

WALTER SISULU UNIVERSITY			
TITLE: Supply Chain Management Policy			
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TABLE OF CONTENTS

WALTER SISULU UNIVERSITY 1

TITLE: Supply Chain Management Policy..... 1

FIN 02..... 1

TABLE OF CONTENTS..... 1

PROCUREMENT PROCEDURES..... 4

THE REQUISITION..... 4

MANUAL REQUISITIONS..... 4

Process map..... 5

Department or Section requesting..... 5

..... 5

Assistant Buyer..... 5

..... 5

Procurement Officer/ Requestor..... 5

..... 5

Procurement Manager..... 5

..... 5

Vice Chancellor..... 5

..... 5

ELECTRONIC REQUISITIONS..... 5

DETAILS OF THE REQUISITION..... 6

AUTHORITY..... 7

QUOTATIONS: 8

WRITTEN QUOTATIONS..... 8

Solicited bids (R100 001 to R250 000)..... 9

Procedures for procuring goods or services through written Quotations and solicited bids

..... 10

Competitive bidding process..... 11

Process for competitive bidding..... 12

SPECIFICATIONS:..... 13

DATA BASE:..... 13

TERMS AND CONDITIONS:..... 17

<u>ORDER.....</u>	<u>18</u>
<u>DELIVERY OF GOODS AND SERVICES.....</u>	<u>19</u>
<u>OUTSTANDING COMMITMENTS:.....</u>	<u>20</u>
<u>CREDITORS</u>	<u>21</u>
<u>CONTRACTS/RENTALS/LEASES</u>	<u>21</u>
<u>NORMAL CREDITORS</u>	<u>22</u>
<u>APPENDIX A: – PREFERENTIAL PROCUREMENT REQUIREMENTS.....</u>	<u>22</u>
<u>SECTION 1.....</u>	<u>22</u>
<u>PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT.....</u>	<u>22</u>
<u>Definitions.....</u>	<u>23</u>
<u>Framework for implementation of preferential procurement policy.....</u>	<u>24</u>
<u>Exemption.....</u>	<u>25</u>
<u>Transitional provision.....</u>	<u>25</u>
<u>Regulations</u>	<u>25</u>
<u>Short title</u>	<u>25</u>
<u>SECTION 2:.....</u>	<u>25</u>
<u>PART ONE.....</u>	<u>26</u>
<u>DEFINITIONS AND APPLICATION.....</u>	<u>26</u>
<u>Definitions.....</u>	<u>26</u>
<u>Application.....</u>	<u>29</u>
<u>Part Two.....</u>	<u>30</u>
<u>Preference Point System, Evaluation of Tenders, Awarding of Tenders not Scoring Highest Points, Cancellation and Re-Invitation of Tenders.....</u>	<u>30</u>
<u> The 80/20 preference point system.....</u>	<u>30</u>
<u> The 90/10 preference point system.....</u>	<u>31</u>
<u> The 80/20 preference point system for the sale and letting of assets.....</u>	<u>32</u>
<u> The 90/10 preference point system for the sale and letting of assets.....</u>	<u>32</u>
<u> Stipulation of preference point system to be used.....</u>	<u>33</u>
<u> Evaluation of tenders on functionality and price.....</u>	<u>33</u>
<u> Award of contract to tender not scoring the highest number of points.....</u>	<u>34</u>
<u> Cancellation and re invitation of tenders.....</u>	<u>35</u>
<u>Part Three.....</u>	<u>36</u>
<u>Duty to Plan, General Conditions, Principles, Declarations, Penalties, Tax Clearances and Tender Goals.....</u>	<u>36</u>
<u> Duty to plan for invitation of tenders.....</u>	<u>36</u>
<u> General conditions.....</u>	<u>36</u>
<u> Principles.....</u>	<u>38</u>
<u> Declarations.....</u>	<u>40</u>
<u> Penalties.....</u>	<u>40</u>
<u> Tax clearance certificate.....</u>	<u>41</u>
<u> Specific goals.....</u>	<u>41</u>
<u> Short title.....</u>	<u>42</u>

PROCUREMENT PROCEDURES

This procedure is intended to give value in operationalising the Supply Chain Management Policy. That each link performs the functions it is intended for in strengthening the supply chain management process. It is intended to bring more efficiency and remove any weaknesses in the supply chain. This cuts across all facets of supply chain from the concretization of need supported by availability of funds to **timely** removal of commitment created through placement of an order.

