



UMW GROUP OF COMPANIES: PROCUREMENT GUIDELINES

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APPENDICES

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3. Tender Committee process flow chart.
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GLOSSARY		
GLC	Government Linked Company	
OPCO	Operating companies	
Procurement	for the purpose of this guideline also means purchasing	
Procurement office	the procurement/purchasing unit, department or division at SBU/OPCO (see below on SBU)	
SBU	Strategic Business Unit, and for the purpose of this guideline includes all corporate divisions	
Supplier	includes contractors, vendors, consultants and others whom we source goods and/or services from	
UMW	refers to UMW Group	
UMWC	refers to UMW Corporation Sdn Bhd	

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PREFACE

It has almost been 3 years since this Procurement Guidelines was introduced. We are grateful to all operating companies, strategic business units and corporate divisions for adopting and adhering to the guidelines since its implementation. This proves that the UMW group of companies strives for improvements, especially in areas of transparency and governance.

As stated in the 'Introduction' to the Procurement Guidelines it is a living document and shall be continually edited and updated. In the 3 years since introduction there have admittedly not been major changes to procurement practices. However, we have obtained approval from the Board of Directors and Management to make some changes. One of them is the introduction of a Tender Committee structure for the non-motor companies that aims to facilitate approvals by the approving parties while at the same time provide additional gatekeeping duties for both transparency and governance. The other change is to centralize all procurement at UMWC. We have also received valuable input and comments from all users in many areas of the guidelines. Where applicable all these changes have been captured and illustrated in this revision of the Procurement Guidelines.

Please take note that in order to streamline the Procurement Guidelines with the Financial Limits of Authority Guidelines (FLAG); this Procurement Guidelines shall now be applicable to the non-motor companies of UMW Group only, similar as per the FLAG.

Notwithstanding this revision please note that development of the Procurement Guidelines will never be finished as long as UMW Group remains in business, and for this we look forward to continued comments from users so that we may strive to improve the Procurement Guidelines further.

1. INTRODUCTION

Procurement is now seen as more of a strategic function that can be used to control bottom-line costs. A savings in procurement impacts the profit and loss directly, i.e. less expenses. The Government of Malaysia acknowledges this and has included procurement as one of their GLC transformation agenda, via ‘The Red Book’. There are many publicized cases where companies have achieved stunning bottom-line gains through revamped procurement processes. The Red Book itself lists a few GLC examples of successes in reducing total costs of ownership.

UMW Group has recorded many continuous profit record breaking years notwithstanding that procurement has yet to come to the fore. However, in light of current market challenges and also in the spirit of The Red Book it is timely for the group to embark on transforming its procurement processes.

The first step in our transformation journey is this “Procurement Guidelines” which seeks to standardize procedures, minimize ‘grey areas’, cultivate transparency, enhance probity and ultimately improve profitability. To assume that this Procurement Guidelines as is embody procurement best practices would be inappropriate as coming from the level we are currently at the transformation has to be progressive and continuous rather than in a single leap. The Procurement Guidelines as is should be sufficient to bring procurement to the next level at least.

In different sections this Procurement Guidelines may be structured in different ways, sometimes it states typical practice situations or explains current practices or suggests changes to current practices or clarifies reasons for the changes.

This Procurement Guidelines shall be considered as a living document and shall be continually edited and updated, with input from all, until a stage where we would be proud to state that our procurement processes embody best practices.

In addition to the above and as a precursor to a more comprehensive policy on environmentally preferable procurement it must be kept in mind that sustainable development and environmental preservation is a top UMW corporate priority. In this regard we not only have to work in unison with our business partners but also give priority to procurement from suppliers that have established environmentally conscious policies and attempt to procure goods and/or services with minimal environmental impact.

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1.1 Purpose

This Procurement Guidelines is intended for all UMW Group staff who are involved either directly or indirectly in actions and decisions relating to procurement. The objectives of this Procurement Guidelines are:

- To provide quality materials, equipment and services in a timely and cost-effective manner.
- To ensure adequate and dependable sources of supply whilst focusing on quality, utility and total cost of ownership.
- To contribute to group profitability through judicious and ethical buying.
- To develop and manage efficient procurement practices to adequately carry out the function.

1.2 Document version control

Version No.	Issue date	Remarks
Draft 1.0	31 August 2008	Draft
1.0	11 May 2009	1 st Edition
2.0	30 th August 2016	2 nd Edition
3.0	26 th January 2018	3 rd Edition
4.0	1 st July 2019	4 th Edition

1.3 Applicable limits of authority

The applicable limits of authority shall be as per prevailing authority documents and they currently are:

- IOM on 1. Non-Procurement Items and 2. Principal/Proprietary Suppliers dated 26th June 2013
- FLAG 5th revision effective dated 23rd July 2014
- IOM on GST Application On The Financial Authority Limit Guidelines (FLAG) dated 20th April 2015

Where joint-ventures are concerned the applicable financial limits of authority and the joint-venture contract shall be observed.

For other SBU/OPCO not covered by any of the above it is recommended that they adopt limits of authority that do not exceed the limits specified in the above documents.

2. PROCEDURES

It is acknowledged that sourcing is sometimes organization or operating unit specific. Thus defining a procedure or strategy at headquarters level does not mean that it can be applicable to each SBU/OPCO or local environment. Nevertheless, the procedures elaborated here should be generic enough to be applicable in most of the sourcing steps of any SBU/OPCO. Inevitably there will be cases where a work-around or avoidance is necessary but remember that the procedures are meant to ensure transparency, probity and good governance. As such any work-around or avoidance of the procurement guidelines that cannot answer the issues of transparency, probity and governance must be avoided, regardless of any justifications or efficiencies that can be derived from it.

2.1 Framework

2.1.1 Priority

- Priority shall be given to local products and services.
- Consideration to be called for negotiation shall be given to Bumiputra suppliers if their prices do not exceed others by more than the percentage specified.
Note: Bumiputra status is only considered when the Bumiputra equity is at least 51% or as certified by the Ministry of Finance / Pusat Khidmat Kontraktor.
- All parent/sister/subsidiary/associate companies within the UMW Group shall be given the opportunity to participate in procurement sourcing. Consideration to be called for negotiation shall be given to these related companies if their prices do not exceed the lowest by more than 5%. The related companies must match (or better) the lowest prices failing which the original lowest bidder shall be awarded. Specifically, for non-motor companies – IT related requirements are to be sourced via UMW IT Services Sdn Bhd.

2.1.2 Currency

All amounts in this Procurement Guidelines (unless stated otherwise) are in Ringgit Malaysia (RM). Overseas SBU/OPCO must convert to their local currency equivalent.

2.1.3 Regulatory requirements

- SBU/OPCO shall ensure that all participants in the procurement exercise conform to Bursa Malaysia Securities Berhad listing requirements on Related Party Transaction and Recurrent Related Party Transaction.
- Overseas SBU/OPCO shall take into account and meet respective local regulatory requirements and approvals.

2.1.4 Procurement ethics

Procurement shall be governed by a set of procurement ethics that encompass conflict of interest matters. Please refer to Section 7 for details.

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2.1.5 Confidentiality

All matters pertaining to any procurement exercise shall be accorded with the strictest confidentiality. Disclosure of any such matter can only be made upon approval of the Head of the Procurement office.

2.1.6 Splitting

Any act of splitting the procurement with the intention of avoiding the requisite authority limit is considered as an act of misconduct and the company shall have the right to take appropriate disciplinary action against the staff concerned.

2.1.7 Applicability

The Procurement Guidelines is applicable to all locally incorporated and overseas incorporated companies of UMW Holdings Berhad excluding UMW Oil & Gas Corporation Berhad and Automotive Division. Possible exceptions are for OPCO where UMW does not have management control or majority equity.

Procurement Guidelines is not applicable to 'Non Procurement Items Listing' which is determined by three (3) criteria:

- Regulatory, government or regulated rates
- Statutory requirements
- Non Procurement items which Group Procurement do not involve.

Any other procurement matters not covered in this procurement guidelines shall be referred to Procurement UMWC for directions and/or consideration for future inclusion.

2.2 Committees

2.2.1 Purpose of the TC

The purpose of the TC is to support the Management of the UMW Group of Companies (Non-motor and Non-Oil & Gas) (hereinafter referred to as "the Company") in the performance of their duties in achieving the business objectives of the Company, having regard to the interests of its shareholders, customers, employees and other stakeholders.

2.2.2 Objectives of the TC

- To consider and approve all spending via procurement, by the Company, for values from RM1,000,000 to RM5,000,000.
- To consider and recommend for approval all spending via procurement, by the Company, for values above RM5,000,000.

2.2.3 Composition of the TC

- The permanent members of the TC shall be:
 - i. Group Chief Operating Officer (Chairman)
 - ii. Head, Group Financial Services (Alternate Chairman)
 - iii. Head, UMW Land
 - iv. Head, Group Human Resource
 - v. Head, Group Strategy
 - vi. Head, Group Management Services
 - vii. Head, Group Accounts and Tax

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- viii. Head, Group Legal
 - The minimum grade for TC membership shall be at SGM (JG21) level.
 - The TC quorum shall be three (3) members where two (2) members must at least be at Director level.
 - In the absence of the Chairman and Alternate Chairman the TC shall be chaired by another member, where selection shall be based on the hierarchical order above.
 - By invitation – any Executive Director or Head of SBU/operating companies/divisions (Head = JG18 and above) relevant to the Procurement proposal. By invitation members shall have the same rights as permanent members.
 - It is mandatory upon each TC member to attend at least 50% of the TC meetings. Attendance shall be recorded via the prevailing document which may be reported to the UMW Holdings Berhad Board of Directors as and when necessary.

2.2.4 Financial Limits of Authority Guidelines (FLAG)

The TC shall work within the prevailing FLAG.

2.2.5 Duties and responsibilities of the TC

The TC is authorized:

- To review and assess the recommendations on any procurement according to the thresholds as per the FLAG and all other prevailing guidelines.
- To review the procedures and criteria adopted by the assessment panel (typically an evaluation committee) in the course of its evaluation and recommendation
- To sight verify and obtain additional information and resources in relation to the procurement.
- To defer any procurement pending the completion of instructions deemed necessary by the TC.
- To reject any procurement which fail to comply with requirements and/or does not meet the expectations of the TC.
- To ensure the Company observes good corporate governance practices with regards to all transactions including those with related parties (direct or indirect, of a director, major shareholder or person connected with such director or major shareholder).
- To ensure that the awards are beneficial to the Company taking into account various factors such as business strategies, business requirements/needs, volume consolidation, shared strategic sourcing, price and value for money or total cost of ownership, and other relevant factors.
- To perform such other duties as specified by the President/Group CEO and/or Board of Directors from time to time; and
- To approve the recommendation made by the assessment panel after satisfying itself that all the items stated above, where applicable, are in order.

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- For any value above its FLAG approval limit; the TC is to endorse the recommendation for approval at the higher authority.

2.2.6 Secretariat of the TC

Procurement UMWC shall be the Secretariat of the TC.

