



UMGENI WATER

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Supply Chain Management	Rev.: 1

SUPPLY CHAIN MANAGEMENT POLICY

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Abbreviations

UW: Umgeni Water

DM: Demand Management

SCM: Supply Chain Management

PFMA: Public Finance Management Act No. 29 of 1999, as amended No.29 of 1999

PPPFA: Preferential Procurement Policy Framework Act, No. 5 of 2000 as amended

BBBEE: Broad Based Black Economic Empowerment Act, No.53 of 2003

BEE: Black Economic Empowerment

GM: General Manager

BAC: Bid Adjudication Committee

BEC: Bid Evaluation Committee

BSC: Bid Specification Committee

DOA: Delegations of Authority

Board: Umgeni Water Board (Accounting Authority)

EXCO: Executive Committee of Umgeni Water Board

CE: Chief Executive of Umgeni Water Board)

CIDB: Construction Industry Development Board

SANS: South African National Standards

SOE: State Owned Enterprise

HDI: Historically Disadvantaged Individuals

1. PREAMBLE

Although Umgeni Water is listed as a public entity under Schedule 3b in the PFMA and is therefore not obliged to comply with SCM, U W has adopted the principles of the Supply Chain Management framework.

2. PURPOSE

The purpose of the Supply Chain Management Policy is to make provision for a system of acquisition of goods and services that:

- (a) Is fair, equitable, transparent, competitive and cost effective;
- (b) Promotes the objectives of the Broad-Based Black Economic Empowerment
- (c) Facilitate an efficient and cost effective sourcing of the goods and services for delivery of services to UW customers thereby contributing to the national development agenda.

3. SCOPE

This policy applies to all elements of Supply Chain Management from Demand, Acquisition, Logistics, Risk, Supply Chain Performance and Disposal management in respect of all goods and services of UW.

Processes and mechanisms are detailed in the SCM procedures.

The policy does not apply if UW contracts with another organ of state for the following:

- (i) Provision of goods and services to UW
- ii) The procurement of goods and services under contracts secured by the organ of state, provided that the supplier involved has agreed to such procurement.

4. APPLICABLE LEGISLATION

4.1 The policy is based on the requirements embodied in the following legislation/regulations:

- (a) The Constitution of the Republic of South Africa, Act 108 of 1996, s217(1) to 217(3).
- (b) Public Finance Management Act, 1999 (PFMA), Act 1 of 1999 as amended by Act 29 of 1999;
- (c) Framework in terms of the Public Finance Management Act, 1999: Framework for Supply Chain management;

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- (d) Treasury Regulations for departments, constitutional institutions and public entities issued in March 2005 in terms of the PFMA;
- (e) Preferential Procurement Policy Framework Act No. 5 of 2000
- (f) Preferential Procurement Regulations of 2001
- (g) Broad-Based Black Economic Empowerment Act No. 53 of 2003;
- (h) Supply Chain Management – A Guide for Accounting Officer’s/Accounting Authorities (February 2004);

5. DEFINITIONS

The definitions of the various SCM terms mentioned in this policy, unless otherwise indicated are in terms of the definitions contained in SCM legislation and regulations.

6. OBJECTIVES

- 6.1 To guide Umgeni Water in properly administrating the various processes relating to the SCM function.
- 6.2 To ensure the efficient, effective and uniform procurement systems of assets, goods and services required for the proper functioning of Umgeni Water’s business.
- 6.3 To create conditions which are conducive to the principles of Broad-Based Black Economic Empowerment;
- 6.4 To prevent irregularities in the procurement of goods and services;

7. AUTHORITY AND RESPONSIBILITY

Approval and adoption of policy: Board.
 Execution of policy: The C E through the SCM business unit.

8. DELEGATIONS

All Delegations of Authority relating to SCM must be in line with Umgeni Water Delegations of Authority.

9. SUPPLY CHAIN MANAGEMENT UNIT:

UW shall establish a SCM unit to execute the functions of SCM.

10. TRAINING ON SUPPLY CHAIN MANAGEMENT:



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UW officials will be trained in implementing the SCM policy in accordance with National Treasury Guidelines on SCM Training.