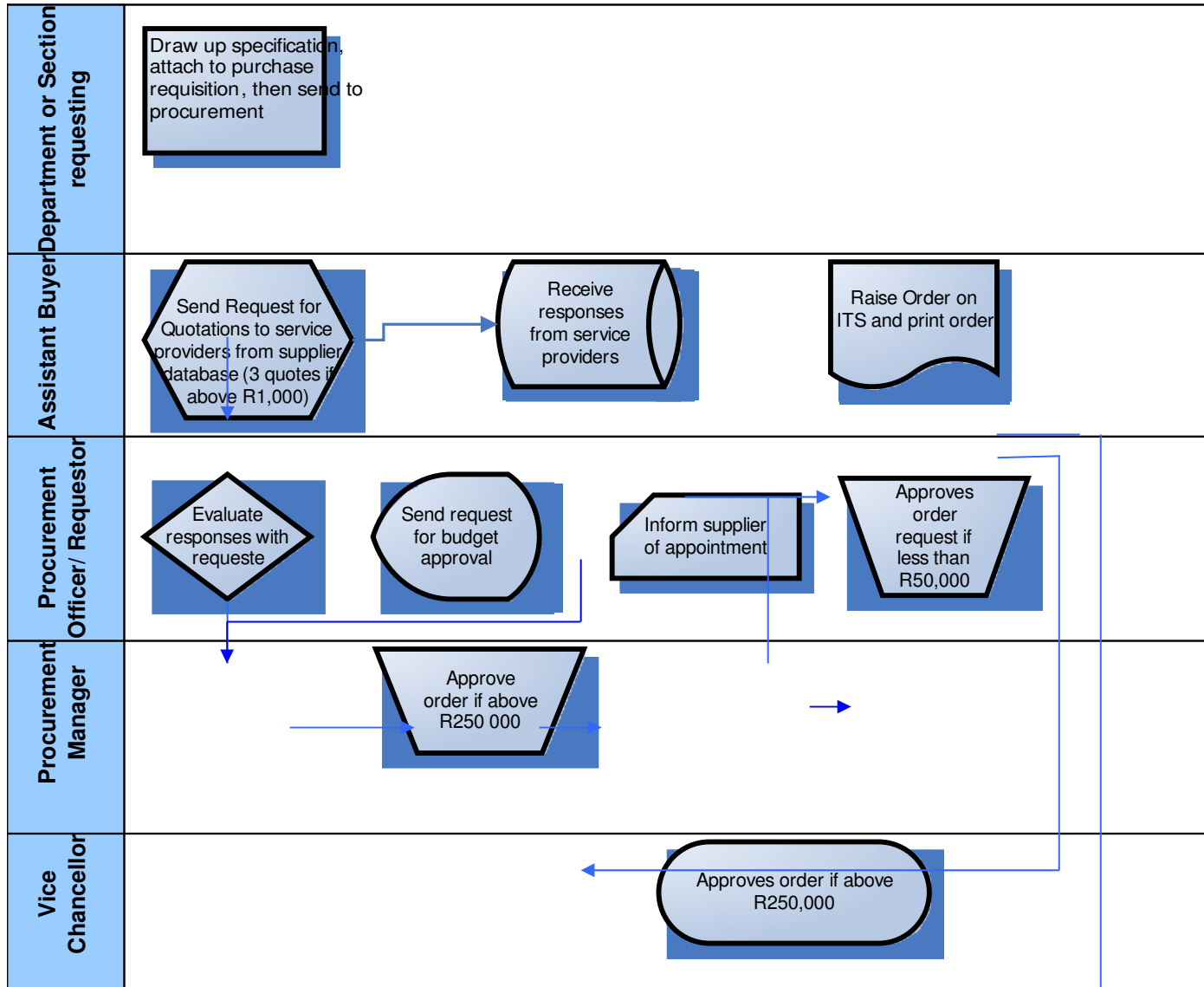
THE REQUISITION

AL REQUISITIONS

Manual requisitions shall be used only when electronic requisitions can not be accessed.

- 1.1.1 A request originates from the department, school or faculty that has a need for goods or services
- 1.1.2 The request needs to be in writing asking for authority to procure such goods or services for and on behalf of the institution.
- 1.1.3 Assisting in the design and keeping uniformity within WSU; Finance department together with stores shall make available on request WSU requisition books.
- 1.1.4 The requisition book shall be in duplicate, with the carbonized fast copy remaining in the book.
- 1.4 The requisition book must be completed in full and in duplicate.
- 1.1.5 Requisitions must be presented to procurement on time to allow sourcing of quotations
- 1.1.6 The turnaround time for any requisition is at least three working days after quotations have been sourced

1.1.7 Requisitions must be presented to budget section to confirm correctness of budget allocations



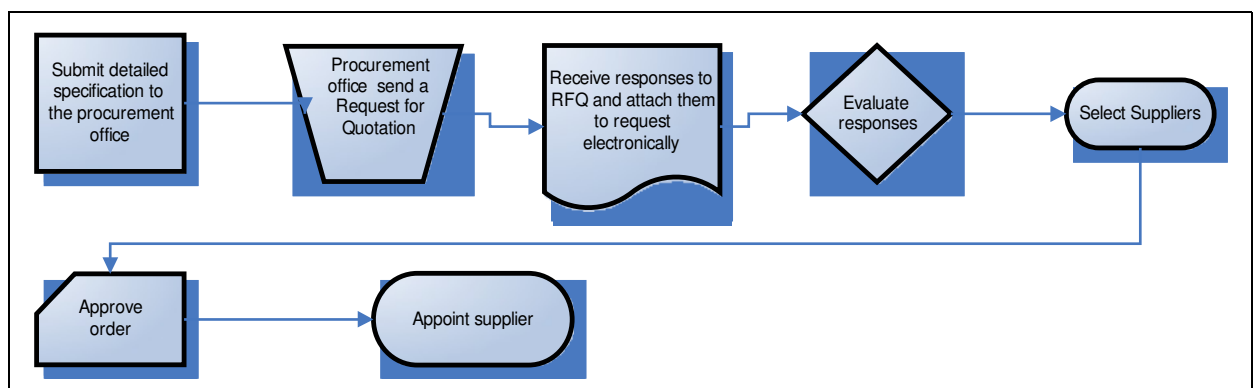
PROCESS MAP

Procurement Process no.1 (Manual Requisition)

CTRONIC REQUISITIONS

- 1.1.1. An electronic request shall originate through ITS from the department, school or faculty that has a need for goods or services.
- 1.1.2. The request shall be forwarded to Procurement Section to attach quotations.
- 1.1.3. On attaching of quotations the Procurement Section shall forward the request with a suggested Supplier to the Budget Holder, School or Faculty for electronic approval.
- 1.1.4. Procurement Section receives the approved request and places an order.
- 1.1.5. Depending on the value of the order, approval is sought from 1st and/ or 2nd level Approvers.
- 1.1.6. On approval, an order is placed with the Supplier.
- 1.1.7. Once an order is placed, Procurement Unit shall inform the requesting Department of the order number and Supplier through e-mail.

Procurement Process no.2 (Electronic Requisition)



AILS OF THE REQUISITION

The requisition shall contain at least the following information

1.1.8. The date in which it is prepared (by default on electronic requisitions)

1.1.9. Proposed supplier (*If unique and specialized*).

1.1.10. Cost centre code of the department.

1.1.11. General ledger code to which the expenditure relates.

1.1.12. A **detailed specification** of goods and or service required (*Should the space in the requisition book not be sufficient, a separate sheet could be prepared*).

1.1.13. A detailed specification should include a **motivation** as to why the expenditure has to be incurred.

1.1.14. The quantity of items specified must be clearly indicated.

1.1.15. Budget row – on manual requests - must be completed indicating:-

-)a Total annual budget for the line item.
-)b Amount spent to date.
-)c Available balance.
-)d Estimated cost of this request.
-)e Available balance after this request.

1.1.16. Requesters name, signature and date – Manual requisitions.

Name, signature and date of approval of the requisition – Manual requisitions.