2.2.7 Meetings of the TC

- The TC shall meet at least once a month or as and when required.
- The TC may establish procedures from time to time to govern its meetings, keeping of minutes and its administration.
- The TC may request other members of management, counsels or consultants as applicable to participate in the TC meetings, as necessary, to help carry out the TC’s responsibilities, provided however, that the additional attendees shall not be entitled to vote at such meetings or be counted as part of the quorum for the TC meeting.
- All TC members who have any direct or indirect interest of a particular matter shall make the appropriate disclosure and take the necessary steps as outlined in the UMW Code of Business Conduct and Ethics.

Where the action results in an abstention and causes a lack of quorum the TC may appoint another member of the senior management to sit and vote on the particular matter.

- As per the UMW Code of Business Conduct and Ethics a conflict of interest will arise where an employee’s ability to perform his/her Company duties may be adversely affected by an outside appointment, relationship or activity.

Conflict of interest does not include interest by virtue of functional or management responsibility for any proposal.

- A member of the TC may participate in a TC meeting by means of a telephone or video conference or any other means of audio-visual communication and the person shall be deemed to be present in person at the meeting and be counted in quorum accordingly.
- The notice and agenda for each TC shall be sent to all members and other persons who may be required to attend, by way of mail, e-mail or other viable transmission method.
- Any decision of the TC shall be decided by members by way of a majority.
- The Chairman shall cast his/her vote last, and where there is equality of votes the Chairman’s last vote shall be the casting vote.
- The Chairman of the TC shall report to the President/Group CEO on any matter that should be brought to the President/Group CEO’s attention.

2.2.8 Attendance of other Employees/Delegation

Members are allowed to appoint a representative in their place, provided the person is at least at the Manager level, who shall then be deemed to have assumed the same duties and responsibilities.

2.2.9 Urgent Requirement

In the event of urgent requirement for commitment, TC members may grant approval or recommendation to proceed with the commitment via circular resolution. Decision of the TC made by circular resolution shall be valid provided it is endorsed by ALL permanent members.

2.3 Methods of procurement – tender

- Tender process is required for purchases exceeding:
 - RM100,000*
 - * As per prevailing documents in clause 1.3
- Open tender – an invitation to the public to make an offer, via advertisement in at least 2 local newspapers. Rare, and not a recommended, practice at UMW.
- Closed tender – an invitation to selected and/or registered* suppliers based on expertise, experience and financial standing of the prospective suppliers.

Notes: * Registered – when the supplier registration database and associated procedures are in place.

- Other matters:

Activity	Endorsement/Approval
Appointment of consultant for project to be tendered.	Executive Director or SBU/OPCO Head
List of suppliers to be invited for the tender. <i>Note: Ideally at least 1/3 of invitees are Bumiputra</i>	Procurement Manager JG 18 above / Head of Procurement
Mode of tender, open or closed.	Executive Director or SBU/OPCO/Procurement Head
Minimum number of suppliers for a closed tender.	At least 3 written bids

2.3.1 Tender opening committee

- The tender opening exercise shall be conducted by a committee comprising of a minimum of three (3) staff of Supervisor level or above.
- The preferred composition of the committee should include representatives from Procurement and Finance
- Appointment of the committee members is to be endorsed by the Executive Director or SBU/OPCO/Procurement Head.
- Generally, the technical submission is opened and evaluated prior to opening of commercial submission. The Head of procurement office/SBU/OPCO shall decide whether to open both technical and commercial submissions at the same time in cases of urgency.
- The tender opening committee need not be formed:
 - * In cases of urgency as described above, or
 - * In any other situation endorsed by the Executive Director or SBU/OPCO/Procurement Head.
- The tender evaluation committee (see clause 2.3.2) may assume the function and responsibilities of an opening committee.

2.3.2 Tender evaluation committee

- The minimum composition of the Tender Evaluation Committee shall be as follows:

Name of committee	Typical composition	Remarks
Technical evaluation committee	Minimum of 3 members, of Supervisor level or above.	<ul style="list-style-type: none"> • For cases where technical evaluation is done in isolation from commercial evaluation.
Commercial evaluation committee	Minimum of 3 members, of Supervisor level or above.	<ul style="list-style-type: none"> • For cases where commercial evaluation is done in isolation from technical evaluation. • Preferred composition shall be representatives from Procurement, Legal, Finance and user. • Note: for separate technical and commercial evaluations, this commercial evaluation committee shall be the consolidator of both committees' findings.
Tender evaluation committee	Minimum of 3 members, of Supervisor level or above.	<ul style="list-style-type: none"> • For cases where commercial and technical evaluation is done concurrently • Preferred composition shall be representatives from Procurement, Legal, Finance and user. • Preferably Chairman of the committee shall not be from the user department.

- Appointment of the committee members may be made by the Executive Director or SBU/OPCO/Procurement Head.
- Head of Procurement may appoint Chairman of the Committee based on its discretion on prevailing circumstances of the tender details. All Tender Evaluation Committee are required to complete 'Declaration Form' to ensure governance and compliance
- In cases where the tender submission has been technically evaluated and a supplier has been disqualified, the commercial submission for the said supplier should not be opened, unless authorized by the Executive Director or SBU/OPCO/Procurement Head, and for the sole purpose of price benchmarking.

2.3.3 Tender approval authority

The authorized authority to approve tenders is as per the prevailing limits of the documents stated in clause 1.3 or any such applicable document as directed by management from time to time.

2.3.4 Tender document

A tender document shall typically comprise of the following:

- a. Terms and Conditions of Tender – prepared by Procurement office or Legal
 - b. Terms and Conditions of Agreement – prepared by Requesting Department and Legal
 - c. Technical specification – prepared by Requesting Department
 - d. Bill of quantities/price schedule - prepared by Requesting Department and Procurement office
 - e. A technical review or needs assessment (as applicable) is mandatory and shall be prepared by the user group/requestor.
 - f. Any changes on the Technical specification required sign off by both the Requesting Department and Procurement Office
- Please see clause 3.3.2 for further details on tender document content.

2.3.5 Calling of tender

- Calling of tender shall be made by procurement office only.
- The tender advertisement/invitation shall clearly indicate the following:
 - a. Tender title
 - b. Tender reference number
 - c. Closing time and date (must be a working day)
 - d. Address where tenders are to be deposited
 - e. Tender fee
 - f. Scope of work/supply and specifications

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- Open tender shall be advertised in at least two (2) local newspapers (Bahasa Malaysia and English). In the case of an international tender, the tender notice shall be extended to the foreign embassy and/or commission.
- The minimum float period for any tender shall be two (2) calendar weeks or ten (10) working days. The Executive Director/ SBU/OPCO or Head of Procurement has the discretion to vary this period with valid justification.
- For Closed Tender, the number of suppliers to be invited should fulfill UMWC's requirements for at least 3 written bids.
- 3 bids shall be considered the minimum number for evaluation and award. Where less than 3 bids are received the tender may be accepted or rejected and a fresh tender may be called at the discretion of the Head of Procurement.
- Prior to the calling of tender and for cases of split awards the user should stipulate and justify the number of vendors/suppliers to be eventually appointed as this would facilitate evaluation.
- Any extension of the closing time/date period shall be agreed by the requesting department and approved by the Head of Procurement.

2.3.6 Tender submission

- Tender, separated into technical and commercial sections or in any combination directed in the invitation letter, shall be submitted in a sealed envelope or package, comprising of at least three (3) sets (one original and two duplicate copies). SBU/OPCO may request for other original/duplicate quantities as they deem fit.
- Late submission will be rejected upfront or accepted but disqualified. Any reversal requires approval of the Head of Procurement with valid justification. Tender bidders must clearly indicate their company name at bottom right of submission envelope.
- Acknowledgement of receipt will be issued to indicate number of envelopes and/or package, date and time received.

2.3.7 Tender clarification

- Any communication with tender bidders with regards to tender clarification shall be made via Procurement office for further escalation to the bidders and vice versa.
- Preferably, the tender clarification session with regards to specifications / requirements is to be conducted simultaneously with all tender bidders.
- Any changes on the specifications / requirements shall be made in writing to the tender bidders to ensure that the changes being communicated equally and tender bidders receive the same amount of information with regards to the tender exercise.
- Tender clarification session and re-submission of costing / pricing, is to be limited to two (2) sessions. For tender clarification session and re-submission of costing / pricing that requires more than two (2) sessions, will be considered as invalid unless details justifications be made and to be approved by the Head of Procurement.

2.3.8 Tender fee

- Tender fee, or document fee, shall be imposed when calling for tender and the tender or document fee is inclusive of GST:

Estimated tender value (RM)	Tender fee (RM)
Up to 500K	FOC
Up to 1 million	50.00
Up to 1.5 million	100.00
Up to 2 million	150.00
Up to 2.5 million	200.00
Up to 3 million	250.00
Up to 5 million	500.00
Up to 10 million	750.00
Above 10 million	1,000.00

- Waiver of the fee is allowed under exceptional circumstances or at the jurisdiction of the Head of Procurement

2.3.9 Tender deposit

- Tender deposit must be submitted by tender bidders to ensure only ‘strong’ and really keen companies submit bids.
- Tender deposit shall be in the form of Bank Guarantee, Cheque or Bank Draft valid for a period of six (6) months from the submission date and to be renewed upon request and be submitted together with tender proposal.
- Cash deposit can be considered for overseas operations where bank guarantee facility could not be made available by tenderers. No interest is to be paid on the deposit.

Estimated tender value (RM)	Tender deposit, 0.5% of tender value or maximum of (RM)
Up to 1 million	5,000
Up to 3 million	10,000
Up to 5 million	15,000
Up to 10 million	20,000
Above 10 million	25,000

- The tender deposit shall be returned to all unsuccessful tender bidders upon acceptance of Letter of Award from the successful tender bidder.
- The tender deposit for the successful tender bidder shall only be returned to them upon receipt of their Performance Bond (as per contract to be signed).
- Waiver of the tender deposit is allowed under exceptional circumstances or at the jurisdiction of the Head of Procurement.
- Note: Timely tender submission but without the submission of tender deposit is acceptable provided that the tender deposit is submitted prior to the commencement of tender evaluation.

2.3.10 Performance bond

- Performance bond shall be in the form of a Bank Guarantee from a bank established in Malaysia (for local SBU/OPCO) and received by the SBU/OPCO before any Purchase Order can be issued to the successful tender bidder.
- The Bank Guarantee shall be effective from the date of issuance of Letter of Award and shall remain valid for the period of the contract and may be extended to the warranty period.

- Performance Bond apply where applicable only based on procurement process requirement. Bank Guarantee validity period should have minimum 3 months validity after the expiry of the contract. (e.g. contract 12 months, bank guarantee 15 months).
- If the suppliers fail to deliver, we can with the issuing bank’s assistance, forfeit the monies. Thus, it is important to ensure that the PB does not expire.
- PB shall be kept and monitored by the user/contract owner. However, Procurement shall assist on the PB renewal upon expiry subject to request from user/contract owner.
- The usual rate is at least ten (10) percent of the total contract value but variability is allowed depending on contract, as follows:

Contract value (RM)	Performance bond (% of contract value)
Up to RM500k	2.5
>RM500k	5.0

- Renewal of Bank Guarantee due to extension of contract period shall be made by the supplier until issuance of certificate of completion based on compliance and observance of all stipulations, conditions and obligations contained in the agreement.
- The Executive Director, Head of Procurement Office or SBU/OPCO Head shall have the authority to vary or waive the performance bond when considered necessary.
- Please also refer to clause 6.2.1.

