or benefits to do so; and
  - (d) that other organ of state and the provider have consented to such procurement in writing.
  - (e) as part of demand management, a detailed analysis has been conducted of the goods or services required and also comparison of other features, to that of the other organ of state in order to ensure that the service provider will be able to deliver at an acceptable standard.
  - (f) that there is a consent that the municipality will only be permitted to utilise the contract of the other organ of state for the balance of the remaining period of the contract.

(g) that the goods or services being provided to the other organ of state are similar to the goods or services required by the municipality. The goods or services required by the municipality must be exactly the same as advertised and adjudicated by the other organ of state and may not be increased from the originally contracted quantity

(h) there is no participation on a panel secured by another organ of state as a panel of consultants or a list of service providers or a panel of approved service providers is not a contract.

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

- (a) a municipal entity procures goods or services through a contract secured by its parent municipality; or
- (b) a municipality procures goods or services through a contract secured by a municipal entity of which it is the parent municipality.

### **33. Procurement of goods necessitating special safety arrangements**

(1) The acquisition and storage of goods in bulk (other than water), which necessitate special safety arrangements, including gasses and fuel, should be avoided wherever possible.

(2) Where the storage of goods in bulk is justified, such justification must be based on sound reasons, including the total cost of ownership, cost advantages and environmental impact and must be approved by the accounting officer.

### **34. Proudly SA Campaign**

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

- Firstly – suppliers and businesses within the municipality or district;
- Secondly – suppliers and businesses within the relevant province;

- Thirdly – suppliers and businesses within the Republic.

### **35. Appointment of consultants**

- (1) The municipal manager may procure consulting services provided that any Treasury guidelines in respect of consulting services are taken into account when such procurement is made.
- (2) A contract for the provision of consultancy services to a municipality must be procured through competitive bids if—
  - (a) the value of the contract exceeds—
    - (i) R300 000 (VAT included)
  - (b) the duration period of the contract exceeds one year irrespective of the value of the contract.
- (3) In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish particulars of –
  - (a) all consultancy services provided to Nquthu municipality in the last five years; and
  - (b) any similar consultancy services provided to Nquthu municipality in the last five years.
- (4) Additional requirements in line with the provisions of Local Government cost containment measures of 2019 include;
  - (a) A GAP analysis must be done by the municipality before the procurement process starts to determine the need and or skills shortage;
  - (b) Appointment on a cost and time basis;
  - (c) Current rates or rate cards to be used and discounts negotiated;
  - (d) A clause to form part of the contract that the contract can be cancelled on the ground of unacceptable performance;

- (e) Transfer of knowledge to be included in the contract and the officials to be capacitated identify and monthly progress reports be submitted by the consultant on progress made to capacitate them;
  - (f) If subsistence and travel form part of the appointment the policy's of the municipality will apply.
- (5) The municipal manager must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, thing, system or process designed or devised, by a consultant in the course of the consultancy service is vested in the municipality.

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

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

(2) The municipal manager must record the reasons for any deviations in terms of subparagraphs (1)(a) and (b) of this policy and report them to the next meeting of the council and include as a note to the annual financial statements.

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

**37. Unsolicited bids**

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

unsolicited bidder to the National Treasury and the KZN Provincial Treasury for comment.

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

**38. Combating of abuse of supply chain management system**

- (1) The municipal manager must–
  - (a) take all reasonable steps to prevent abuse of the supply chain management system;

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

- (ii) has been convicted for fraud or corruption during the past five years;
  - (iii) has willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
  - (iv) has been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).
- (2) The municipal manager must inform the National Treasury KZN Provincial Treasury in writing of any actions taken in terms of subparagraphs (1)(b)(ii), (e) or (f) of this policy.

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

**39. Logistics management**

The municipal manager must establish and implement an effective system of logistics management, which must include -

- (a) the monitoring of spending patterns on types or classes of goods and services incorporating, where practical, the coding of items to ensure that each item has a unique number;
- (b) the setting of inventory levels that includes minimum and maximum levels and lead times wherever goods are placed in stock;
- (c) the placing of manual or electronic orders for all acquisitions
- (d) before payment is approved , certification by the responsible officer that the goods and services are received or rendered on time and is in accordance with the order, the general conditions of contract and specifications where applicable and that the price charged is as quoted in terms of a contract;