AUTHORITY

1. All acquisition of goods and or services must be authorized by the budget holder within the limits of his/her authority
2. No one is allowed to authorize his/her own individual expenses such as traveling or conference attendance.
3. Where the acquisition is urgent and the budget holder is not available, the next level of seniority within the line function shall be used to authorize such acquisition.
4. The budget holder may delegate in writing his/her authority to a junior staff member for a specified limited period.
5. For all tender items, only the Executive Management shall authorize such acquisition.

QUOTATIONS:

1. Supply Chain Management policy shall be adhered to in sourcing quotations.
2. All quotations shall be sourced by Procurement Unit.
3. Under no circumstances shall any supplier be required to source quotations on behalf of WSU
4. Procurement Unit shall negotiate price and other terms and conditions with the suppliers.
5. Quotations received by faxed copies will be acceptable.
6. All quotations must be on the suppliers letterheads or a quotation book whereby the company stamp is affixed

WRITTEN QUOTATIONS

1. At least 1 written quotation between 0 and R 1000 (Vat included)
2. At least 2 written quotations – Between R1001 and R 5 000 (Vat included)
3. At least 3 written quotations (R5 001 to R100 000)

The conditions for the procurement of goods or services through written quotations are as follows –

- (a) quotations must be obtained from at least three different providers preferably from, but not limited to, providers whose names appear on the list of accredited prospective providers of the university provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria set out in paragraphs 8 of this Policy;
- (b) if it is not possible to obtain at least three quotations, the reasons must be recorded and reported quarterly to the Director: Cost and Management Accounting per event and the Financial Director shall authorize the event accordingly and reported in writing to the Chief Finance Officer on at least a quarterly basis.
- (c) The Finance Director must record the names of the potential providers requested to provide such quotations with their quoted prices; and

SOLICITED BIDS (R100 001 TO R250 000)

- (1) The conditions for the procurement of goods or services through formal written price quotations are as follows –
 - (a) Quotations must be obtained in writing from at least three different providers whose names appear on the list of accredited prospective providers of the university. All quotes must be inclusive of carriage/freight costs. The supplier must provide written confirmation of price and goods for placement of an order prior to an order being placed;
 - (b) Quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria set out in paragraph 8 of this Policy;
 - (c) If it is not possible to obtain at least three quotations, the reasons must be recorded and reported quarterly to the Director: Cost and Management per event and the Finance Director shall authorize the event accordingly and report in writing to the Chief Finance Officer at least on a quarterly basis;
 - (d) The Finance Director must record the names of the potential providers and their written quotations.

Quotations must:

- (a) Be in writing, and signed by a person with the necessary authority to act on behalf of the
Prospective supplier;
- (b) Comply with the specifications set out in the quotation notice;
- (c) Be marked for identification in relation to the particular quotation and deposited in the 'tender box' specified and by the specified time on the due date;
- (d) Be accompanied by a valid tax clearance certificate issued by the South African Revenue Service (SARS);
- (e) Be accompanied by any other documentation required by the university.

(3) The Procurement Manager must within three days of the end of each month report to the Finance Director on any approvals given during that month by that official in terms of that subparagraph.

(4) If for any reason this process is not followed, the reasons for deviation must be documented by the relevant Director and approved by the Chief Financial Officer (CFO).

Procedures for procuring goods or services through written Quotations and solicited bids

(5) The procedure for the procurement of goods or services through written quotations or formal written price quotations, is as follows –

- a. When using the list of accredited prospective providers the Procurement Manager must promote ongoing competition amongst providers, including by inviting providers to submit quotations on a rotation basis;
- a. The Procurement Manager must take all reasonable steps to ensure that the procurement of goods and services through written quotations or formal written price quotations is not abused;
- b. The Procurement Manager must on a monthly basis be notified in writing of all written quotations and formal written price quotations accepted by an official acting in terms of a sub delegation, and;
- c. Offers received must be evaluated on a comparative basis taking into account unconditional discounts;
- d. Acceptable offers, which are subject to the preference points system (PPPFA and associated regulations), must be awarded to the bidder who scored the highest points;
- e. The procurement Manager must keep proper records.

(6) Notwithstanding the above requirements for consideration, quotations not meeting the specifications may not be accepted.

(7) Only quotations complying with the specifications will be considered to be accepted, provided that there are sufficient funds within the appropriate budget.

COMPETITIVE BIDDING PROCESS

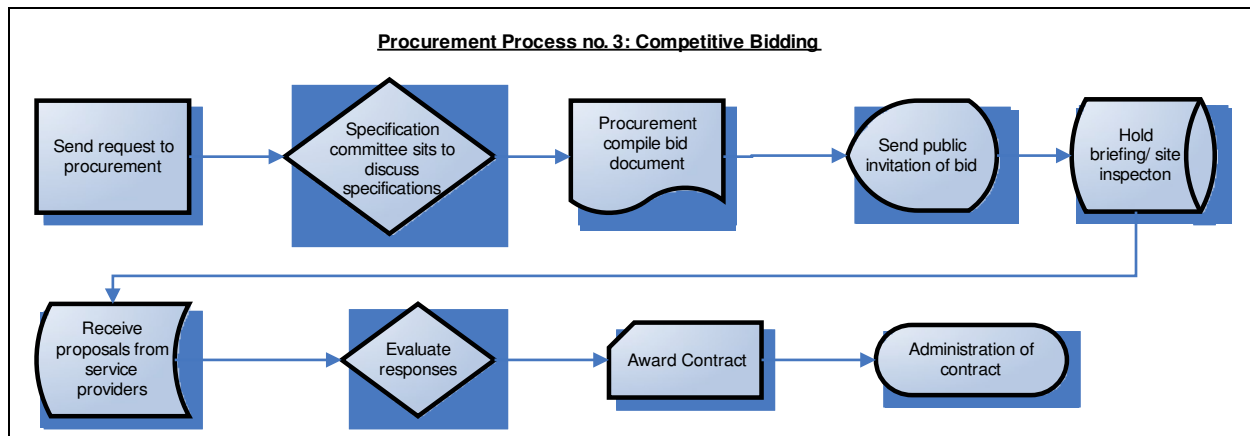
(1) Goods or services above a transaction value of R250 001 (VAT included) and long term contracts may only be procured through a competitive bidding process, subject to paragraph 12(2) of this Policy; and

- (2) The bid documentation will be prepared by the Procurement Manager in consultation with the relevant directorate and displayed on notice boards, placed on the website, and advertised in commonly circulated local and/or provincial newspapers with a closing date of at least 14 days after the date that the advertisement first appears. Bids in excess of an estimated value of R1, 000, 000 must be advertised in appropriate to local and national newspapers.
- (3) No requirement for goods or services above an estimated transaction value of R250 000 (VAT included), may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.