11. ELEMENTS OF SUPPLY CHAIN MANAGEMENT

This policy will provide for the six elements of SCM, namely:

- Demand Management
- Acquisition Management
- Logistics Management
- Disposal Management
- Risk Management
- SCM Performance Management

11.1 **Demand Management:**

Provides for a system that ensures that the resources required to support the strategic and operational commitments of UW are delivered at the correct time, right place, right price, right quality and quantity.

11.2 **Acquisition Management:**

Ensures that Bid documentation is complete, (including evaluation criteria); to evaluate bids in accordance with published criteria: and that proper contract documents are signed.

11.3 **Logistics Management:**

Addresses the setting of inventory levels; stock replenishment, goods receiving, warehousing and goods issuing.

11.4 **Disposal Management:**

Obsolescence planning, maintaining the data base of redundant material, inspecting material for potential re-use, determining a disposal strategy, executing the physical disposal process.

11.5 **Risk Management:**

Provide for an effective system of risk management for the identification, consideration and avoidance of potential risk in the SCM system.

11.6 **Supply Chain Performance:**

Undertake retrospective analysis to determine whether proper processes have been followed and whether the desired objectives were achieved.

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12. BID COMMITTEES

The Chief Executive will constitute the following four committees, namely:

- Bid Specification committee
- Bid Evaluation committee
- Bid Adjudication committee
- Disposal committee.

In this regard the following must be noted:

- a) The members must sign the relevant declaration of interest prior to attending a meeting;
- b) The chairperson of each committee may invite other members in an advisory capacity (internal or external) that will assist in the decision process.
- c) No person involved in the Bid specification and Bid evaluation committees may be part of the Bid Adjudication committee.

12.1 Bid Specification Committees

These committees shall be composed of multi-disciplinary teams which will include amongst others, at least one SCM representative, a technical/ user department representative or any other specialist as may be required for each bid.

No person or business entity involved with the bid specification shall bid for the resulting contracts.

In compiling specifications, the following will be ensured:

- (a) Specifications are written in an unbiased manner to allow all potential bidders to offer their goods or services.
- (b) Specifications take into account any acceptable standards, e.g Standards South Africa, The International Standards Organisation, or any authority recognized or accredited by the South African National accreditation system with which the material or equipment should comply.
- (c) Where possible, descriptions are in terms of performance required rather than in terms of descriptive characteristics or design.
- (d) Specifications do not create trade barriers in contract requirements in the form of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labeling of conformity certification.
- (e) Specifications do 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

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work, in which case such reference must be accompanied by the words “equivalent”.

- (f) The committee shall ensure that proper planning and calculations of the estimated costs are done prior to prescribing the appropriate preference point system in the tender invitation.
- (g) Specifications must indicate the evaluation criteria and each specific goal for which points may be awarded in terms of the points systems
- (h) Specifications are approved by the CE or his/ her delegee prior to publication of the invitation for bids.
- (i) The Specification committee shall as far as possible, be composed of
 - Officials from departments requiring the goods and services.
 - Head Demand Management or his/ her delegate.

12.2 Bid Evaluation Committees:

12.2.1 A bid evaluation committee shall –

- (a) Evaluate bids in accordance with the evaluation criteria and specific goals as specified by the Bid Specification Committee.
- (b) Evaluate each bidder’s ability to execute the contract;
- (c) Check in respect of recommended bidder whether tax clearance certificate’s validity is verified with SARS.
- (d) Submit to the adjudication committee, a report recommending the award of the bid or any other related matter.

12.2.2 A bid evaluation committee shall as far as possible be composed of

- (a) Officials from departments requiring the goods and services, and
- (b) At least one SCM practitioner.
- (c) The quorum shall require at least 50% + 1 member.

12.3 Bid Adjudication Committee:

(1) This committee shall:

- I. Consider the report and recommendations of the bid evaluation committee for values exceeding R1m; and
- II. Either –

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- i. Depending on its delegations, make a final award or recommendation to the board/ relevant committee to make the final award; or
- ii. Make another recommendation to the CE on how to proceed with the relevant procurement.