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

#### **40. Disposal management**

- (1) The criteria for the disposal or letting of assets, including  
  
unserviceable, redundant, or obsolete assets, subject to sections 14 and 90 of the Act, are as follows:
  - (i) An obsolescence plan must be determined for each asset to ensure that when the asset can no longer be maintained or used for its original purpose, that there is a plan to replace it.
  - (ii) A renewal plan must be determined for assets that have reached the end of its useful life.
  - (iii) Asset disposal decisions must be made within an integrated, service and financial planning framework.
- (2) Assets may be disposed of by –
  - (i) transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;
  - (ii) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;

- (iii) selling the asset; or
  - (iv) destroying the asset.
- (3) Nquthu Local Municipality must establish a disposal strategy to determine the best mechanism of disposal for each asset and the municipal manager must ensure that –
- a. immovable property is sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
  - (b) movable assets are sold either by way of formal written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous;
  - (c) firearms are not sold or donated to any person or institution within or outside the Republic unless approved by the National Conventional Arms Control Committee;
  - (d) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise;
  - (e) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed;
  - (f) where assets are traded in for other assets, the highest possible trade-in price is negotiated; and
  - (g) in the case of the free disposal of computer equipment, the provincial department of education is first approached to indicate within 30 days whether any of the local schools are interested in the equipment.

#### **41. Risk management**

- (1) The criteria for the identification, consideration and avoidance of potential risks in the supply chain management system, are as follows:
  - (a) risk management aspect must be allocated to the Chief Financial

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

Audit Committee, each of which shall ultimately be accountable to the Municipal Manager or the Council for the discharge of their responsibilities.

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

**42. Performance management**

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

***Part 4: Other matters***

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

- (1) No award may be made in terms of this Policy to a person whose tax matters have not been declared by the South African Revenue Service to be in order.
- (2) Before making an award to a person the municipal manager must first check with SARS whether that person's tax matters are in order.

- (3) Where the recommended bidder is not tax compliant, the bidder should be notified of their non-compliant status and the bidder must be requested to submit to the municipality or municipal entity, within 7 working days, written proof from SARS of their tax compliance status or proof from SARS that they have made an arrangement to meet their outstanding tax obligations. The proof of tax compliance status submitted by the bidder to the municipality must be verified via the CSD or e-Filing.

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

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

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

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

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

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

**46. Ethical standards**

(1) A code of ethical standards as set out in the “*National Treasury’s code of conduct for supply chain management practitioners and other role players involved in supply chain management*” is hereby established for officials and other role players in the supply chain management system of the municipality in order to promote-

- (a) mutual trust and respect; and
- (b) an environment where business can be conducted with integrity and in a fair and reasonable manner.

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

- (a) in the case of an employee, in terms of the disciplinary procedures of the municipality envisaged in section 67(1)(h) of the Municipal Systems Act;
- b. in the case a role player who is not an employee, through other appropriate means in recognition of the severity of the breach.
- c. In all cases, financial misconduct must be dealt with in terms of chapter 15 of the Act.

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

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

- (a) any inducement or reward to Nquthu Local Municipality for or in connection with the award of a contract; or
- (b) any reward, gift, favour or hospitality to –
  - (i) any official; or
  - (ii) any other role player involved in the implementation of this Policy.

- (2) The municipal manager must promptly report any alleged contravention of subparagraph (1) to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the public sector.
- (3) Subparagraph (1) does not apply to gifts less than R350 in value.

#### **48. Sponsorships**

The municipal manager must promptly disclose to the National Treasury and the KZN Provincial Treasury any sponsorship promised, offered or granted, whether directly or through a representative or intermediary, by any person who is –

- (a) a provider or prospective provider of goods or services; or
- (b) a recipient or prospective recipient of goods disposed or to be disposed.

#### **49. Objections and complaints**

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

- (a) if the objection or complaint is against the procurement process, submit a written objection or complaint against the decision or action to the accounting officer of the municipality who shall, in turn, within 24 hours refer the written objection or complaint to the independent and impartial person referred to in paragraph 50 for resolution or
- (b) if such complaint or objection is against the award of a bid, lodge a written appeal with the Municipal Bid Appeals Tribunal in accordance with the provisions of paragraph 50A.