2.3.11 Retention Sum

- Retained from progress payments. The percentage retained and retention period is based on what is negotiated and formalized in the contract.
- Retention Sum is to ensure that we have ‘reserve’ money to make good/repair/complete any job which is not satisfactory completed by the suppliers/contractor.
- The Retention Sum can be released as per contract stipulations, typically upon completion of the warranty period or certification of completion of work or repair of any defects, whichever is later.

2.3.12 Tender box

- Procurement office/SBU/OPCO shall provide a tender box for depositing/submission of tender documents.
- The **suggested** key custodians for a Tender Box can be as follows:

Box No	Lock no.	Custodian	
		1 st key	2 nd key (duplicate)
1	1	Procurement	Procurement Head
	2	Finance	Accountant/Finance head
2	3	Procurement	Procurement Head
	4	Finance	Accountant/Finance head

- Procurement office and finance shall be jointly responsible for opening and closing the tender box which must be done in the presence of both.
- For tender submissions that cannot be lodged into the tender box, a designated cabinet shall be provided and the safe keeping shall be witnessed by any one of the tender box key custodians.
- Procurement office shall maintain Register of Keys and any changes of the custodian shall be documented via the register.

2.3.13 Contract and ordering

(Selective applicability, and to be read together with clause 6.2.8)

- Wherever possible, a Purchase Order shall be the preferred ordering document at all SBU/OPCO.
- A letter of award shall be the authority under which Procurement office shall raise the necessary Purchase Order.
- Purchase order shall not be issued prior to Letter of Award acceptance by the successful bidder and their submission of performance bond.
- The validity period of any tender after approval is 6 months. In the event the award is not translated into a Purchase Order within this period the approval shall become void and a new tender shall be necessary to continue with the purchase.

2.4 Methods of procurement – quotation

Quotation is a procurement method for goods and services with estimated values below the tender thresholds.

2.4.1 Quotation category

The number of suppliers to be invited shall be based on the estimated value:

Estimated quotation value	Method
Up to 5,000	1 written/fax quotation.
Up to 100,000	At least 2 written quotations.

2.4.2 Quotation opening

- The quotation opening exercise will be done by the quotation evaluation committee.
- In the event that there is only one submission for any quotation above RM5,000, the quotation can be accepted subject to the urgency of the project and the amount is less than RM100,000. For all other situations the quotation exercise has to be recalled.

2.4.3 Quotation evaluation

The minimum composition of the Quotation Evaluation Committee shall be as follows:

Name of committee	Typical composition	Remarks
Quotation evaluation committee (see notes below)	Minimum of 2 members, of Supervisor level or above.	<ul style="list-style-type: none"> • Preferred composition shall be representatives from Procurement / Finance and user. • Also responsible for opening the bids submitted, i.e. no separate opening committee.

Note:

- Not necessary to be a ‘sit-down’ committee. Evaluation by the 2 members can be part of normal escalation or work-flow process.
- The evaluation committee members may be appointed by the Head of Procurement office or have already been identified via the unit/dept./div./SBU/OPCO’s organizational structure.
- In the event quotations are called and opened, and all bids are more than RM100,000 the Head of Procurement office shall decide whether the quotation stands or has to be converted to a tender and recalled.

2.4.4 Quotation approval authority

- The authorized authority to approve quotations is as per the prevailing limits of the documents stated in clause 1.3 or any such applicable document as directed by management from time to time.
- A Letter of Award is not mandatory for purchases less than RM100,000. However, for selected items, e.g. maintenance and support arrangement, standard agreements with the suppliers need to be formalized.

2.4.5 Quotation validity

- The preferred validity of all quotations shall be for 3 months, subject to case to case basis.
- In the event the approval of quotation is not translated into a Purchase Order within the three (3) months, the approval shall become void and a new quotation shall be necessary to continue with the purchase.
- **Re-order** or additional requirement of the same goods or services within 3 months can utilize the same quotation i.e. a new quotation exercise is not necessary.

This is conditional upon the re-order value not exceeding the original order and the aggregate purchase not exceeding RM100,000, in which case the requesting department is to justify in writing to the Procurement office why purchase was not done by tender.

2.4.6 Calling of quotation

- Calling of quotation shall be made by Procurement only excluding purchase value less than RM5,000 and Direct Purchase
- The invitation to the supplier shall clearly indicate the following:
 - a. Detail specification of goods / services required
 - b. Closing time and date
 - c. Address where quotation to be submitted.
 - d. Quantity
 - e. Delivery location
- If the number of invitations called is less than the minimum requirement, the reason shall be clearly documented.
- The minimum float period for any quotation shall be one (1) calendar week or five (5) working days. The Head of Procurement office has the discretion to vary this period with valid justification.

2.4.7 Quotation submission

- For quotation up to RM5,000, submission can be done via fax/mail. Quotation estimated above RM5,000 can be submitted in a sealed envelope or fax/mail to Procurement office
- For quotations where a pre-qualification or trial is necessary, or even where e-bidding is to be conducted, submissions must separate the technical and commercial portions. As with a tender the technical portion is evaluated first. For the commercial portion to open for those shortlisted only.
- Late submission will be rejected, unless approved otherwise by Head of Procurement office.

2.4.8 Quotation clarification

- Any communication with bidders with regards to quotation clarification shall be made via Procurement office for further escalation to the bidders and vice versa.
- Negotiation shall be done with bidders before finalizing the evaluation report for approval.
- In some instances, the bid price is way below the initial purchase estimate. After clarification this is sometimes due to suppliers looking to get a foothold, thus 'throwing' prices. Tread carefully if the supplier is selected and ensure strong, enforceable penalty clauses are in place.
- All clarification and negotiation results shall be properly documented in the final report for approval, and written justification may be necessary especially if offer is made to the higher than lowest bidder.

2.4.9 Quotation box

- Procurement office shall provide a quotation box for depositing/submission of quotation.
- The custodian of the quotation box shall not be a single party. The suggested custodians are from Procurement office and finance.
- For quotation that cannot be lodged into the quotation box, a designated cabinet shall be provided and the safe keeping shall be witnessed by the Quotation Box custodian.

2.5 Request for purchase

- Any request to procure goods/services must obtain prior approval.
- The requesting department must fill-up the necessary standard form and obtain approval prior to any tender/quotation exercise.
- The SBU/OPCO head is accountable for the overall purchase and shall ensure the following:
 - a. budget availability and fund sufficiency
 - b. maximum returns to the Company
- The requestor may recommend any registered suppliers for the calling of tender/quotation subject to final endorsement by the prevailing authority.
- Requisition from different budget holders shall be made separately and the method of request is as follows:

Method of procurement	Method of request	Approval of request
Quotation	Request For Purchase (RFP) form	Manager or HOD
Tender	Request For Purchase (RFP) form	Head of Division/SBU/OPCO (JG 19 and above)

- Procurement office shall not entertain any emergency/urgent purchase due to improper planning or any purchase commitment made without proper procurement process.

2.6 Bumiputra status

- Bumiputra supplier shall be accorded with advantage, as follows:

“IF the second lowest supplier is a Bumiputra, who has a 10% (or lesser) price differential from the lowest price, Management will be allowed to negotiate with such Bumiputra company such that they match the lowest price received”.

In such an event then the award can be made to the Bumiputra company.

Please refer to clause 5.9.2 for further details.

- To qualify for Bumiputra status, supplier / contractor / manufacturer must fulfill the conditions below:
 - i. At least 51% of the equity holders are Bumiputra; and/or
 - ii. Registered with Ministry of Finance; and/or
 - iii. Registered with Pusat Khidmat Kontraktor with ‘Bumiputra Status’

2.7 Direct purchase

- Direct Purchase is a procurement of goods/services directly from the supplier/contractor/manufacturer. It is a procurement method without going through the tender or quotation process.
- Direct purchase can be done under the following circumstances:
 - i. Where the goods/services are supplied from only one supplier.
 - ii. For goods/services that are unique and proprietary in nature. Procurement shall maintain the Listing of Principal/Proprietary Suppliers which is operating companies specified and any update on the listing require approval by the ED of which Procurement Dept. reports.
 - iii. Where the main contract has expired and the contractor/supplier is awaiting approval for renewal or extension of contract. Procurement by direct purchase can be made three (3) months from the lapse date of contract, provided the contract balance is still available.
 - iv. Where the services are provided by the Government, Local Government, District Office, Municipal Council, Statutory Body and other government agencies.
 - v. Where members of the UMW group provide or supply the same service or goods of comparable quality, on condition the price is competitive.
 - vi. Purchase like training materials e.g. books, videotapes, film that is not practical to purchase via quotation or tender.
 - vii. The Executive Director, SBU/OPCO Head or PGCEO may recommend any other category from time to time.
- Request for direct purchase shall be made through proposal paper by the requesting department for approval of the authorized authority.
- The proposal must clearly specify the budget availability and justification for direct purchase.
- The authority to approve the request for direct purchase is as per the prevailing limits of authority.

2.8 Emergency purchase

- Emergency purchase is an urgent purchase that can be made only under the following circumstances:
 - i. Repair works on plant equipment or application system and its related equipment due to breakdown and is service affecting requiring immediate repair.
 - ii. Force majeure e.g. war, riot, earthquake, flood, storms and or any other national disaster.
 - iii. Sabotage
 - iv. The Executive Director, SBU/OPCO Head or PGCEO may recommend any other category from time to time.
- Any party who intentionally executes the emergency purchase contrary to the above allowable circumstances shall be reprimanded and will be liable for disciplinary actions.
- Application for the ratification of emergency purchase to the authorized authority due to poor planning shall not be entertained, except where procurement of such goods or services have been planned and if it had not been carried out in time would adversely affect the Company’s operation or administration.
- The Supervisor responsible for the repair works shall obtain verbal approval (to be followed by written confirmation) from the authorized authority to start work.
- A proper documentation i.e. Emergency Report shall be made immediately to report on the emergency purchase and to record the clearance given by the authorized authority. The report shall clearly indicate all relevant details and justification for the purchase.
- A supplier/contractor may start work upon instruction from the Supervisor in charge.
- The authority to approve emergency purchase is as per the prevailing limits of authority.

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2.9 Schedule of rate (SOR)

- SOR is an agreement made by the Company and panel of suppliers/contractors for the recurrent supply of goods or services based on a set of established rates, where each job should not exceed RM25,000.
- The panel of suppliers/contractors under this SOR shall be established together with the user and approved by the Executive Director / SBU/Opco Head or Head of Procurement Office.
- The Executive Director / SBU/Opco Head or Head of Procurement Office mentioned above shall also approve:
 - The establishment of the SOR (i.e. rates)
 - Any change, including additional item, change of rate, appointment, termination, replacement of panel of suppliers/contractors.
- The review cycle for each set of SOR shall be 2 years.
- It is accepted that not all items can be under SOR. In this case work can proceed provided that 70% of the total cost is SOR based.
- Granting of work under SOR is to be fairly distributed among suppliers/contractors. The limit to any singular company under SOR shall not exceed RM200,000 per annum.
- The SBU/OPCO shall monitor and report suppliers' performance to Procurement office.