- (2) This committee shall consist of the four General Managers, Legal Manager as well as the SCM Manager.
- (3) The chairperson of the committee shall be the General Manager- Finance. If the chairperson is not available, the members present will elect one of the members at the meeting to act as a chairperson.
- (4) The quorum shall require at least 50% + 1 member.
- (5) No person involved in the Bid specification and Bid evaluation committees may be part of the adjudication committee.
- (6) If the committee decides to award to the bid to any bidder other than the one recommended by the evaluation committee, the bid committee shall check that the tax clearance is verified with SARS and also notify the CE prior to awarding.

The CE shall:

- I. After due consideration of the reasons for deviation, ratify or reject the decision of the bid adjudication committee, and
- II. If the decision is rejected, refer the decision back to the adjudication committee for reconsideration.

- (7) Values up to R1m, have been delegated for consideration by a sub-committee that shall be chaired by the GM-Corporate Services, and shall consist of the SCM manager and other Senior managers from the different divisions, as shall be appointed by the CE.

This committee shall escalate any deviations and any other matters that it deems necessary, to the main Bid Adjudication committee.

All other approvals will be as per the UW's Delegation of Authority.

12.4 Disposal Committee

- (a) Receive applications for the disposal of UW assets.
- (b) Decide on the appropriate disposal mechanism
- (c) Consider all recommendations for the disposal of assets.
- (d) Support recommendations and refer to the relevant authority, in line with the DOA.

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13. PURCHASING MECHANISMS

Goods and/ or services shall be procured using one of the following purchasing mechanisms:

- Petty Cash
- Quotations
- Competitive Bids
- Two stage bidding
- Negotiations
- Multiple source bidding
- Single source suppliers
- Sole source bidding
- Unsolicited bids
- Preferred suppliers
- Strategic supplier sourcing
- Existing contracts

14. ACQUISITION THRESHOLD LIMITS

The following threshold limits will apply to acquisition management. All threshold limits include VAT. Orders for goods/ services may not be deliberately split into parts or items of lower values in order to avoid complying with these threshold limits.

- 14.1. Up to a value of R3 000.00 (Low value orders, faxed quotations, delegated to user departments).
- 14.2. Above R3 000.00 but not exceeding R30 000.00 (Minimum of three written quotations).
- 14.3. Above R30 000.00 but not exceeding R200 000.00 (Closed tenders, tenders submitted in the UW bid documentation provided submitted through the tender office, subject to a maximum of 10 days turn around time.)
- 14.4. Above R200 000.00 but not exceeding R500 000.00 (Closed tenders, tenders submitted in the UW bid documentation provided submitted through the tender box, subject to a maximum of 14 days turn around time.)
 - (a) Advertising for inclusion on the supplier data base is done in the media and UW website at least once a year.
 - (b) Tenders/ quotations are invited from all suppliers registered on the Data base with a closing date and time.
 - (c) Tender documentation specifying UW tendering conditions and specifications.
 - (d) Tenders are deposited in the tender box which is opened by at least two UW officials, who will register tenders in the tender register.
 - (e) Tenders are evaluated in line with PPPFA.

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- (f) If it is not possible to obtain three quotations, the reason for this must be recorded and approved by the Manager: SCM.
- (g) The Head – Demand Management must assist when suitable suppliers are not on the database.
- (h) No late tenders are accepted.
- (i) Quotations will not generally be opened in public but conducted in-house.
- (j) The SCM manager shall consider the report and recommendation of the Bid Evaluation committee and either makes a final award or refers back to the evaluation committee and in a case of a dispute, refers the matter up to the CE.

14.5 Above R 500 000 (Open tender system)

For bids above R500 000 the following should be noted:

- (a) Competitive bids will be advertised.
- (b) The process will be the same as the above paragraph 14.3 from (d) to (j).
- (c) Should it be impractical to invite competitive bids for specific procurements, e.g emergencies or in the case of a sole supplier, single sourced supplier or by negotiation, the reasons for this deviation must be recorded and approved by the Chief Executive or his/her delegate.
- (d) The prescripts of the Preferential Policy Framework Act of 2000, PFMA and its associated regulations and any new legislation that may be promulgated must be adhered to.