**50. Resolution of objections and complaints against procurement process**

- (1) The accounting officer must appoint an independent and impartial person, not directly involved in the supply chain management processes to assist in the resolution of objections and complaints between the municipality and any other person regarding -
  - (a) the implementation of the procurement process in terms of the supply chain management system; or
  - (b) any matter arising from the implementation of the procurement process in terms of the supply chain management system.
- (2) The accounting officer, or another official designated by the accounting officer, is responsible for assisting the appointed person to perform his or her functions effectively.
- (3) The person appointed must –
  - (a) strive to resolve promptly all objections and complaints received; and
  - (b) submit monthly reports to the accounting officer on all such objections and complaints received, attended to or resolved.
- (4) If the independent and impartial person referred to in paragraph 50.1, is of the view that a matter which should be dealt with in terms of paragraph 50A, he or she shall forthwith refer the matter to the Municipal Bid Tribunals and that Tribunal shall then hear and determine the matter in accordance with the provisions of paragraph 51A.
- (5) An objection or complaint may be referred to the KwaZulu-Natal Provincial Treasury if:
  - (a) the objection or complaint is not resolved within 60 days; or
  - (b) no response is forthcoming within 60 days.

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

**51A. Municipal Bid Appeals Tribunal**

- (1) The council shall establish a Municipal Bid Appeals Tribunal for its area of jurisdiction to hear and determine an appeal against the award of a bid.
- (2) The accounting officer of the municipality, in consultation with the Provincial Treasury, shall appoint the Chairperson, Deputy Chairperson and Members of the Municipal Bid Appeals Tribunal.
- (3) The powers, duties and functions of the Municipal Bid Appeals Tribunal, and matters incidental thereto, are set out in the Rules which are appended to this Supply Chain Management Policy and marked Appendix A.
- (4) The administrative and secretarial work involved in the performance of the duties and functions of the Municipal Bid Appeals Tribunal shall be performed by officers of the Provincial Treasury as set out in the Rules referred to in paragraph 50A.3.
- (5) There shall be no further appeal against a decision of the Municipal Bid Appeals Tribunal.

**51. Contracts providing for compensation based on turnover**

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

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

**52. Identification of preference point system, designated sector, pre-qualification criteria, objective criteria and subcontracting**

**(1) Nquthu municipality must in tender documents, stipulate -**

- (a) the applicable preference point system as envisaged in Preferential Procurement Regulations, 2022 published in Government No. 40553 of 20 January 2022;
- (b) the specific goal in the invitation to submit the tender for which a point may be awarded, and the number of points that will be awarded to each goal, and proof of the claim for such goal.

**(2) If it is unclear whether the 80/20 or 90/10 preference point system applies,**

The municipality must, in the tender documents, stipulate in the case of—

- (a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or
- (b) any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system.

**(3) 80/20 preference point system for acquisition of goods or services with Rand value equal to or below R50 million**

- (a) The following formula must be used to calculate the points out of 80 for price in respect of an invitation for a tender with a Rand value equal to or below R50 million, inclusive of all applicable taxes:

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

Where

- $P_s$  = Points scored for price of tender under consideration;  
 $P_t$  = Price of tender under consideration; and  
 $P_{\min}$  = Price of lowest acceptable tender.

- (b) A maximum of 20 points may be awarded to a tenderer for the specific goal specified for the tender.  
 (c) The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.  
 (d) Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.

**(4) 90/10 preference point system for acquisition of goods or services with Rand value above R50 million**

- (a) The following formula must be used to calculate the points out 90 for price in respect of an invitation for tender with a Rand value above R50 million, inclusive of all applicable taxes:

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

Where -

- Ps = Points scored for price of tender under consideration;  
 Pt = Price of tender under consideration; and  
 Pmin = Price of lowest acceptable tender.

~~(b)~~(c) A maximum of 10 points may be awarded to a tenderer for the specific goal specified for the tender.

- (c) The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.  
 (d) Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.

**(5) 80/20 preference points system for tenders for income-generating contracts with Rand value equal to or below R50 million**

- (a) The following formula must be used to calculate the points for price in respect of an invitation for tender for income-generating contracts, with a Rand value equal to or below R50 million, inclusive of all applicable taxes:

$$Ps = 80 \left( 1 + \frac{Pt - Pmax}{Pmax} \right)$$

Where –

- Ps = Points scored for price of tender under consideration;  
 Pt = Price of tender under consideration; and  
 Pmax = Price of highest acceptable tender.

- (b) A maximum of 20 points may be awarded to a tenderer for the specific goal specified for the tender.  
 (c) The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.  
 (d) Subject to section 2(1)(f) of the Act, the contract must be awarded to the

tenderer scoring the highest points.

**(6) 90/10 preference point system for tenders for income-generating contracts with Rand value above R50 million**

- (a) The following formula must be used to calculate the points for price in respect of a tender for income-generating contracts, with a Rand value above R50 million, inclusive of all applicable taxes:

Where –

Ps = Points scored for price of tender under consideration;

Pt = Price of tender under consideration; and

Pmax = Price of highest acceptable tender.