2.10 Variation order (VO)

- Variation Order takes place when changes are required to the original contract for the similar goods, services or work only. Variation order is never encouraged but if it cannot be avoided, full justification must be provided and approved before implementation.
- For additional goods, services or work, requester shall prepare proper justification and price comparison with the market rate or value.
- The suggested authority to approve Variation Order is as follows:

Variation value (RM)	Approving authority
Up to 5% of the original contract value	As per the limits of authority based on the incremental value of the variation order only
Exceed 5% of the original contract value	As per the limits of authority but based on the aggregate amount of the original contract sum PLUS the value of the variation order(s)

The above is to ensure that when there is >5% change in contract value the original or higher approving authority should be made aware.

Notwithstanding the above SBU/OPCO are to adhere to their respective applicable limits of authority, as per clause 1.3.

2.11 Monthly reporting

- For purposes of exploiting group procurement synergy and leveraging opportunities for competitive advantage it is inevitable that periodic spend data reports need to be submitted to Procurement UMWC by all Procurement offices.
- With the requisite spend data it is possible to strategize sourcing activities to generate better savings which will be to all SBU/OPCOs' benefit.
- The type of information and structure of the report(s) will be determined and informed to the SBU/OPCO progressively.
- Our stakeholders also require procurement spend reports and we have standardized one (1) report to accommodate both Khazanah Nasional Berhad and Permodalan Nasional Berhad. We advise SBU/OPCO to compile the data regularly to ensure expedient reporting when required. The report format is shown below:

	Year	
	as at	
Local Suppliers	No of suppliers	RM
Bumi *		
Non - Bumi **		
Total (a)		
Principal / Proprietary ***		
Bumi		
Non-Bumi		
Total (b)		
Foreign Suppliers		
Other Purchases****		
Total (c)		
Disclaimer:		
Please provided the <u>list of of companies and value (RM)</u> for Principal and Other purchases in Attachment 2 .		
Grand Total (a+b+c)		
Procurement Savings (RM) (Refer to the note below for Procurement Savings Measurement)		
Percentage for Bumiputera Supplier (%)		

3. TENDER EVALUATION AND SUPPLIER SELECTION

The key principle is to operate on the basis of fair and open evaluation and selection. A clear and transparent evaluation process that is fair and equitable will maintain the confidence of all stakeholders including the public and existing and potential suppliers. Furthermore, it withstands scrutiny by auditors and any other third party review, if necessary.

This section aims to provide guidelines to ensure a higher level of conformity in evaluating tenders.

3.1 Purpose

The purpose of the tender evaluation procedures is to:

- Ensure conformity to processes aimed at achieving fairness, disclosure of potential conflicts of interest and value for money;
- Ensure accountability;
- Ensure commercial competition by conducting the evaluation using the same criteria;
- Preserve public and suppliers’ confidence in the tender process; and
- Provide defensibility of decisions in the event of any challenge.

3.2 Principles

The following are some guiding principles in evaluating tenders:

- All suppliers are provided with or have access to the same volume and quality of information regarding the tender.
- All suppliers will be treated equally.
- Evaluation is based on the information contained in the suppliers’ submission or responses.
- Evaluation of technical responses is undertaken in isolation from evaluation of commercial responses. The reason being the technical evaluators will do their job objectively if they do not know which suppliers are the front-runners on pricing. Exceptions resulting in concurrent technical and commercial evaluations are allowed but subject to approval by the prevailing authority.
- Evaluation committees are to comprise of odd numbers of staff to allow a majority tie-break, and should be structured such that no one person is able to unduly influence the outcome.
- All staff involved in the evaluation must understand their position with regards to conflict of interest and take the necessary actions as guided by clauses 8.2.1 and .7.2.
- All correspondences and documentation relating to the evaluation is stored and all decisions taken during and in relation to the tender are accurately documented so as to provide a clear audit trail.

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- Any decision to cancel the sourcing process by OPCO/SBU require written justification to Procurement. This will ensure proper closure on the sourcing activity for products/services.

3.3 Information vis-à-vis Tender Document

3.3.1 Framework

- The tender document is to provide suppliers with adequate information necessary for effective and competitive bids.
- The tender document must be well planned in order to avoid any amendments, additions or deletions in response to queries raised by supplier/tenderer after their receipt of the tender document.
- Based on the tender document the evaluation criteria can be established well before the closing date of tender.
- The tender document should have a clause stating that responses to the document shall be included as an exhibit in the contract or shall form part of the contract whether by inclusion or otherwise. This facilitates formalizing the contract with the selected supplier and may reduce dispute areas.
- To add-on to the clause above please also refer to clause 5.3 where it is highlighted that all possible price items must be specified in the tender document, either in the specifications or bill of quantity, to facilitate summarization and negotiation, if necessary.

3.3.2 Contents

There are varying levels of tender document content. Two samples are provided below.

Basic tender document

- Instruction to tender
- The company’s requirements in the procurement
- Conditions of contract
- Scope and bill of quantity
- Specifications and drawings
- Forms/schedules, including form of tender, profile etc.

Comprehensive tender document

Multiple sections, as follows:

- Volume 1 Part 1
 - Attachment A-1 – Company profile
 - Attachment A-2 – Statement of compliance to the conditions of tender
 - Attachment A-3 – Confidentiality undertaking
 - Attachment A-4 – Statutory declaration of interest for tender purposes
 - Attachment A-5 – Warranty schedule
 - Attachment A-6 – Profile of offered product
- Volume 1 Part 2
 - Form of tender
 - Tender deposit
 - Certificate of Bumiputra status

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- Volume 1 Part 3
 - Statement of compliance with the Guarantee Agreement Pursuant to the contract
- Volume 1 Part 4
 - Statement of compliance with the Supply and Delivery Agreement
- Volume 2 Part 5
 - Statement of compliance with the technical specification
 - Technical specification compliance to the mandatory requirements
- Volume 3 Part 6
 - Price schedules
- Volume 4
 - Handbooks and/or brochures

Note: Procurement UMWC has complete tender document samples if SBU/OPCO requires.

3.3.3 Specification categories

As stated in clause 3.3.1 above; based on the tender document the evaluation criteria can be established and pre-determined well before the closing date of tender. This is done by categorizing the specifications or requirements, recognizing that some issues/items are more important and a scoring system with proper weight can be developed accordingly.

The specifications can be and usually are categorized into Mandatory and Non-mandatory (subdivided into Major and Minor) requirements.

Definitions:

- a. **Mandatory specification** – specification or item that have a critical impact to the working of the equipment, systems, materials, services and without which the equipment, systems, materials, services would not achieve the minimum desired result or would critically impact the working of the equipment, systems, materials, services and/or other related or connected equipment, systems, materials, services. In simple terms – *Must have* or show stopper

The mandatory specification shall be stated as such in the tender document for the full knowledge of the suppliers, i.e. they would know that if they do not comply they will be disqualified. Early determination of mandatory criteria acts as a pre-filter before detailed evaluation

- b. **Non-mandatory / Major specification** – specification or item that have a major impact to the working of the equipment, systems, materials, services and without which the equipment, systems, materials, services would not achieve the optimum desired result. In simple terms – *Should have* or to meet specifications
- c. **Non-mandatory / Minor specification** – specification or item that are optional and have a minor impact to the working of the equipment, systems, materials, services and without which the equipment, systems, materials, services would still achieve the desired result. In simple terms – *Nice to have* or provides added value.

3.4 Evaluation: Pre-qualifying requirements

All bids must comply with the following requirements in order to qualify for further consideration:

- Bidder listed as registered participant (as per the list of purchasers of tender documents before the closing date).
- The list of suggested bidders must fulfil basic requirements/criteria during Pre-qualifying (Pre-Q) process such as paid up capital, nature of business etc
- Tender submitted before the closing date and time.
- Form of tender signed.
- Tender deposit submitted with correct amount, format and validity.
- Bid validity is as per the required period, typically 6 months or any extended period communicated in writing.
- Tender documents are complete.

Only tenderers satisfying the above requirements qualify for evaluation, commencing with the Technical Evaluation followed by the Commercial Evaluation.

3.5 Evaluation: Technical

At this stage submission are evaluated for compliance to the required specifications and overall superiority or uniqueness of the equipment, systems, materials, services proposed.

3.5.1 Scoring

Primary score – Technical compliance of the proposed equipment, systems, materials, and services can be scored as follows:

Specification	Comply	Do not comply	Comply with exception
Mandatory	Y	N Automatic disqualification	n/a
Major	3	0	>0 to <3 (i.e. 1 or 2)
Minor	1	0	n/a

Another sample of scoring:

Score	Compliance criteria
0	Show stopper, disqualified
1	Unacceptable, below minimum requirements but not a show stopper
2	Meets specifications
3	Provides added value

Secondary score – The general areas are:

- Assess the capability of the tenderer to *deliver* (supply, install, commission) the proposed equipment, systems, materials, services within the required project schedule.
- Assess the capability of the tenderer on *operations support* (system documentation, training, spares and maintenance & support).
- Evaluate the tenderer’s *experience and/or reference sites* for similar equipment, systems, materials, services as proposed.
- Evaluate the availability and strength of *local support* for the proposed equipment, systems, materials, services.
- Evaluate the tenderer’s *warranty* provisions for the equipment, systems, materials, services proposed.
- The secondary scores here shall follow a scale of 0 to 3 (similar to the major specification scoring scale above).

Note:

The tenderer’s responses should be cross-referenced with actual results of trials and/or observations and findings during tender site visits (if any). Differences should be clarified and scores revised as necessary.

3.5.2 Technical scoring summary

- The Technical Evaluation Report shall be prepared by the Technical Evaluation Committee.
- The report must contain table(s) of detail technical scoring for each item from which a technical scoring summary is extracted.
- Under normal circumstances the technical scoring summary is sufficient to derive recommendations. However, there are cases where the tenderer with the lower major technical specification score has a bigger total score because of gains from minor technical specification scores and secondary scores.
- In this case normalization by giving weighting is recommended.

Note: The percentage of weighting of each criteria is up to the discretion of the Technical Evaluation Committee (but it must be able to withstand scrutiny). The total maximum percentage shall be 100%.

3.5.3 Technical Recommendation

As a general rule only technically acceptable bids will be commercially evaluated. Technical acceptability is defined as follows:

- Meets all mandatory technical specifications.
- Total scoring should be at least 60% of total possible score, subject to review by the Technical Evaluation Committee as and when necessary. The tenderers are to be ranked accordingly in a descending order.

Note: Major concerns and/or conditions should be noted and highlighted in the Technical Evaluation Report.

3.5.4 Health, Safety and Environment (HSE)

Objective

- To establish, implement and maintain a standard instruction in order to ensure all suppliers and contractors conform to the Occupational Health and Safety (OHS) policy and procedures of UMW.

Scope

- This standard instruction shall apply to all contractors/suppliers of UMW

Responsibility

- Head of Group Health, Safety and Environment (HSE) Department

Evaluation Criteria

- Contractor/supplier application is evaluated based on the following criteria as determined by UMW HSE.