15. NEGOTIATIONS WITH SUCCESSFUL BIDDERS:

The CE or his/ her representative may negotiate 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

Minutes of such negotiations will be kept for record purposes.

16. EMERGENCY SITUATIONS AND POST FACTO APPROVALS:

Purchases made for emergency situations, which have the effect of circumventing, dispensing the need for three quotes or dispensing with established procurement policy, shall be limited to the following types of situations as approved by the EXCO

- 16.1 threats to human life or safety
- 16.2 threats to interruptions in the provision of water to customers



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- 16.3 client or customer service impacting conditions
- 16.4 the threat of major expense system failure and/ or loss of revenue to Umgeni Water
- 16.5. where Umgeni Water's operations could be significantly disrupted

It should be noted that, although the documentation for emergency purchases, will likely be completed after the purchase, complete documentation of the purchasing decision together with an incident report, one quote, and a full motivation must be prepared and submitted to the SCM department within 48 hours of emergency, to enable the preparation of an official order and to arrange for payment. Post facto approvals will be submitted to the Bid Adjudication Committee highlighting the circumstances that gave rise to the emergency for noting.

17. SOLE SUPPLIER SITUATIONS

- 17.1 Sole source purchase where there is only one supplier available in the market for the goods or service sought or supplier has sole distribution rights.
- 17.2 Products or services that are enhancements or additions to existing systems or equipment that are in use at Umgeni Water, for which no other alternative source option is available
- 17.3 The supplier has exclusive/patent rights or unique original equipment manufacturer (OEM). The product source is of a proprietary nature and can only be sourced from a specific supplier.

It is important to note that the writing of tight specifications or the adoption of a specific supplier's specifications of the procurement of specific branded products or services, which have the effect of eliminating competition is not acceptable, as this can only encourage and perpetuate sole supplier status and high prices by sole suppliers.

18. SINGLE SOURCE PURCHASES

This method may be used when one of the other purchasing procedures is impractical or otherwise inappropriate. In this case, comparison of prices with goods or services of like complexity or similar production costs may be used as a substitute for competitive procurement processes. This method is recommended under the following circumstances:

- 18.1 For the appointment of unique professional services, where individual expertise is desired
- 18.2 For business relationship where goods or services may be provided in a partnership arrangement
- 18.3 Requirements in excess of the initial quantities ordered for the same need, identified through a further need which may arise through unforeseen circumstances, urgency and where the adherence to normal procedures may either prove to be expensive or hinder progress of a project and the invitation of competitive quotes will not be advantageous.

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18.4 The purchase of spare parts and maintenance of existing machinery and equipment, which is only available from the original equipment manufacturer or its appointed agent, or for the standardization of equipment/machinery or in cases where equipment/machinery is required to be stripped before a quotation is made out and there are no dealerships or agents. This must be through preferred supplier who were properly assessed and selected within a fair and competitive environment. In the absence of a preferred list, the supplier utilised shall be a sole supplier for the type of equipment being repaired and proof must be available to justify the sole supplier status

18.5 For emergency situations or where the needs of the business preclude the use of competitive quotations or proposals.

19. THE BIDDING PROCESS:

The bidding process comprises of the following stages:

- Compiling bid documents
- Inviting bids
- Receiving bids
- Evaluating bids
- Clearing successful bidders and awarding contracts

UW will compile different suites of standard bid documents which will comprise amongst others, supplies, services, appointment of consulting engineers etc.

20. THE EVALUATION OF BIDS:

20.1 The evaluation of bids will be in line with PPPFA No.5 of 2000, (as amended), as expanded in the table below;

- (a) For all contracts with a Rand value equal to or below R 500 000 the principle of 80/20 will apply; and
- (b) For all contracts with a Rand value above R500 000, the principle of 90/10 will apply.