- (b) A maximum of 10 points may be awarded to a tenderer for the specific goal specified for the tender.
- (c) The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.
- (d) Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.

**(7) Criteria for breaking deadlock in scoring**

- (a) If two or more tenderers score an equal total number of points, the contract must be awarded to the tenderer that scored the highest points for specific goals.
- (b) If two or more tenderers score equal total points in all respects, the award must be decided by the drawing of lots.

**(8) Remedies**

- (1) If (Nquthu) Municipality is of the view that a tenderer submitted false information regarding a specific goal, it must—
- (a) inform the tenderer; accordingly, and

- (b) give the tenderer an opportunity to make representations within 14 days as to why the tender may not be disqualified or, if the tender has already been awarded to the tenderer, the contract should not be terminated in whole or in part.
- (c) After considering the representations referred to in sub-regulation (1)(b), the organ of state may, if it concludes that such information is false—
- (d) disqualify the tenderer or terminate the contract in whole or in part; and
- (e) if applicable, claim damages from the tenderer.

**(9) Repeal of regulations**

- (a) Subject to this regulation, the Preferential Procurement Regulations, 2022 published in Government No. 40553 of 20 January 2022, are hereby repealed with effect from the date referred to in regulation 11.
- (2) Any tender advertised before the date referred to in regulation 11 must be dealt with in terms of the Preferential Procurement Regulations, 2017.

**(10) Short title and commencement of PPR Regulations, 2022**

- (a) These Regulations are called the Preferential Procurement Regulations, 2022 and take effect on 16 January 2023

**(11) Award of contracts to tenderers not scoring highest points**

- (1) A contract may be awarded to a tenderer that did not score the highest points only in accordance with section 2(1)(f) of the Act.
- (2) If Nquthu municipality intends to apply objective criteria in terms of section 2(1)(f) of the Act, Nquthu municipality must stipulate the objective criteria in the tender documents.

**(12) Subcontracting after award of tender**

- (1) A person awarded a contract may only enter into a subcontracting arrangement with the **enterprise located in Nquthu municipality area** by the approval of Nquthu municipality.

- (2) A person awarded a contract may not subcontract more than 25% of the value of the contract to any other enterprise.

**(13) Cancellation of tender**

- (1) Nquthu municipality may, before the award of a tender, cancel a tender invitation if-
  - (a) due to changed circumstances, there is no longer a need for the goods or services specified in the invitation;
  - (b) funds are no longer available to cover the total envisaged expenditure;
  - (c) no acceptable tender is received; or
  - (d) there is a material irregularity in the tender process.
- (2) The decision to cancel a tender invitation in terms of subregulation must be published in the same manner in which the original tender invitation was advertised.

**53. Tenders to be evaluated on functionality**

- (1) The Municipality must state in the tender documents if the tender will be evaluated on functionality.
- (2) The evaluation criteria for measuring functionality must be objective.
- (3) The tender documents must specify-
  - (4) the evaluation criteria for measuring functionality;
  - (5) the points for each criteria and, if any, each sub-criterion; and
  - (6) the minimum qualifying score for functionality.
- (7) The minimum qualifying score for functionality for a tender to be considered further- must be determined separately for each tender; and may not be so-
  - (i) low that it may jeopardise the quality of the required goods or services; or

- (ii) high that it is unreasonably restrictive.
- (8) Points scored for functionality must be rounded off to the nearest two decimal places.
- (9) A tender that fails to obtain the minimum qualifying score for functionality as indicated in the tender documents is not an acceptable tender.
- (10) Each tender that obtained the minimum qualifying score for functionality must be evaluated further in terms of price and the preference point system and any objective criteria envisaged in Section 10.

#### **54. BLACKLISTING OF SERVICE PROVIDERS**

- (1) Accounting officer must keep a list of service providers
  - (a) who abuse the supply chain management system by committing a corrupt, fraudulent, unfair and irregular practices;
  - (b) who default on any contract, performance willfully or negligently.
  - (c) who has already been included on the National Treasury's Register of Tender Defaulters in Nquthu municipality supplier database.
- (2) Service provider shall not be allowed to participate in the bidding or procurement processes of Nquthu municipality in the event that service provider is listed in 53 (1) (a)-(c) during the period of disqualification.
- (3) The blacklisting of defaulters can take place at the following stages -
  - (a) during the procurement process i.e. from the advertisement, until the award.
  - (b) After the award of contract, i.e. during the contract period or roll out.

- (4) The period which service provider is barred from participating in the procuring process will be at least 6 months from date of being added in the blacklisted database.

**Commencement**

The effective date of implementation of this policy is the date the council adopted this policy.