3.6 Evaluation: Commercial

The commercial evaluation is to determine:

- Completeness and competitiveness of quoted price.
- Cost of operating the equipment, systems, materials, services including support and maintenance contract and cost of spares, where applicable. In other words, the Total Cost of Ownership (TCO) is to be derived. Please refer to clause 5.3 for additional information on TCO.
- Out of Pocket Expenses (OPE) should be capped, either in value (i.e. base on currency) or percentage (%) basis. This is to ensure that Management have a better understanding on the cost involve.
- The prevailing TCO requirement shall be a minimum of three (3) years. The budget must include at least 1-year maintenance but evaluation must contain 3 years maintenance to better reflect TCO.
- Tenderers' compliance to the Statements of Compliance with respect to:
 - Guarantee Agreement pursuant to the contract, and
 - Supply and Delivery agreement.
- Availability of financing arrangements (if necessary).

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3.6.1 Quoted price

Quoted price represents the cost of acquisition and should include:

- Cost of all related components (equipment, hardware, software etc.)
- Cost of related licenses and/or cost for right of use.
- Other costs of acquisition such as design, installation, implementation, commissioning, testing, transport, insurance etc.

Note: Cost comparison must be made on an apple to apple basis in accordance with the Bill of Quantity proposed.

3.6.2 Cost of operations and use

Cost of operations and use are costs after the cost-free warranty period and should include:

- Cost of the annual support and maintenance contract, and other time and incidental charges associated with the contract.
- Cost of spares (if any).
- Cost of the initial training.
- Cost of documents (technical or otherwise) supplied.

3.6.3 Compliance to the Statement of Compliance (SOC)

SOC compliance are usually scored as follows:

- 2 points – comply
- 1 point – partially comply
- 0 points – do not comply

3.6.4 Commercial scoring summary

- Items in 3.6.1 and 3.6.2 above, the monetary portion, shall constitute 80% of the commercial scoring.
- Items in 3.3, the SOC compliance, shall constitute 20% of the commercial scoring.

Example:

Rank	Tenderer no.	Price (RM)	Price weighting (80%)	SOC weighting (20%)	Commercial score summary
1	Tenderer 2	1,000.00	80.00	20	100.00
2	Tenderer 3	1,100.00	72.72	19	91.72
3	Tenderer 1	1,150.00	69.56	20	89.56

Calculation:

For price weighting: $RM1,000 = 80.00$
 $RM1,100 = (1,000/1,100) \times 80/100 = 72.72$

3.6.5 Other considerations

Other non-scoring but important considerations that can be highlighted to the approving authority are:

- Financial standing in terms of shareholders’ fund, revenue and paid up capital to ensure the uninterrupted delivery, commissioning and support of the proposed system.
- Track record of the tenderers for past/outstanding projects, in terms of commitment and support, project management and implementation capabilities.
- In cases where the local tenderer is to a great extent dependent on an overseas supplier/principal the track record and credibility of this supplier/principal should also be assessed.
- The incumbency of supplier(s) and the inherent risks and costs associated with changing/migrating etc.

Incumbency scores

Sometimes it is not in SBU/OPCO’s interest to keep changing suppliers as the swapping of equipment (for example) is time consuming and costly, and impacts service levels and thus customers.

At the same time, it is not advisable to lull incumbent suppliers into complacency by not looking for substitutes.

It is therefore recommended to periodically put them under price pressure by doing a competitive bid, where their prices can be benchmarked against others and negotiated on if they are more expensive.

However, acknowledging that swapping can sometimes be difficult; internally an incumbency score can be added on to an incumbent supplier’s total score and more often than not they remain as suppliers with new prices that have been leveraged on via the competitive bid.

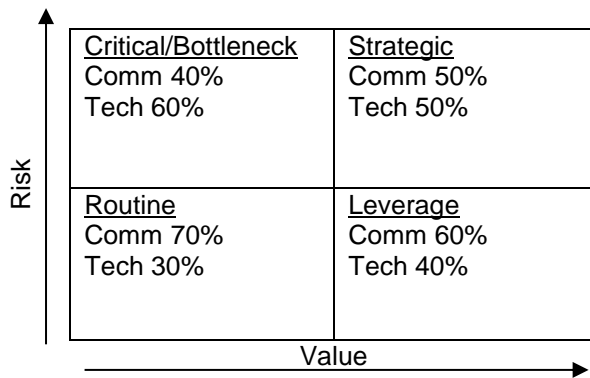
3.7 Selection for award

To finalize selection, the technical and commercial scores are to be consolidated and this is the responsibility of the Tender Evaluation Committee.

- Bids will be ranked according to technical and commercial rankings.
- The weighting to be applied is at the discretion of the Tender Evaluation Committee and to be guided by clause 3.7, i.e the matrix on weighting

The general rule is, 'If all else is equal then price is the determinant'. With this view a 40:60 weighting split for technical and commercial scores appears reasonable.

This spend box matrix for weighting dependent on asset type/significance can be used for guidance:



Matrix for weighting dependent on asset type

Below are examples of consolidated score summaries for illustration and also to show how commercial and technical scores influence final rankings.

Example of commercial score summary, from 3.6.4 above:

Rank	Tenderer no.	Price (RM)	Price weighting (80%)	SOC weighting (20%)	Commercial score summary
1	Tenderer 2	1,000.00	80.00	20	100.00
2	Tenderer 3	1,100.00	72.72	19	91.72
3	Tenderer 1	1,150.00	69.56	20	89.56

Example of consolidated commercial and technical scores:

Rank	Tenderer no.	Price (RM)	Total commercial score (60%)	Total technical score (40%)	Total tender score (100%)
1	Tenderer 3	1,100.00	55.03	39.00	94.03
2	Tenderer 1	1,150.00	53.74	39.00	92.74
3	Tenderer 2	1,000.00	60.00	32.00	92.00

Calculation:

For total commercial score:

Tenderer 2: RM1,000 = 100.00 X 60/100 = 60.00

Tenderer 3: RM1,100 = 91.72 X 60/100 = 55.03

- Evaluation scoring may be adjusted based on additionally supplied documentation, tenderers’ clarifications during enquiries or presentations, site visits, appraisal of live or trial systems or client’s references.
- Any adjustment in scoring must be justified and documented.
- Prior to the award of contracts, the short-listed tenderer(s) may be invited for contract negotiation.
- Depending on the requirement set by the user the selection recommendation can be:
 - Total award to a single supplier.
 - Equally split award to multiple suppliers.
 - Tiered award to multiple suppliers, with the lowest bidder being awarded more.
 - Split award to multiple suppliers based on equipment type or category etc.

3.8 Another selection for award perspective

Sometimes the Tender Evaluation Committee requests that a dollar/ringgit value be associated with points gaps.

This is better illustrated with an example:

	Company ABC	Company XYZ
Commercial score	60	50
Technical score	30	40
Total score	90	90
Bid price	RM100,000	RM120,000

- The total scores are the same but one is cheaper than the other, which to choose?
- Under normal 60:40 commercials to technical weighting the answer would be Company ABC.
- Often though the question is whether it would be better to go with Company XYZ and pay RM20,000 more for a technically superior product.

There are many mathematical models available but which may not be practical to apply. A simple model is as follows:

For Company XYZ

- 40 marks equate to RM120,000. Therefore 1 mark equates to RM3,000.
- For Company ABC (30 marks) to achieve the same score it would probably cost them an extra RM30,000 (i.e. 10 marks gap X RM3,000 per mark) making them more expensive at RM130,000 if they have to be technically equivalent.
- Thus it is worthwhile to consider Company XYZ instead.

Alternatively:

For Company ABC

- 30 marks equate to RM100,000. Therefore 1 mark equates to RM3,333.
- For Company XYZ (40 marks) to achieve the same price they could probably cut cost an extra RM33,333 (i.e. 10 marks gap X RM3,333 per mark) making them cheaper at RM86,667 if they have to reduce to be technically equivalent. Thus it is still worthwhile to consider Company XYZ instead.

Bear in mind that this ‘method’ does not bear close scrutiny (for example, due to different brands, design etc.) and is generally applied to non-critical purchases only.

3.9 Announcing the tender decision

The decision can only be announced after final approval is obtained in accordance with the prevailing financial limits of authority.

There is no set way to handle this, and SBU/OPCO may select from the usual options below:

- Announce the award verbally to the winner, to be followed up with a letter of award/contract (if any). The unsuccessful bidders are not officially informed at this time but they will become aware when their tender deposits are formally returned.
- Write officially to all tenderers announcing the successful tenderer.
- Meet all tenderers at the same time and announce the successful tenderer.

3.10 Debriefing unsuccessful tenderers

Some suppliers may request for feedback so that they can understand the reasons why they were not successful. Some suppliers could possibly be under our development program; thus the areas for improvement must be pointed out to them, so as not to repeat the same mistakes. In this regard SBU/OPCO have the following options:

- Approach the above informally and on an ad-hoc basis, i.e. debrief via discussions, meetings etc. as and when necessary.
- Formalize the debrief via abstracting highlights of the tender evaluation report and preparing a document that can be called the Tender Evaluation Feedback to be sent to all tenderers.

3.11 Other tender evaluation formalities

- All enquiries relating to any tender must be channeled through the Procurement Office. This single channel method will ensure conformity to set standards and avoid any conflict of interest issues from arising, if channeled to many parties.
- Prior to the closing date of tender; tenderers can clarify issues or request for clarification through mail or e-mail. The Procurement Office is responsible to handle this matter. Note that in the spirit of equality all questions and answers on all clarifications will be provided to all tenderers even if they did not request for any clarification.
- There are occasions when SBU/OPCO assigns consultants to conduct a tender evaluation usually due to reason of professional expertise. The consultant’s evaluation methods should remain guided by the guidelines in this section specifically, and in this Procurement Guidelines generally.
- Any decision to invalidate and re-tender the tender process must be approved by Head of Procurement with proper documentation via email communication / report / justification.

3.12 Disqualification of bids

To summarize, tender bids can be disqualified due to any of the following reasons:

- Tender documents are submitted after the closing date and time as stipulated in the tender invitation letters.
- Mandatory documents; e.g. form of tender and tender deposit, are not submitted together with the tender documents.
- The tenderer does not comply with the scope of work/supply or deviates from the specifications required.
- The tenderer in submitting their prices omits to include the price of any item of work as laid out in the tender document.
- The tender is not submitted using the original tender document.
- The offered work/supply is below the specified standard.
- The offer involves unacceptable risks.

Note:

Any and all reasons resulting in a disqualification of any bid must be documented such that the action is indisputable.

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4. E-BIDDING

An electronically enabled tool that provides an on-line, real-time, fair and equitable bidding process to facilitate an award of business within a specified time-frame. Also known as on-line bidding, reverse bid auctions, reverse auctions or e-auctions. Used especially when thinking of purchase price reduction. E-bidding should not disrupt the normal sourcing process as it is just an end-of-process negotiation enabler/instrument.