20.2 Until the PPPFA is aligned to the BBBEE Act, Umgeni Water will, in the interim, allocate preference points to the three categories, namely, historically disadvantaged individuals, women and disabled persons, as indicated in the table below



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80/20 Principle

PREFERENCE POINT SYSTEM		80/20
PRICE (including Capacity, Specific Resource Requirements, Qualitative Requirements and Functionality)		80
DIRECT PREFERENCE POINTS	HISTORICALLY DISADVANTAGED INDIVIDUALS	10
	WOMEN	8
	DISABLED PERSONS	2
Total preference points		20
Total evaluation points		100

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90/10 Principle

PREFERENCE POINT SYSTEM		90/10
PRICE (including Capacity, Specific Resource Requirements, Qualitative Requirements and Functionality)		90
DIRECT PREFERENCE POINTS	HISTORICALLY DISADVANTAGED INDIVIDUALS	5
	WOMEN	4
	DISABLED PERSONS	1
Total preference points		10
Total evaluation points		100

Note:

Definition of HDI:

The Preferential Procurement Regulations define a HDI (Historically Disadvantaged Individual) as a South African citizen –

- i) who, due to the apartheid policy that has been in place, had no franchise in national elections prior to the introduction of the Constitution of the Republic of South Africa, Act 110 of 1983 or the Constitution of the Republic of South Africa, Act 200 of 1993 (“the Interim Constitution”); and/or
- ii) Who is female; and/or
- iii) who has a disability;

provided that a person who obtained South African citizenship on or after the coming to effect of the interim Constitution, is deemed not to be HDI.

20.3 The four standard bid evaluation methods detailed in the South African National Standards (SANS) 294 as detailed below, will apply;

Method 1 Financial offer (Low value)	<ul style="list-style-type: none"> • Rank tender/bid offer from the most favourable to the least favourable comparative offer. • Recommend highest ranked tender/bidder for the award of the contract unless there are compelling and justifiable reasons not to do so.
Method 2 Financial offer and preferences (>R30 000) 90/10 & 80/20 Based on the PPPFA	<ul style="list-style-type: none"> • Score tender/bid evaluation points for financial offer. • Confirm that tender/bidders are eligible for the preferences claimed and if so, score tender/bid evaluation points for preferencing. • Calculate the tender/bid evaluation points. • Rank the tender/bid offers from the highest number of tender/bid evaluation points to the lowest. • Recommend tender/bidder with the highest number of tender/bid evaluation points for the award of the contract, unless there are compelling and justifiable reasons not to do so.
Method 3 Financial offer and quality (foreign supplier)	<ul style="list-style-type: none"> • Score quality, rejecting all tender/bid offers that fail to score the minimum number of tender/bid points for quality stated in the special conditions of tender/bid. • Score tender/bid evaluation points for financial offer.

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– only price and technical)	<ul style="list-style-type: none"> • Calculate the total tender/bid evaluation points. • Rank tender/bid offers from the highest number of tender/bid evaluation points to the lowest. • Recommend the tender/bidder with the highest number of tender/bid evaluation points unless there are compelling and justifiable reasons not to do so.
Method 4 Financial offer, quality and preferences (Price and preferences – functionality points are attached to the preference and price points.)	<ul style="list-style-type: none"> • Score quality, rejecting all tender/bid offers that fail to score the minimum number of tender/bid points for quality stated in the special conditions of tender/bid. • Score tender/bid evaluation points for financial offer. • Confirm that tender/bidders are eligible for the preference claimed and if so, score the tender/bid evaluation points for preferencing. • Calculate the total tender/bid evaluation points. • Rank tender/bid offers from the highest number of tender/bid evaluation points to the lowest. • Recommend the tender/bidder with the highest number of tender/bid evaluation points unless there are compelling and justifiable reasons not to do so.

- 20.4 Umgeni Water prescribes different appropriate criteria to provide for the qualification of different types of suppliers supplying different categories of goods, works or services in differing industries.
- 20.5 Suppliers are evaluated in terms of their compliance with applicable commercial, financial, quality, technical, environmental, safety, capability/capacity and human resource requirements, as well as performance ratings (where applicable), as determined by the specific functional areas within Umgeni Water.
- 20.6 For civil and construction bids, the Construction Industry Development Board (CIDB) prescripts will apply.