Process for competitive bidding

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

- (a) Compilation of bidding documentation as detailed in paragraph 10;
- (b) Public invitation of bids as detailed in paragraph 6 (2) of this procedure manual;
- (c) Site meetings or briefing sessions as detailed in paragraph 7 of this procedure manual;
- (d) Handling of bids submitted in response to public invitation as detailed in paragraph 6 (2);
- (e) Evaluation of bids as detailed in paragraph 14;
- (f) Award of contracts as detailed in paragraph 15;
- (g) Administration of contracts
 - (i) After approval of a bid, the university 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.



SPECIFICATIONS:

1. Supply Chain Management Policy must be adhered to in dealing with specification
2. Only Procurement Unit shall invite suppliers for site inspection/ briefing.
3. Procurement Unit shall set convenient date, time and place for site inspection/briefing.
4. The requester must be present in site briefing as suppliers may require more information relating to specification of goods or service required
5. Specifications must be in such a detail as not to cause confusion or ambiguity.
6. Where necessary time, date, quantity, measurement, color or name must be clearly stated on the requisition book.

DATA BASE:

1. Procurement Unit shall keep an up to date supplier data base.
2. It is legal to source quotations from suppliers not on data base. These suppliers must then be put on data base before the order is issued.
3. The procurement manager will provide the Director: Cost and Management Accounting with spending patens quarterly.
4. The Procurement Manager will sign all credit applications up to the value of R250, 000. Over and above the Vice Chancellor and the Principal will authorize.

5. All credit applications must be vetted by WSU legal division
6. No employee of the Institution shall sign any surety, or guarantee for and on behalf of WSU unless a prior approval of the Vice Chancellor is obtained
7. Suppliers will have to reapply every three year cycle to be included in supplier data base.
8. Procurement Unit will send application forms to suppliers to be included in data base every cycle of three years.
9. Creditors section will process approved applications into ITS system within two working days of receipt of such application
10. Suppliers may register on line through WSU/Mpowered database system.
11. Supplier information critical to be included in the data base is:
 -)f Supplier's trading name.
 -)g Supplier official business address (not postal address)
 -)h Suppliers' postal address.
 -)i Type of the organization: Company, Close Corporation, Partnership, Trust or Sole proprietor.
 -)j Business registration number (where applicable)
 -)k Names and full addresses (both physical and postal) of owners, Partners or Directors.
 -)l Share holding of each owner, partner or director.
 -)m The BEE rating. (Provide confirmation)
 -)n Original and valid Tax Clearance certificate.
 -)o Type of service.
 -)p Banking details (approved by the bank)
 -)q VAT registration (where applicable)

There are ten categories of suppliers to be included on the approved supplier list. These categories are:

a) Category A

Black company

- 50,1% owned and managed by black people;
- Ownership refers to economic interest;
- Management refers to executive directors.

b) Category B

Black empowered company

- At least 25,1% owned and managed by black people;
- Ownership refers to economic interest;
- Management refers to executive directors;
- Irrespective of whether the black company has control or not.

c) Category C

Black influenced company

- 5% to 25% owned and managed by black people;
- Ownership refers to economic interest;
- Management refers to executive directors;
- Irrespective of whether the black company has control or not.

d) Category D

Engendered black company

- 30% representation of black women within the black equity and management portion of 50, 1%.

e) **Category E**

Engendered black empowered company

- • 30% representation of black women within the black equity and management portion of at least 25, 1%.

f) **Category F**

Engendered black influenced company

- • 30% representation of black women within the black equity and management portion of at least between 5% and 251%.

g) **Category G**

Company influenced by disabled people

- A company that is at least 5% owned or managed by disabled people;
- Ownership refers to economic interest;
- Management refers to executive directors.

h) **Category H**

Engendered company

- 50% owned and managed by women;
- Ownership refers to economic interest;
- Management refers to executive directors.

i) **Category I**

Small, medium and micro enterprise

- As determined by the National Small Business Act if the sector in which the enterprise operates is determinable.
- Otherwise as defined in the White Paper on small business.

j) Category J

Other company

- A Company that does not fall into any of the categories listed above.

Categories to be considered as a Preferred Supplier

(A)
Black Company

(B)
Black Empowered Company

(C)
Black Influenced Company

(D)
Engendered Black Company

(E)
Engendered Black Empowered company

(F)
Engendered Black influenced company

(G)
Company influenced by disabled people

(H)
Engendered Company

(I)
SMME

(J)
Any Company

TERMS AND CONDITIONS:

1. Procurement shall continually negotiate terms with suppliers. These include:
 - a) Delivery date
 - b) Price
 - c) Quality
 - d) Credit limits
 - e) Discounts
 - f) Invoicing
 - g) Terms of Payments.
 - h) Transportation
 - i) After sales service.
 - j) Warrantees and Guarantees

2. Generally WSU terms of payment are thirty (30) days from the date of invoice unless otherwise agreed in writing
3. All goods must be delivered to the central receiving stores
4. Goods collected by staff must be presented to receiving stores by such staff member to create GRV by stores clerk
5. No staff member shall take goods or service from any suppliers

ORDER

1. Supply Chain Management Policy shall be adhered to
2. Orders shall be generated by procurement section
3. All orders shall be generated through ITS.
4. Where ITS is down, manual orders shall be generated and put onto ITS once the system is up and running
5. All orders shall bear the following minimum information:
 - a) WSU official address and logo
 - b) System generated order number
 - c) Date it is generated
 - d) Suppliers name and address (*Preferable postal address*)
 - e) Details of items orders (*Specifications*)
 - f) Quantity
 - g) Unit description
 - h) Unit price
 - i) Total price
 - j) VAT
 - k) Grand total price
 - l) Delivery instructions
 - m) Acceptance instructions
 - n) Terms and conditions of payment
6. All orders shall be verified for correctness by a senior finance officer by means of a signature before they are sent out to suppliers.