4.1 Applicability

Not used for all purchases. The usual criteria required are:

- The spend item/commodity can be accurately and comprehensively specified.
- Sound supplier pre-qualification/selection process.
- Spend item is of the type where “if all else is equal then price becomes the sole determinant”.
- Availability of a competitive supply base.
- Spend item is not bound to principal supplier or require developing relationship with supplier for non-disruptive critical supply.

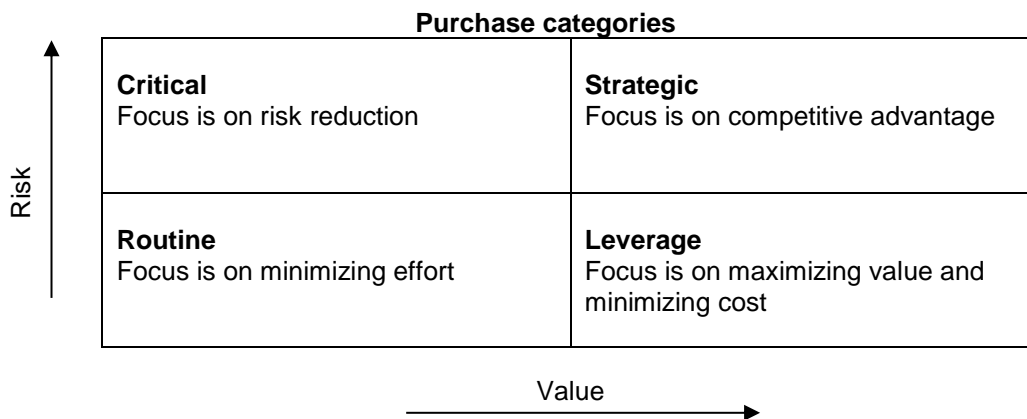
Note: the list above is not exhaustive; there may be other criteria specific to SBU/OPCO.

4.2 Selection

In selecting the spend item applicable for e-bidding please also consider some widely accepted advantages and disadvantages of e-bidding. They are:

Advantages	Disadvantages
To buyer/UMW:	
<ul style="list-style-type: none"> Competitive environment, proven to get savings 	<ul style="list-style-type: none"> Disregards 'value' considerations
<ul style="list-style-type: none"> Pre-determined, typically short, time-frame 	<ul style="list-style-type: none"> Driven down price sometimes cannot be held by supplier during contract
<ul style="list-style-type: none"> Improves process efficiency, do away with face-to-face negotiations 	<ul style="list-style-type: none"> Supplier may cut corners and compromise quality to meet/beat price
<ul style="list-style-type: none"> Fair and transparent, with audit trail 	<ul style="list-style-type: none"> Disregards 'national objective' criteria
To suppliers:	
<ul style="list-style-type: none"> Visibility of and ability to react to competitor's price 	<ul style="list-style-type: none"> Buyer is price driven, lack of relationship and supplier development
<ul style="list-style-type: none"> Reduced negotiation process time 	<ul style="list-style-type: none"> Prices may be driven down to below sensible economic level
<ul style="list-style-type: none"> Level playing field 	<ul style="list-style-type: none"> Other 'value' considerations not considered

When viewed using the typical 'spend box' illustrated below the candidates for e-bidding would typically come from routine purchases, with low risk and value, and partially from leverage purchases. Critical and strategic purchases are seldom placed under e-bidding.



4.3 Requirements

The e-bidding software is the main requirement and it is ready and available via **UET**. Other requirements are:

- When e-bidding is confirmed as applicable for a spend item the following clauses have to be added to the sourcing document:
 - UMWxx (“the company”) reserves the right to opt for e-bidding for the award of this sourcing exercise.
 - All e-bids are subject to verification by the Procurement Office to ensure that the bid is a bona fide offer submitted by the person or company named in the Bid. Each company shall be bound by the e-bid price submitted.
 - In order to e-bid, Suppliers must be registered; must complete the e-Bidding Registration Form; and must accept the e-Bidding Terms and Conditions.
 - E-bids must be submitted through the UMW Group e-Bidding system only. Submission by e-mail or other electronic means other than fax will not be accepted. Any complaints of failed submissions or bids shall not be entertained.
 - The requirements for e-bid do not affect the applicability and validity of the clauses contained in this sourcing document.
 - Ability to make eBids require a user ID and password, which is made available with every e-bid Invitation opportunity. Bidders may modify their Bid at any time prior to the closing time for Bids.
 - The company will consider the e-bid results together with other considerations in deciding the contract award. The decision to award the contract remains at the sole discretion of the company.

Notes:

The 1st and last bullets above (right to use e-bid and e-bid is subject to other considerations) are mandatory clauses.

Procurement Office is the procurement / purchasing division/department/unit at SBU/OPCO.

- Training of suppliers; on e-bidding terms and conditions, and usage of software. This will be facilitated by Procurement UMWC.
- Facilities, e.g. room, computers and communication links, will also be facilitated by Procurement UMWC and UITS.

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4.4 Process

Normal sourcing activities such as:

- Quotation/tender document preparation
- Quotation/tender issuance and closing
- Quotation/tender ‘technical’ evaluation
- Pre-qualified/short-listed suppliers selected

are to be conducted as per normal, and to be followed by e-bidding specific activities, which are:

- Supplier training *
- eBid publication *
- eBid event, i.e. the actual on-line auction *
- post e-bidding, clarification meeting with the lowest bidder

Activities marked (*) will be facilitated by Procurement UMWC.

Important notes:

- The commercial bid is not opened or evaluated so as to maintain an arms-length transaction in the e-bid, because short-listing suppliers is best performed without price clouding the issue.
- When price is known before the bid event, and the e-bidding starting price is set equivalent to the lowest price, complaints will arise from the supplier of the lowest submitted price. He/she will feel penalized that although a lowest price is submitted, it does not win the award, but rather used as a starting point for a bid war.
- The e-bidding methodology used will set 2 prices – the ‘Opening/Start Price’ which all suppliers see and the ‘Estimated/Target Price’ which only UMW sees.
- The starting price is normally set a little higher than what UMW is currently paying and the target price is the price UMW is satisfied to pay. This is to encourage initial bids followed by competing bids.
Another option, dependent on item to be purchased, is to set the starting price as the price that UMW is currently paying.
- In the unlikely event that SBU/OPCO decides to award to other than the lowest bidder then a proper justification must be provided regarding the reasons for the variation. This should not arise if proper selection had been made in the first place, i.e. to select spend item of the type where “if all else is equal then price becomes the sole determinant”.

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All staff involved in purchasing negotiations should read this section. This section serves as a general guide on negotiation in purchasing.

5. NEGOTIATION

Negotiation is effectively a bargaining process between parties to reach a mutually satisfactory agreement or reach an amicable settlement. In purchasing; negotiation should result in an agreement that is fair, cost-effective, durable and meets the needs of both parties plus improves (or at least does not damage) the relationship between parties. Process wise negotiation applies for cases that were not subject to e-bidding.

Reminder: Negotiation is not haggling or what some call ‘horse trading’. It is unethical to discuss the pricing or other conditions of a supplier with their competitors, e.g. avoid saying, “Supplier A can sell me the item for RM100 less than you, and can you beat that?” If this is preferred, i.e. making suppliers compete after price submission, then e-bidding should have been applied.

5.1 Why negotiate?

Mainly because a negotiated agreement is better than a forced agreement, i.e. results in stronger ownership and more likely to succeed and endure. Other reasons for negotiating are listed below.

Before a contract, negotiate:

- To clarify issues between parties
- To develop relationship and understanding between parties
- To improve on the current offer, on price, conditions, service levels etc.
- To document remedies for all possible unusual circumstances
- To reduce or transfer risk exposures

During a contract, negotiate:

- When there are concerns on supplier performance
- When contract is or will be varied, to formalize new terms and conditions
- When unusual circumstances arise

5.2 When to negotiate?

Negotiation may occur at various stages but usually:

- After selection of a preferred supplier (If there is only 1 preferred supplier they must not be told of this)
- Before a contract is signed
- Before any contract variation is agreed on
- Whenever any issue arises during the contract.

5.3 What can be negotiated?

Price remains the focal point for many purchases but for long-term, strategic, systems or critical purchases emphasis must now be placed on value for money and Total Cost of Ownership (TCO).

The objective of TCO is to ensure that all associated costs over a given time are considered when purchasing an asset. Example: for a system purchase it includes operational costs such as costs of training support personnel and users of a system, costs associated with failures or outage, diminished performance incidents (where users are kept waiting), costs of security breaches, floor space, electricity, testing and development infrastructure and more.

TCO is therefore all costs of owning and operating an asset over time.

The list of possible negotiation points is extensive and depends on the item to be purchased. Grouped in the following table are categories of selected items that can be focused on:

Financials	<ul style="list-style-type: none"> • Cost/price breakdown • Currency & exchange rates • Deposits • Payment terms & schedule • Discounts • Cancellation penalties
Technical	<ul style="list-style-type: none"> • Warranties • Maintenance & support • License structure, fees & agreements • Technical dispute escalation & resolution • Spare parts availability • Quality/returns/repair/scrap policy • Testing & tooling & training • User catalog/catalog maintenance
Risk management	<ul style="list-style-type: none"> • Insurance • Liquidated damages • Financial guarantees • Confidentiality (e.g. non-disclosure agreement) • Copyright • Type of contract used
Management information system	<ul style="list-style-type: none"> • Intellectual property rights • Access to information • Audit rights • Documentation • Reporting • Upgrades & patches

Government matters	<ul style="list-style-type: none"> • Approvals • Exemptions (of tax/duty) • Restrictions
Deadlines	<ul style="list-style-type: none"> • Delivery date • Completion date • Ready for service date • Project milestones
Performance	<ul style="list-style-type: none"> • Rewards/incentives • Penalties
Others	<ul style="list-style-type: none"> • Packaging/markings • Freight • Contingencies and other charges • Marketing & promotional support

Note: The negotiation or TCO items must be specified upfront in the sourcing document, either in the specifications or bill of quantity, i.e. their prices plus terms and conditions are available during negotiation. If this is not done the negotiations will be prolonged and may miss addressing pertinent points.

5.4 Negotiation plan

The saying ‘failing to plan means planning to fail’ is very appropriate in negotiation. As is many people underestimate the amount of time needed to adequately prepare for and research the background for a negotiation. For guidance a negotiation plan must at least address 3 core issues, as elaborated below.

5.4.1 What is the context to operate in?

This basically relates to understanding our position (item to buy, risk, supplier, leverage etc.). In simple terms to understand where we stand. Questions to consider:

- What is the nature of the item to be purchased? Cheap vs. expensive, normal vs. critical item, low vs. high risk, simple vs. complex.
- What is the nature of the supply market? Monopoly, competitive, dominated by a few suppliers? Local or has to be imported?
- Is the negotiation a one-off or part of a planned series of negotiations?
- Are there plans to negotiate, sign a contract and then develop a long-term strategic relationship with the supplier?
- Negotiation experience with the supplier? If existing supplier or have past experience – what is their typical approach? What is the state of the existing relationship? E.g. good, frosty, bad.
- What is the hierarchical and skill levels of the negotiating team? The team selection has to be based on answers to the above questions.