21. THE BROAD BASED BLACK ECONOMIC EMPOWERMENT (BBBEE) Act:

Umgeni Water will develop a preferential procurement policy in line with the BBBEE and ensure compliance thereto when goods or services are procured or disposed of.

22. SUPPLIER PERFORMANCE MANAGEMENT:

Umgeni Water will put in place, systems to ensure supplier performance management and development.

23 APPOINTMENT OF CONSULTANTS

23.1 Consultants will be appointed when:

- (a) The necessary expertise, skills and/or resources to perform a project/duty/study are not available within Umgeni Water; and
- (b) UW cannot be reasonably expected either to train or to recruit people in the time available

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(c) A complex or highly specialised assignment, for which it is difficult to define the precise scope of work and tenderers are expected to demonstrate innovation in their proposals.

23.2 Steps to follow when selecting consultants:

- (a) Identify the approach
- (b) Invite bids/ proposals
- (c) Receive responses – and
- (d) Evaluate responses

23.2.1 Identifying the approach:

An appropriate approach from the following, will be used depending on the circumstances and the type of project:

- (a) Quality Based selection
- (b) Selection under a fixed budget
- (c) Least cost selection; and
- (d) Single source selection.

23.2.2 Inviting bids/proposals:

- (a) The Terms of Reference will be compatible with the available budget and must define the scope of the assignment clearly.
- (b) Bids will be invited using the appropriate purchasing mechanism.
- (c) The evaluation criteria, including functionality and the targeted preferences should form part of the bid document.

23.2.3 Receiving of responses:

Tenders will be received via the tender box.

23.2.4 Evaluation of responses:

The bids will be evaluated against the evaluation criteria in line with the normal evaluation process

23.3 Single sourcing:

Single sourcing will only be used when the assignment represents a natural continuation of previous work carried out by the firm. Other deviations will be approved by the CE.

23.4 Conflict of interest:

An consultant cannot be involved in both the design and the construction of the same project except for turnkey projects.

23.5 Types of contracts

The most appropriate type of contract from the following will be selected:

- (a) Lump sum (firm fixed price) contract.
- (b) Time based contract
- (c) Retainer and/ or contingency (success) fee contract.
- (d) Percentage contract.
- (e) Indefinite delivery contract (price agreement)

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24. EXEMPTIONS

24.1 Competitive bidding may not apply under certain circumstances including but not limited to:

- (a) Services provided by SOE's for which they are sole providers
- (b) Implementing projects for poverty alleviation.
- (c) Membership fees
- (d) Payments for Tertiary institutions and conferences.

24.2 Deviations from policy:

Should a need to deviate from this policy arise, the user department shall obtain approval from the CE before approaching SCM to source the goods or services.

25. DISPOSAL MANAGEMENT

25.1 The Supply Chain Manager of Umgeni Water, must establish an effective system of disposal management for the disposal of assets, including unserviceable, redundant or obsolete assets:

25.2 Goods shall be disposed of using one of the following mechanisms:

- (a) Transfer
- (b) Donation
- (c) Sale by bid
- (d) Sale by auction
- (e) Destruction

25.3 The Head: Disposal Management and Special Projects is responsible for developing the Disposal Plan which will serve as input to the Demand Management function and as an input to the Procurement Plan.

25.4 The key elements of a Disposal Plan should include, *inter alia*, the following:

- (a) The definition of the appropriate disposal methods for the category of the asset in question;
- (b) The purchase date of the asset (if available);
- (c) The disposal date of the asset;
- (d) The disposal revenue or revenue loss;
- (e) The frequency of review of the plan.