7. Manual orders of up to R50 000.00 shall be authorized by a chief buyers.
8. Orders of up to R250 000.00 (*Two hundred and fifty thousand rand*) shall be authorized by the procurement manager through ITS. Where system is down chief buyers through communication with procurement manager will authorize. (*This delegation by procurement managers has to be supported by E-Mail confirmation*)
9. Orders greater than R250 000.00 (*Two hundred and fifty thousand rand*) shall be authorized by the Vice Chancellor and Principal
10. The original signed copy may be posted to the supplier
 - a) Orders may be sent to the supplier through E-Mail or by fax
11. One copy of order must be sent to the requesting department daily for information purposes (*E-Mail confirmation of order to the requesting department is acceptable*)
12. For asset acquisition a copy of order must be sent to the assets section daily for information purposes (*E-Mail confirmation of order to the requesting department is acceptable*)
13. Another copy must be sent to stores daily.

DELIVERY OF GOODS AND SERVICES

1. All goods shall be delivered to central stores.
2. This applies to stock and non stock items
3. On receipt of goods or services, the store man shall:
 - f. Receive the delivery note.
 - g. Pull order reference from file/ ITS.
 - h. Check whether it is full delivery or part thereof.
 - i. Confirm item details, description and quantity on the delivery note to those ordered
 - j. If satisfied with the above, sign the delivery note in acceptance of goods/ service
 - k. Daily prepare GRV in ITS stores subsystem that will bear the order reference and print a copy

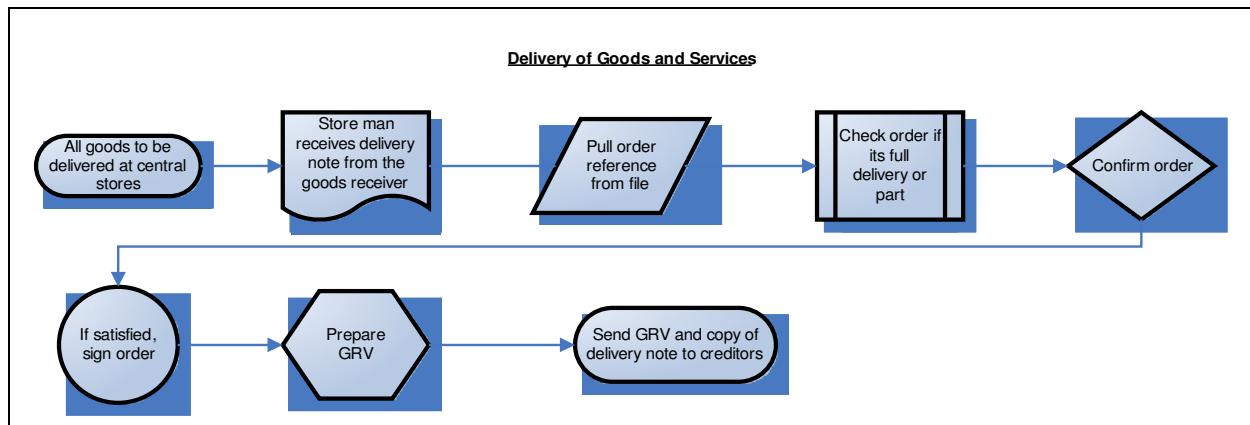
1. A copy of the GRV together with the delivery note and order must be sent daily to creditors section for processing and payment

6. If items received are fixed assets, the store man shall:

1. In consultation with fixed assets accountant, bar-code them immediately.
2. The item must then be delivered to the site/office/ person it was ordered for
3. If the asset needs installation, it may be bar-coded once commissioned

7. Some goods or services may not be delivered to store due to the nature of the product (It may need special handling equipment), in such a case:

1. The receiving official takes all the responsibilities of store man
2. The receiving official must check the goods/service for correctness to items ordered
3. Sign the delivery note/invoice and send it to stores for the generation of GRV



OUTSTANDING COMMITMENTS:

1. Creditors section, procurement unit and stores must review all outstanding commitments as to their validity by the 10th working day of every month
2. Outstanding commitment schedule must be produced by Procurement Manager every month by the 15th working day of the following month.

3. Outstanding commitment schedule must indicate by month the age of such outstanding commitment
4. Procurement Manager must make a follow up on 60 days and above outstanding commitments
5. The Procurement Manager must give detailed report on 90 days and over outstanding commitments to the Director: Cost and Management Accounting.

CREDITORS

On receipt of invoice creditors clerk shall

- a) Match such invoice to order and delivery note
- b) Enter the invoice into ITS creditors subsystem
- c) Invoices shall be entered into the system daily as they are received
- d) In processing invoices in ITS, payment terms must be entered as they will play a vital role in upholding the order commitment by the institution
- e) Types of creditors:
 2. Contracts/Rentals
 3. Normal/Trade
 4. Reimbursement claims

CONTRACTS/RENTALS/LEASES

1. Signed fixed term contracts, with tender committee approval must be provided to Director – Financial Accounting before payments can be generated.
2. Contracts must be accompanied by a system generated order number from the institution's procurement section.
3. Monthly invoices submitted for payment MUST be signed by the Unit Manager as a confirmation that the service had actually taken place and to avoid possibility of double payment must be submitted to Director-Financial Accounting.
4. Submission of contracts invoices must be on or before the 25th day of each month.

NORMAL CREDITORS

1. A payment claim **MUST** have attached to it a second copy order, an original invoice, and a goods received voucher (GRV) from stores section /service confirmation memo/letter from the senior manager.
2. In event of travelling/car hire, invoices **MUST** be signed by the requisitioning senior manager.
3. All payments are made via electronic funds transfer (EFT) on 2nd and 4th Fridays of each month.

APPENDIX A: – PREFERENTIAL PROCUREMENT **REQUIREMENTS**

SECTION 1

Act No. 5 of 2000

PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT

(English text signed by the President.)

(Assented to 2 February 2000.)

ACT

To give effect to section 217(3) of the Constitution by providing a framework for the implementation of the procurement policy contemplated in section 217(2) of the Constitution; and to provide for matters connected therewith.