5.4.2 What is to be achieved?

Once the context has been understood, what needs to be achieved can be decided. The context stage is meant to derive an ‘achieve’ target that is pragmatic and avoid sometimes unrealistic targets.

The negotiation plan can then proceed to include:

- Time-frame for the negotiation;
- Negotiation style to be adopted;
- Strategies/tactics to be applied;
- The composition of the negotiation team;
- The authority to be granted to the team and
- Other process requirements.

5.4.3 What problems are likely to be encountered?

This basically relates to listing the negatives or reversing all the positives from the above findings and preparing possible solutions, for example:

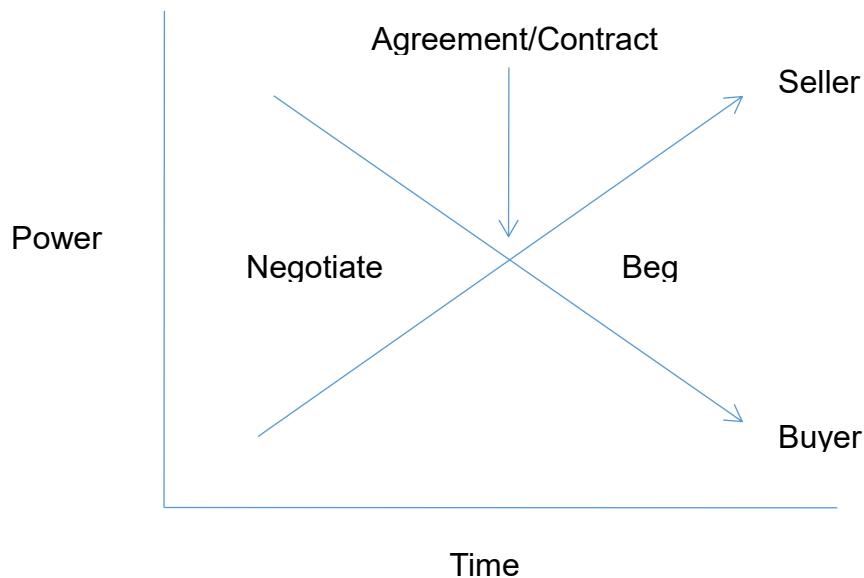
- On price – the maximum price that is acceptable.
- Concessions – what can be given up
- Compromise – where the middle ground is
- Commitment – e.g. guarantee order and full contract utilization

5.4.4 Balance of power

It is important to make a realistic assessment of the power relationship in any purchasing negotiation.

- Power with buyer – When size of purchase is large
 When purchaser has a large spend budget
- Power with supplier – When size of purchase is small
 When purchaser has a small spend budget
 When supplier is a monopoly or dominant supplier

Power also erodes over time and sometimes also after a contract is signed. The following graphic is often used to illustrate this balance of power.



Power in itself is neither good nor bad. The intention here is to show that the effort to find alternatives must never stop. Power is not the issue but avoiding dependence on a supplier is.

Note:

Information can also tip the balance of power. Information collected from the web, trade publications, other media may provide insight on the supplier’s financial situation, priorities, needs, deadlines, organizational pressures etc. Knowing these may strengthen the negotiation position.

5.5 Negotiating styles

A negotiating style suitable to the situation should be used. Knowledge of the supplier and the people negotiating on behalf of the supplier and their preferred style could simplify this decision.

5.5.1 Competition

Win at all costs style, i.e. win-lose for buyer-supplier. Appropriate when:

- Other options are not possible, because
- Quick and decisive action is necessary
- You firmly believe you are right
- The supplier will take advantage if they see passiveness

Disadvantages:

- Possible damage to relationship with supplier
- Supplier may accommodate out of pressure but requires constant monitoring during contract
- Lost opportunity to explore alternative approaches

5.5.2 Accommodation

A style to please others even at one’s own expense. The opposite of competition, i.e. lose-win for buyer-seller. Useful when:

- Accommodate so as to build ‘credits’ with supplier for later more important purchase
- Non-accommodation will damage relations with the supplier
- You want to seem reasonable
- You find out you are wrong

Disadvantages:

- Self-esteem possibly damaged
- Loser syndrome

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5.5.3 Avoidance

A style where issues are ignored completely. Appropriate when:

- Issues are trivial
- There is no chance to get what you want
- There is a need to cool down and regain perspective
- More time is needed to gather information
- Someone else can probably handle the issues more effectively

Disadvantages:

- Damage to personal credibility
- Decisions made by default
- Unresolved issues not addressed

5.5.4 Compromise

A style where parties meet at mid-point with moderate but incomplete satisfaction. Appropriate when:

- Issues are not worth the effort to negotiate in full
- A solution is needed
- Need to compromise because earlier styles, competition or collaboration, are not working

Disadvantages:

- Without full satisfaction contracts tend to be short-lived
- Perception of a sell-out on issues compromised

5.5.5 Collaboration

Working together to satisfy all interests for a win-win solution. Appropriate when:

- Reaching a consensus is required
- Developing and maintaining a relationship with the supplier is important
- Both buyer and supplier interests are too important to be compromised
- There is a need to learn and trust

Disadvantages:

- Time consuming to reach agreement
- The relationship and trust need to be monitored closely to avoid being taken advantage of

5.6 Conducting the negotiation

There are several steps in most negotiations. They are:

	Steps	Involves
1	Opening	Establish control and set the tone. Hint: Hand-shake and seating position plays a part.
2	Explore issues	<ul style="list-style-type: none"> Identify mutually compatible issues. Identify incompatible issues (hint: start with a small issue where concession can be easily given to set the tone as accommodating). After giving concession, request for the same from supplier for an equally small issue. If the supplier declines the above then the negotiation will probably be very competitive.
3	Make offers (only after issues are fully explored)	<ul style="list-style-type: none"> As usual buyer starts low and supplier starts high. Offer usually becomes the focal point of negotiation after this. Offer should be realistic and display sincerity for business. A ridiculously low offer by buyer or high offer by supplier may indicate an unpreparedness to do business with one another.
4	Offer concessions	Hints: <ul style="list-style-type: none"> Do not offer a concession without request. Even if requested make the other party work for it. Request for a concession in return. Traded concessions should preferably be of similar value or at least not too disproportionate.
5	Closure	<ul style="list-style-type: none"> Offer closure to supplier when objective satisfactorily achieved. <p>Note: Proper records of meeting and issues discussed/resolved must be maintained and preferably made as extensions of contract or better still documented in contract.</p>
When things do not go according to plan		
6	Deadlock	Can be broken in 2 ways: <ul style="list-style-type: none"> Change something – situation becomes different Explain something – situation seems different <p>Sometimes a recess is called, or meeting adjourned and negotiation team leaders meet separately (& informally) or have separate teams to thrash out differences.</p>

7	Walk away	<ul style="list-style-type: none"> • This should not be a heat of the moment decision. • Decision must be on rational grounds where issues seem impossible to resolve. • Much depends on the situation for alternatives. If there are alternatives and within acceptable timelines, then a walk away decision can be made. • Whatever the case always leave open the option for future dealings. Do not burn bridges in business.
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5.7 Negotiation when prices are increasing

Inflation provides an easy excuse for suppliers to try and raise prices. Some suppliers see inflation as an opportunity to increase margins and make up for prior lean years where they have been forced to give price discounts.

Admittedly the negotiating balance of power tips the supplier’s way. Nevertheless there are several negotiating tactics that can achieve cost containment. They are:

5.7.1 Improve communications

- Provide the supplier with better and more information so as to reduce perceived risks, i.e. information that indicates firm future orders.
- Share sales data, inventory levels and production output figures with the supplier to increase trust.
- The above will eliminate the need for suppliers to ‘hedge’ their prices and this normally results in reduced prices.

5.7.2 Commit to a longer term contract

- Become more important to the supplier by committing to a longer term contract
- As part of the long term contract clauses can be added to develop the relationship through joint process improvements targeted at reducing waste or improving output.

5.7.3 Ensure future protection

- Accepting that commodity prices are cyclical negotiate the right price adjustment clause in the long-term contract, usually bi-directional, so that both buyer and seller share cost advantages/disadvantages when prices move.

5.7.4 Automation/consolidation

- Convince suppliers to embrace automation to decrease transactional costs while increasing service levels.
- With proper buyer-supplier order planning shipments can be consolidated to save freight costs and translate this into savings.

5.8 Negotiation committee

The composition of the negotiation committee is at the SBU/OPCO’s discretion but should be after knowing the context of the negotiation, as in clause 5.4.1. A typical negotiation committee comprises of the following, all preferably at Assistant Manager and above level:

- The user/requestor of the sourcing or the Project Manager involved in the sourcing (if applicable).
- A Finance representative.
- A Legal representative.
- Procurement Office

5.9 Negotiation practices

The practices described below are intended to streamline activities and gain leverage where possible.

5.9.1 Avoiding single supplier negotiation

Single supplier negotiation does not give us leverage, especially when the supplier knows they are the only short-listed party. To avoid this, the following exception can be applied:

- Apply the 5% range, i.e. if the 2nd lowest supplier’s price is within 5% of the lowest price then this 2nd supplier can also be called for negotiation, for both price comparison and price pressure on the lowest priced supplier.
- If there are 3rd or 4th suppliers also within the 5% range they are to be disregarded and not called for negotiation, unless of course if the 2nd supplier turns down the invitation then it goes to the 3rd supplier and so on.
- The lowest priced supplier after this ‘competitive’ negotiation will be the winner regardless of their initial placing, i.e. the 2nd supplier could get the award if their price eventually turns out to be lower.

5.9.2 National objective – Bumiputra advantage

Bumiputra supplier shall be accorded with a price advantage on condition the quality of the goods and services are similar and value offered is comparable to others. Bumiputra status is only considered when the Bumiputra equity is at least 51% or as certified by the Ministry of Finance / Pusat Khidmat Kontraktor. Assuming all conditions are fulfilled Bumiputra suppliers can be called for negotiation when:

- The Bumiputra supplier’s price is within the price advantage range (this shall be whatever prevailing percentage (%) approved by the relevant authorities).
- The prevailing Bumiputra price advantage is 10%. When the second lowest supplier is Bumiputera and their price is within 10% of the lowest price then this Bumiputra supplier can also be called for negotiation.
- The Bumiputra supplier must meet at least the lowest bid after competitive negotiation to be the winner when all else is equal and if all bidders, including Bumiputra bidder, passed the technical requirements. And applicable to generic goods i.e. no different between suppliers.

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5.9.3 Final price submission

When 2 suppliers are involved in negotiations the final prices should be submitted via sealed envelopes. The closing date and time for submission must be the same for both suppliers and opened by a committee, similar to any sourcing opening activity.

5.9.4 Timing is everything

Depending on the item purchased and the supplier; negotiations can be timed accordingly.

- Do it early – do not wait until the 11th hour to negotiate a contract. Suppliers will find out about this and become aware of our desperate state and refuse to budge most times. Plan and conduct the contract negotiation early making the supplier aware that we have time to source for a substitute supplier.
- Do it late – be aware of supplier’s book closing period, usually quarterly, as they are more concerned with improving their bottom-line just before the end of each quarter. When stuck on price, wait until a few days/weeks before one of these periods. Suppliers usually are more willing to give concessions then, so as to meet their numbers.