25.5 The Disposal Plan must be presented by the Disposal Committee to the EXCO for approval.



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26. LOGISTICS MANAGEMENT

The CE must establish an effective system of Logistics Management that will provide for:

- (a) The setting of inventory levels,
- (b) Replenishment of stock,
- (c) Receiving and distribution of goods,
- (d) Storage and warehouse management,



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27. RISK MANAGEMENT:

The CE will establish an effective system of Risk Management which will 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
- (d) Greater than that of retaining it;
- (e) The management of risks in a pro-active manner and the provision of
- (f) Adequate cover for residual risks; and
- (g) The assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.

28. PERFORMANCE MANAGEMENT:

The CE will establish an effective 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 desired objectives were achieved.

29. THE OVERSIGHT ROLE OF THE BOARD

The Board has an oversight role in ensuring that the CE executes the Board's policy within the ambit of the applicable legislation, such as the prescripts contained in the PFMA, PPPFA and the BBEE Act, 2003, and as well as ensuring that approved policies and procedures are adhered to at all times, through exercising its oversight role.

30. TRANSACTIONS WITH UMGENI WATER OFFICIALS AND STAFF

- 30.1 Persons in the service of UW, including Board members and full-time employees will be prohibited from bidding or being awarded contracts for the provision of goods or services to UW. The prohibition will also apply to companies if a Board member or an employee is an owner, director or principal shareholder. Awards to a close family member of an employee in the service of UW must be declared. Awards to and inclusion on the supplier data base of ex-employees, within a period of 12 months of their leaving the employment of UW must be approved by the CE.

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30.2 An official or staff member of UW may not:

- (a) Use the position for private gain and improperly benefit from confidential information obtained as a staff member, for private gain or to improperly benefit another person;
- (b) Take a decision on behalf of Umgeni Water concerning a matter in which that staff member, or that staff members spouse, partner or business associate, has a direct or indirect personal or private business interest.

30.3 Disclosure of benefits:

- (a) A staff member of Umgeni Water who, or whose spouse, partner, business associate or close family member, acquired or stands to acquire any direct benefit from a contract concluded with Umgeni Water, must disclose in writing full particulars of the benefit to the Board; and
- (b) This obligation does not apply to a benefit which a staff member, or a spouse, partner, business associate or close family member, has or acquires in common with all other employees of Umgeni Water.

31. SANCTIONS FOR INAPPROPRIATE BEHAVIOUR

31.1 In the instance that Umgeni Water has established that any person, firm or company:

- (a) Is executing a contract in an unsatisfactory manner;
- (b) Has offered, promised or given a bribe or other remuneration in a direct or indirect manner to the Chairperson, a Committee Member, an Official or employee of Umgeni Water, or their spouse, partners, business associates or any other connected person with obtaining and executing a contract;
- (c) Has acted fraudulently or in bad faith or in any other unsatisfactory manner in obtaining or executing a contract with any Government Department, provincial administration, public body, company or natural person, or that he or she has managed his or her affairs in a manner that has resulted in him or her being found guilty of an offence;
- (d) Has approached a Chairperson, a Committee member, an official or an employee before or after tenders have been invited for the purpose of influencing the award of the contract in his favour;
- (e) Has misrepresented the BEE status of the company and/ or certain facts in order to gain advantage in a tender process;

31.2 Umgeni Water may, in addition to any claim it may have and in addition to any other legal resource at its disposal, decide that any contract between Umgeni Water and such natural person, company shall be cancelled, and that no

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tender from such person, company shall be accepted for a period of five years.

31.3 Indemnity clause in memorandum of agreement between Umgeni Water and Consultants / Service Providers / Suppliers

- (a) Umgeni Water will include an indemnity clause in all memorandum of agreements that record the terms and conditions on which Umgeni Water appoints Consultants / Service Providers / Suppliers.
- (b) The clause at issue essentially stipulates that the indemnity clause must indemnify Umgeni Water against any and all claims arising out of the wilful or negligent acts or omissions of the Consultant / Service Provider/ Suppliers, or any person acting for or on their behalf, and that the Consultant / Service Provider/ Suppliers has sufficient insurance to cover such claims.
- (c) In the event that Consultants / Service Provider / Suppliers are not willing to agree to such an indemnity clause, Umgeni Water may not appoint such consultants / Service Providers/ Suppliers.