Be it enacted by the Parliament of the Republic of South Africa, as follows:—

DEFINITIONS

1. In this Act, unless the context indicates otherwise—

- (i) “acceptable tender” means any tender which, in all respects, complies with the specifications and conditions of tender as set out in the tender document;
- (ii) “Minister” means the Minister of Finance;
- (iii) “organ of state” means—
 - (a) A national or provincial department as defined in the Public Finance Management Act, 1999 (Ac; No. 1 of 1999);
 - (b) A university as contemplated in the Constitution;
 - (c) A constitutional institution defined in the Public Finance Management Act, 1999 (Act No. 1 of 1999);
 - (d) Parliament;
 - (e) A provincial legislature;
 - (f) any other institution or category of institutions included in the definition of “organ of state” in section 239 of the Constitution and recognized by the Minister by notice in the *Government Gazette as an institution or* Category of institutions to which this Act applies; (IV)
- (iv) “Preferential procurement policy” means a procurement policy contemplated in section 217(2) of the Constitution; (VI)
- (v) “Prescribed” means prescribed by regulation made under section 5; (v)
- (vi) “This Act” includes any regulations made under section 5. (ii)

FRAMEWORK FOR IMPLEMENTATION OF PREFERENTIAL PROCUREMENT POLICY

2. (1) an organ of state must determine its preferential procurement policy and implement it within the following framework:

- (a) A Preference point system must be followed;
 - (b) (i) for contracts with a Rand value above a prescribed amount a maximum of 10 points may be allocated for specific goals as contemplated in paragraph (d) provided that the lowest acceptable tender scores 90 points for price;
 - (ii) for contracts with a Rand value equal to or below a prescribed amount a maximum of 20 points may be allocated for specific goods as contemplated in paragraph (d) provided that the lowest acceptable tender scores 80 points for price;
 - (c) Any other acceptable tenders which are higher in price must score fewer points, on a pro rata basis, calculated on their tender prices in relation to the lowest acceptable tender, in accordance with a prescribed formula;
 - (d) The specific goals may include—
 - (i) Contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender or disability;
 - (ii) Implementing the programmes of the Reconstruction and Development Programme as published in Government Gazette No. 16085 dated 23 November 1994;
 - (e) Any specific goal for which a point may be awarded, must be clearly specified in the invitation to submit a tender;
 - (f) the contract must be awarded to the tenderer who scores the highest points, unless objective criteria in addition to those contemplated in paragraphs (d) and (e) justify the award to another tenderer; and
 - (g) Any contract awarded on account of false information furnished by the tenderer in order to secure preference in terms of this Act, may be cancelled at the sole discretion of the organ of state without prejudice to any other remedies the organ of state may have.
- (2) Any goals contemplated in subsection 1(e) must be measurable, quantifiable and monitored for compliance.

EXEMPTION

3. The Minister may, on request, exempt an organ of state from any or all the provisions of this Act if—
- (a) It is in the interests of national security;
 - (b) The likely renderers are international suppliers; or
 - (c) It is in the public interest.

TRANSITIONAL PROVISION

4. Any procurement process implemented under a preferential procurement policy where the invitation to tender was advertised before the commencement of this Act, must be finalized as if this Act had not come into operation.

REGULATIONS

5. (1) The Minister may make regulations regarding any matter that maybe necessary or expedient to prescribe in order to achieve the objects of this Act.
- (2) Draft regulations must be published for public comment in the *Government Gazette* and every *Provincial Gazette* before promulgation.

SHORT TITLE

6. This Act is called the Preferential Procurement Policy Framework Act, 2000.

SECTION 2:

PREFERENTIAL PROCUREMENT REGULATIONS, 2001

PERTAINING TO THE PREFERENTIAL PROCUREMENT POLICY

FRAMEWORK ACT: NO 5 OF 2000

REGULATIONS

The Minister of Finance has, in terms of section 5 of the Preferential Procurement Policy Framework Act, 2000 (Act No 5 of 2000), made the regulations contained in the Schedule.

SCHEDULE

PART ONE

DEFINITIONS AND APPLICATION

DEFINITIONS

1. In these regulations, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Act bears the same meaning, and
 - a) "**Act**" means the Preferential Procurement Policy Framework Act, 2000 (Act No 5 of 2000);
 - b) "**Agent**" means a person mandated by another person ("the principal to do business for and on behalf of, or to represent in a business transaction, the principal, and thereby acquire rights for the principal against an organ of state and incur obligations binding the principal in favour of an organ of state;
 - c) "**Comparative price**" means the price after the factors of a non firm price and all unconditional discounts that can be utilised have been taken into consideration;

- d) **"Consortium or Joint Venture"** means an association of persons for the purpose of combining their expertise, property, capital efforts, skill and knowledge in an activity for the execution of a contract;
- e) **"Contract"** means the agreement that results from the acceptance of a tender by an organ of state;
- f) **"Disability"** means, in respect of a person, 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 a human being;
- g) **"Firm price"** is the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy, or tax which, in terms of a law or regulation is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract;
- h) **"Historically Disadvantaged Individual (HDI)"** means a South African citizen -
 - i) who, due to the apartheid policy that had been in place, had no franchise in national elections, prior to the introduction of the Constitution of the Republic of South Africa, 1983 (Act No 110 of 1983) or the Constitution of the Republic of South Africa, 1993 (Act No 200 of 1993) ("the Interim Constitution"); and/or
 - ii) Who is a 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 an HDI;

- I) "Management"** in relation to an enterprise or business, means an activity inclusive of control and performed on a daily basis, by any person who is a principal executive officer of the company, by whatever name that person may be designated, and whether or not that person is a director;
- j) "Non firm prices"** means all prices other than "firm" prices;
- k) "Person"** includes reference to a juristic person;
- l) "Rand value"** means the total estimated value of a contract in Rand denomination which is calculated at the time of tender invitations and includes all applicable taxes and excise duties;
- m) "Small, Medium and Micro Enterprises (SMMEs)"** bears the same meaning assigned to this expression in the National Small Business Act, 1996 (Act No 102 of 1996);
- n) "Sub Contracting"** means the primary contractor's assigning or leasing or making out work to, or employing, another person to support such primary contractor in the execution of part of a project in terms of the contract;
- o) "Tender"** means a written offer or bid in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of services or goods;
- p) "Trust"** means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person;
- q) "Trustee"** means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.

APPLICATION

- 2.(1) Despite anything to the contrary contained in any law, these regulations, apply to organs of state as contemplated in section 1 iii of the Act.
- (2) An organ of state contemplated in sub regulation (1) must, unless the Minister. Of Finance has directed otherwise, only apply a preferential procurement system which is in accordance with the Act and these regulations.
- (3) An organ of state may deviate from the framework contemplated in section 2 of the Act in respect of a pre determined tariff based professional appointments.

PART TWO

PREFERENCE POINT SYSTEM, EVALUATION OF TENDERS, AWARDING OF TENDERS NOT SCORING HIGHEST POINTS, CANCELLATION AND RE-INVITATION OF TENDERS

The 80/20 preference point system

3. (1) the following formula must be used to calculate the points for price in respect of tenders/procurement with a Rand below R500 000.

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

Where

PS = Points scored for price of tender under consideration

Pt = Rand value of offer tender consideration

Pmin = Rand value of lowest acceptable tender

- (2) A maximum of 20 points may be awarded to a tenderer for being an HDI and/or subcontracting with an HDI and/or achieving any of the specified goals stipulated in regulation 17.
- (3) The points scored by a tenderer in respect of the goals contemplated in sub regulation (2) must be added to the points scored for price.

(4) Only the tender with the highest, number of points scored may be selected.

The 90/10 preference point system

3.2.1) The following formula must be used to calculate the points for price in respect of tenders/procurement with a Rand value above R500 000:

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

Where

P_s = Points scored for price of tender under consideration

P_t = Rand value of tender under consideration

P_{\min} = Rand value of lowest acceptable tender

- (2) A maximum of 10 points may be awarded to a tenderer for being an HDI and / or subcontracting with an HDI and / or achieving any of the specified goals stipulated in regulation 17.
- (3) The points scored by a tenderer in respect of the goals contemplated in sub regulation (2) must be added to the points scored for price.
- (4) Only the tender with the highest number of points scored may be selected.

The 80/20 preference point system for the sale and letting of assets

5.(1) The following formula must be used to calculate the points for price in respect of tenders with a Rand value below R500 000 and which relate to the sale and letting of assets.

$$P_s = 80 \left(1 + \frac{P_t - P_h}{P_h} \right)$$

Where

P_s = Points scored for price of tender under consideration

P_t = Rand value of tender under consideration

P_h = Rand value of highest acceptable tender

(2) A maximum of 20 points may be awarded to a tenderer for being an HDI and/or subcontracting with an HDI and/or achieving any of the specified goals stipulated in regulation 17.

(3) The points scored by a tenderer in respect of the goals contemplated in sub-regulation (2) must be added to the points scored for price.

(4) Only the tender with the highest number of points scored may be selected.

The 90/10 preference point system for the sale and letting of assets

6.(1) The following formula must be used to calculate the points for price in respect of tenders with a Rand value above R500 000 and which relate to the sale and letting of assets:

$$P_s = 90 \left(1 + \frac{P_t - P_h}{P_h} \right)$$

Where

P_s = Points scored for price of tender under consideration

P_t = Rand value of tender under consideration

P_h = Rand value of highest acceptable tender

(2) A maximum of 10 points may be awarded to a tenderer for being an HDI and/or subcontracting with an HDI and/or achieving any of the specified goals stipulated in regulation 17.

(3) The points scored by a tenderer in respect of the goals contemplated in sub regulation (2) must be added to the points scored for price.

(4) Only the tender with the highest number of points scored may be selected.

Stipulation of preference point system to be used

7. The university must, in the tender documents, stipulate the preference point system which will be applied in the adjudication of tenders.

Evaluation of tenders on functionality and price

8. (1) The University must, in the tender documents, indicate if, in respect of a particular tender invitation, tenders will be evaluated on functionality and price.

- (2) The total combined points allowed for functionality and price may, in respect of tenders with an estimated Rand value below, R500 000, not exceed 80 points.
- (3) The total combined points allowed for functionality and price may, in respect of tenders with an estimated Rand value above R500 000, not exceed 90 points.
- (4) When evaluating the tenders contemplated in this item, the points for functionality must be calculated for each individual tenderer.
- (5) The conditions of tender may stipulate that a tenderer must score a specified minimum number of points for functionality to qualify for further adjudication.
- (6) The points for price, in respect of a tender which has scored the specified number of points contemplated in sub regulation (5) must, subject to the application of the evaluation system for functionality and price contemplated in this regulation, be established separately and be calculated in accordance with the provisions of regulations 3 and 4.
- (7) Preferences for being an HDI and/or subcontracting with an HDI and/or achieving specified goals must be calculated separately and must be added to the points scored for functionality and price.
- (8) Only the tender with the highest number of points scored may be selected.

Award of contract to tender not scoring the highest number of points

9. Despite regulations 3(4), 4(4), 5(4), 6(4) and 8(8), a contract may, on reasonable and justifiable grounds, be awarded to a tender that did not score the highest number of points.

Cancellation and re invitation of tenders

- 10.(1) In the event that, in the application of the 80/20 preference point system as stipulated in the tender documents, all tenders received exceed the estimated Rand value of R500, 000, the tender invitation must be cancelled.
- (2) In the event that, in the application of the 90/10 preference point system as stipulated in the tender documents, all tenders received are equal to, or below R500 000, the tender must be cancelled.
- (3) The university can cancel a tender invitation as contemplated in sub-regulations (1) and (2) and re-invite tenders and must, in the tender documents, stipulate the preference point system to be applied.
- (4) The university may, prior to the award of a tender, cancel a tender if -
- a) Due to changed circumstances, there is no longer need for the goods or services tendered for; or
 - b) Funds are no longer available to cover the total envisaged expenditure; or
 - c) No acceptable tenders are received.

PART THREE

DUTY TO PLAN, GENERAL CONDITIONS, PRINCIPLES, DECLARATIONS, PENALTIES, TAX CLEARANCES AND TENDER GOALS

Duty to plan for invitation of tenders

11. The University must, prior to making an invitation for tenders -
 - 1) Properly plan for, and, as far as possible, accurately estimate the costs of, the provision of services or goods for which an invitation for tenders is to be made;
 - 2) Determine the appropriate preference point system to be utilised in the evaluation of the tenders; and
 - 3) Determine the deliverables or performance indicators in terms of which a person awarded a contract will be assessed.