32. COMBATING ABUSE OF SUPPLY CHAIN MANAGEMENT SYSTEM

The CE will–

- 32.1 Take all reasonable steps to prevent abuse of the supply chain management system;
- 32.2 Investigate any allegations against an official or other role player of fraud, corruption, favouritism, unfair or irregular practices or failure to comply with this supply chain management policy, and when justified:
 - (a) take appropriate steps against such official or other role player; or
 - (b) report any alleged criminal conduct to the South African Police Service;
- 32.3 Check the National Treasury’s database prior to awarding any contract to ensure that no recommended bidder, or any of its Directors are listed as a person prohibited from doing business with the public sector;
- 32.4 Reject any bid from a bidder:

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

32.5 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;

32.6 Cancel a contract awarded to a person if –

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

32.7 Reject the bid of any bidder if that bidder or any of its Directors –

- (a) has abused the Supply Chain Management system of Umgeni Water or has committed any improper conduct in relation to such system;
- (b) has been convicted for fraud or corruption during the past five years;
- (c) has willfully neglected, reneged on or failed to comply with any government or other public sector contract during the past five years; or
- (d) 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).

33. ETHICAL STANDARDS

33.1 The following ethical standards shall be applied to officials and other role players in the supply chain management system in order to promote mutual trust and respect and an environment where business can be conducted with integrity and in a fair and reasonable manner.

33.2 Officials who are responsible for procuring goods and services will need to comply with a strict code of ethics with regard to gifts and other inducements, and must immediately withdraw from the process if a family member has any interest in a bid. Companies that supply goods or services must also disclose all sponsorships and are obliged to declare any illegal gifts, rewards or favours to officials. Non-complying companies risk being placed on a list by the National Treasury and UW that will prohibit them from doing business with the public sector.

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- 33.3 An official or other role player involved in the implementation of the supply chain management policy:
- (a) must treat all providers and potential providers equitably;
 - (b) may not use his or her position for private gain or to improperly benefit another person;
 - (c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350;
 - (d) must declare to the CE, details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;
 - (e) must declare to the CE, details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by, Umgeni Water;
 - (f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;
 - (g) must be scrupulous in his or her use of property belonging to Umgeni Water;
 - (h) must assist the CE in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system; and
 - (i) must report to the CE any alleged irregular conduct in the supply chain management system which that person may become aware of, including:
 - any alleged fraud, corruption, favouritism or unfair conduct;
 - any alleged contravention of ethics of this policy; or
 - any alleged breach of this code of ethical standards.
- 33.4 Declarations must be recorded in a register which the CE must keep for this purpose;
- 33.5 The Umgeni Water's code of conduct must also be taken into account by SCM practitioners and other role players involved in SCM. The code of conduct becomes binding on all officials and other role players involved in the implementation of the SCM policy of U W.



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- 33.6 An official of UW who becomes aware of a breach of or failure to comply with any aspect with the SCM system must immediately report the breach or failure to the CE or accounting authority in writing
- 33.7 A breach of the code of conduct will be dealt with in accordance with U W's disciplinary procedures.

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34. RESOLUTION OF DISPUTES, OBJECTIONS, COMPLAINTS AND QUERIES

34.1 Persons aggrieved by decisions or actions taken in the implementation of this SCM system, may lodge within 5 working days of the decision or action, a written objection or complaint against the decision or action.

34.2 The CE will appoint an independent and impartial person, not directly involved in the SCM processes:

(d) To assist in the resolution of disputes regarding:

- any decisions or actions taken in the implementation of the SCM system; or
- any matter arising from a contract awarded in the course of the SCM system

(e) To deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.

34.3 The CE, or another official designated by the CE, will be responsible for assisting the appointed person to perform his or her functions effectively.

34.4 The person appointed must:

- (a) Strive to resolve promptly all disputes, objections, complaints or queries received; and
- (b) Submit monthly reports to the CE on all disputes;
- (c) Ensure objections, complaints or queries received are attended to or resolved.

35. REVIEW OR AMENDMENT OF POLICY:

UW may review or amend this policy as it deems necessary.