General conditions

12. (1) The University may, in the adjudication of tenders, give particular consideration to procuring locally manufactured products. Preferences in this regard may be accommodated within the ambit of the Act's 80/20 or 90/10 point systems. For specific industries (identified by the Department of Trade and Industry), where the award of tenders to local manufacturers are of critical importance, such tenders may

be advertised with a specific tendering condition that only locally manufactured products will be considered. Should preference points be awarded for local manufacturing and/or content, the award of such points must be clearly specified in the tendering conditions.

- (2) Only a tenderer who has completed and signed the declaration part of the tender documentation may be considered for preference points.
- (3) The University may, before a tender is adjudicated or at any time, require a tenderer to substantiate claims it has made with regard to preference.
- (4) The university must, when calculating comparative prices, take into account any discounts which have been offered unconditionally.
- (5) A discount which has been offered conditionally must, despite not being taken into account for evaluation purposes, be implemented when payment is effected.
- (6) In the event that different prices are tendered for different periods of a contract, the price for each period must be regarded as a firm price if it conforms to the definition of a "firm price".
- (7) Points scored must be rounded off to the nearest 2 decimals.
- (8) In the event that two or more tenders have scored equal total points, the successful tender must be the one scoring the highest number of preference points for specified goals. Should two or more tenders be equal in all respects, the award shall be decided by the drawing of lots.

Principles

13. (1) Preference points stipulated in respect of a tender must include preference points for equity ownership by HDIs.
- (2) The equity ownership contemplated in sub regulation (1) must be equated to the percentage of an enterprise or business owned by individuals or, in respect of a company, the percentage of a company's shares that are owned by individuals, who are actively involved in the management of the enterprise or business and exercise control over the enterprise, commensurate with their degree of ownership at the closing date of the tender.
- (3) In the event that the percentage of ownership contemplated in sub regulation (2) changes after the closing date of the tender, the tenderer must notify the relevant organ of state and such tenderer will not be eligible for any preference points.
- (4) Preference points may not be claimed in respect of individuals who are not actively involved in the management of an enterprise or business and who do not exercise control over an enterprise or business commensurate with their degree of ownership.
- (5) Subject to sub-regulations (1), (2), (3) and (4), all claims made for equity ownership by an HDI must be considered according to the following criteria:
 - a) Equity within private companies must be based on the percentage of equity ownership;
 - b) Preference points may not be awarded to public companies and tertiary institutions;
 - c) The following formula must be applied to calculate the number of points for equity ownership by an HDI:

$$NEP = NOP \times \frac{EP}{100}$$

Where

NEP = Points awarded for equity ownership by an HDI

NOP= The maximum number of points awarded for equity ownership by an HDI

EP = The percentage of equity ownership by an HDI within the enterprise or business, determined in accordance with sub regulations (1), (2), (3) and (4).

- (6) Equity claims for a Trust may only be allowed in respect of those persons who are both trustees and beneficiaries and who are actively involved in the management of the Trust.
- (7) Documentation to substantiate the validity of the credentials of the trustees contemplated in sub regulation (6) must be submitted to the relevant organ of state.
- (8) A Consortium or Joint Venture may, based on the percentage of the contract value managed or executed by their HDI members, be entitled to equity ownership in respect of an HDI.
- (9) The number of points scored for a Consortium or Joint Venture must be added to the number of points scored for achieving specified goals.
- (10) The points contemplated in sub regulation (9) must be added to the points scored for price, in order to establish the total number of points scored.

(11) Subject to regulations 9 and 10, the contract must be awarded to the tender who scores the highest points.

(12) A person awarded a contract as a result of preference for contracting with, or providing equity ownership to, an HDI, may not subcontract more than 25% of the value of the contract to a person who is not an HDI or does not qualify for such preference.

Declarations

14. A tenderer must, in the stipulated manner, declare that –

- a) The information provided is true and correct;
- b) The signatory to the tender document is duly authorised; and
- c) Documentary proof regarding any tendering issue will, when required, be submitted to the satisfaction of the relevant organ of state.

Penalties

15.(1) An organ of state must, upon detecting that a preference in terms of the Act and these regulations has been obtained on a fraudulent basis, or any specified goals are not attained in the performance of the contract, act against the person awarded the contract.

(2) The university, in addition to any other remedy it may have against the person contemplated in sub regulations (1)

- a) Recover all costs, losses or damages it has incurred or suffered as a result of that person's conduct;
- b) Cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;

- c) Impose a financial penalty more severe than the theoretical financial preference associated with the claim which was made in the tender; and
- d) Restrict the contractor, its shareholders and directors from obtaining business from any organ of state for a period not exceeding 10 years.

Tax clearance certificate

- 6. No contract may be awarded to a person who has failed to submit an original Tax Clearance Certificate from the South African Revenue Service ("SARS") certifying that the taxes of that person to be in order or that suitable arrangement have been made with SARS.

Specific goals

- 17. (1) The tendering conditions may stipulate that specific goals, as contemplated in section 2 (1) (d) (ii) of the Act, be attained.
 - (2) The stipulation contemplated in sub regulations (1) must include the method to be used to calculate the points scored for achieving specific goals.
 - (3) Over and above the awarding of preference points in favour of HDIs, the following activities may be regarded as a contribution towards achieving the goals of the RDP (published in Government Gazette No. 16085 dated 23 November 1994):
 - a) The promotion of South African owned enterprises;
 - b) The promotion of export orientated production to create jobs;
 - c) The promotion of SMMES

- d) The creation of new jobs or the intensification of labour absorption:
 - e) The promotion of enterprises located in a specific province for work to be done or services to be rendered in that province;
 - f) The promotion of enterprises located in a specific region for work to be done or services to be rendered in that region;
 - g) The promotion of enterprises located in a specific municipal area for work to be done or services to be rendered in that municipal area;
 - h) The promotion of enterprises located in rural areas:
 - i) The empowerment of the work force by standardising the level of skill and knowledge of workers;
 - j) The development of human resources, including by assisting in tertiary and other advanced training programmes, in line with key indicators such as percentage of wage bill spent on education and training and improvement of management skills; and
 - k) The enlistment of communities through, but not limited to, housing, transport, schools, infrastructure donations, and charity organisations.
- (4) Specific goals must be measurable and quantifiable and organs of state must monitor the execution of the contract for compliance with such goals.

Short title

18. These regulations are called the Preferential Procurement Regulations, 2001.