5.9.5 Shopping basket – price comparison

For sourcing of many items; price comparison can be done using the shopping basket method. This is best explained in the example below:

Example – stationery purchase:

Items & quantity required	Supplier A (RM)	Contract value (RM)	Supplier B (RM)	Contract value (RM)
A4 paper (1,000)	8.50	8,500	8.40	8,400
Ball-point Pen (2,000)	1.00	2,000	1.15	2,300
Pencil (3,000)	0.15	450	0.10	300
'Basket' price	9.55	10,950	9.75	11,000

- In the example above Supplier A has a better overall price consideration even though they are more expensive for 2 out of the 3 items sourced.
- The above is in effect price benchmarking and knowing that other suppliers can sell at lower prices can be used to leverage Supplier A to reduce their prices for the 2 items to equal or lower than Supplier B’s prices.

5.9.6 Price benchmarking

The example in 5.9.5 is price benchmarking. We normally get this opportunity to benchmark when we conduct fresh sourcing and obtain prices from more than one supplier. However, there are times when these prices are deemed untrustworthy, especially when they are alike or have insignificant variance. This happens when there is collusion among the suppliers or they form a cartel when submitting their bids.

As such sometimes there is a need to benchmark prices outside of the submitted proposals and this can be achieved as follows:

- Obtain historical price – retrieve previous purchase or historical price, then apply some common price inflator percentage (e.g. fuel increase) or price deflators (e.g. local assembly) to derive a close estimated current price.
- Obtain current market price – request a quote(s) from a non-panel, previously not invited supplier(s).
- Obtain peer price – through network and connections obtain where possible peer prices for the same item.

A combination of one or more of the above benchmarks should give a fairer representation of what the current price (in the sourcing exercise) should be and actions taken thereon.

6. LETTER OF AWARD/CONTRACT DOCUMENT

After all the effort in sourcing and negotiating emphasis must be placed on the contract, be it in the form of a simple letter of award or a formal contract document or agreement (for simplicity, hereinafter referred to as just ‘contract’).

There is a saying that ‘All business is based on contracts, period’. Thus by extension ‘If you don’t know your contracts, then you don’t know your business’. A contract is the reflection of all that has been agreed, commemorated in writing, signed, witnessed and pledged. No doubt most contracts are a lot of legal language but the essence is that it stipulates what is purchased and what will happen if certain requirements are not satisfied. Another description would be ‘A contract shall be the way of communicating the decision on award of contract to the successful supplier and shall include terms and conditions which bind the supplier’.

There is an easy way to get all the terms of contract agreed, by using the sourcing document itself. As previously mentioned there must be a clause in the sourcing document stating that responses to the document shall be included as an exhibit in the contract or shall automatically form part of the contract whether by inclusion or otherwise.

6.1 Applicability

All purchases can be entered into contract but for practical reasons only contracts of a certain value and for certain commodities and jobs should be contracted. Generally, small value purchases or straight-forward buy and supply purchases are not contracted. For guidance the following commitments can be considered for contract formalization:

- Items sourced via tender.
- Sourcing value >RM100,000.
- Sourced items/jobs are based on progressive delivery.
- Sourced items/jobs have a prolonged (typically >3months) completion date.
- Purchase and also maintenance arrangements for any IT hardware and software.

6.2 General terms of contract

6.2.1 Performance bond

- Purpose is to secure the suppliers’ commitment to deliver and/or complete a project. UMW will be guaranteed compensation for any monetary loss up to the amount of the performance bond.
- To be provided by supplier upon their acceptance of the LOA and their Tender Deposit can be returned. Purchase Order issuance shall be withheld until Performance Bond is received.
- Typically, in the form of a Bank Guarantee, with a validity period of not less than 3 months after the date of expiry of contract.
- For contracts more than 1 year the value of the performance bond can be based on the yearly contract value.
- The suggested amount is as follows;

Contract value (RM)	Performance bond (% of contract value)
Up to RM500k	2.5
>RM500k	5.0

6.2.2 Retention sum/money

- Usually 5% or 10% of all progress payments retained for between 3, 6, 9 or 12 months.
- Purpose is to secure deliverables as per contract and acts as warranty security. Example: goods delivered have defects and supplier declines to correct or corrects but still defective we can offset the retention sum to maybe have the corrections done by others.
- Sum can be released upon completion of the warranty period or certification of completion of work or repair of any defects, whichever is later.

6.2.3 Warranty and defects

Dependent on item sourced. Project team must be vigilant in identifying defects during the warranty period and ensure that repair work is done.

6.2.4 Completion date

All contracts must have comprehensive delivery schedule and completion date.

6.2.5 Liquidated ascertained damages

Dependent on item sourced but adequate liquidated ascertained damages clauses should be incorporated in all contracts to protect the interests of UMW. Examples:

a	<ul style="list-style-type: none"> • 2.5% on the order value if delay in delivery does not exceed 7 days • 5% on the order value if delay in delivery exceeds 7 days
b	In the event the supplier fails to complete the work within the stated period liquidated damages at a sum calculated based on 0.25% of the award value for each day delayed shall be imposed.

6.2.6 Payment terms

The payment terms below can be used for guidance:

	Items	Payment terms
a	Training	10% upon issuance of Purchase Order 90% upon completion of training
b	Consultancy services	10% upon issuance of Purchase Order 80% progress payment upon submission and acceptance of deliverables 10% final payment upon full implementation and acceptance of all deliverables
c	Maintenance and support services	Invoiced and paid quarterly, on reimbursable basis, e.g. after job is done in Q1, invoice and pay in Q2.
d	Credit terms	45 days from date of receipt of invoice
e	Equipment or hardware	10% upon issuance of Purchase Order 40% upon delivery 40% upon installation, testing, commissioning and issuance of user acceptance certificate 10% upon issuance of final acceptance certificate or upon expiry of warranty period whichever is later. Another example: 20% upon delivery at site 30% upon installation and commissioning or 3 months after delivery 45% upon user acceptance or 6 months after delivery 5% retention for a period of 12 months after user acceptance Another example: 10% upon issuance of Purchase Order 80% upon user acceptance 10% upon issuance of final acceptance certificate or upon expiry of warranty period whichever is later.
f	Others	All payments shall be inclusive of all taxes, dues and levies and withholding tax where applicable.

6.2.7 Payment currency

- For local SBU/OPCO the currency of payment shall be in Ringgit Malaysia.
- For overseas SBU/OPCO the currency of payment shall either be in United States Dollars (USD) or home currency, whichever is the more favorable.

6.2.8 Method of ordering – Purchase Order

A Purchase Order should be made the preferred standard ordering mechanism at all SBU/OPCO. Other than having formal records it would facilitate the collation of spend data in order to strategize planning future needs and purchases.

6.2.9 Price variation

Price variation may be necessary to adjust to prevailing market conditions and so as not to disrupt supply of major materials/components. Examples:

a	If forex fluctuates $\pm 10\%$ either party may ask for a price revision, which revision shall become effective only after mutual agreement.
b	Any price revision proposal must be informed at least 2 months in advance. Price increase of _____ thereafter can only be considered when the price escalation of raw materials exceeds 5%.

6.2.10 Delivery

- Unless otherwise justified air-freight is to be avoided due to high costs. Sea and land shall be the standard modes of delivery.
- SBU/OPCO has the discretion on freight method based on the item purchased, taxes, costs and risks associated. Refer to Incoterms 2000 or its latest version available for guidance.

6.3 Responsibility/Authority

- The requesting SBU/OPCO is responsible to conclude the contract, with cooperation of UMW Group Legal Division if necessary.
- The authorized authority to sign the contract shall be as per the prevailing financial limits of authority.

6.4 Clauses to avoid

These clauses to avoid usually appear in suppliers’ so-called ‘standard’ contracts but may also appear in jointly negotiated and developed contracts if we are not wary. Examples are:

- Automatic annual renewal (or evergreen) clause – if this exists a renewal invoice will arrive even if the contract is not renewed unless the contract is terminated following whatever arrangement stated in the contract.
- Escalation to ‘no where’ clause – escalation clauses (usually for maintenance contracts) that are convoluted such that in the end the problem does not get resolved on-time.
- Payment based strictly on invoice clause – payment should be matched to deliverables and not just invoice.
- Alteration without notification clause – some large suppliers, especially in a monopoly situation, have clauses stating that they may change their global requirements and thus contract terms, e.g. a clause like ‘We may alter the contract, and you agree to inspect the contract at regular intervals on our web-site to see if it is changed’.
- Explicit waiver clause – waiver means the relinquishment of rights or one party giving up a right it would otherwise have.
- Indemnification/hold harmless clause – where one party (A) agrees to reimburse the other party (B) for loss or liability which B suffers through no fault of A.

In dealing with contracts remember one thing – “If you don’t like it, don’t sign it!”

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7. INTEGRITY PACT

The Integrity Pact is a concept introduced by Transparency International to assist Government, Business Institutions and the Public to curb corruption in the field of public contracting. The implementation of Integrity Pact in UMW is one of the initiatives contained in UMW Integrity Plan which was approved by UMW Board of Directors in order to enhance the governance and practices with regards to integrity in UMW.

The Integrity Pact comprises of a set of declaration by UMW Suppliers. The declaration provides that UMW Suppliers are prohibited from offering any form of bribes as a means to obtain a contract or to facilitate certain processes in UMW. UMW employees are strictly prohibited from accepting bribes from UMW Suppliers and/or involve in any form of corrupt practices. The Procurement Ethic in the Procurement Guidelines provides guidance and references on corruption and conflict of interest which shall be read together with the Integrity Pact.

7.1 Objective

The main objective of the Integrity Pact implementation is to enhance transparency which shall indirectly reduce and eradicate corruption practices. It is also hoped that with this initiative, all the divisions and units in UMW will be able to carry out the procurement activities more effectively and efficiently. The formulation of this takes into consideration the current rules and procedures pertaining to UMW procurement method and processes. The main objectives for the implementation of the Integrity Pact:

- To enhance transparency in UMW procurement process which will reduce and eradicate corrupt practices.
- To avoid bidders from offering or giving bribes.
- To avoid UMW employees from receiving bribes.
- To require bidders to report any bribery/act of corruption to UMW or the authorities.
- To ensure UMW will not incur unnecessary costs in carrying out UMW procurement activities.
- To prohibit unauthorized use of UMW’s proprietary information by employees and suppliers.
- To prevent forgeries of information, documents and record that may influence evaluation process and procurement decisions.
- To prevent false claims/declarations by the representative(s) of the companies, firms and/or UMW employees.
- To ensure that suppliers have adequate measure to prevent bribery or act of corruption.

8. PROCUREMENT ETHICS

Corporate governance is at the forefront of business everywhere and has become a business imperative to gain competitive advantage. Among the basic principles of governance that should underlie our business processes, independence with respect to our suppliers is clearly one of the most critical.

Our principles should provide a framework to ensure that we act in an ethically and commercially responsible way in our business dealings with our global supply market.

Compliance with these principles requires following certain basic rules, mostly obvious and others less so. These rules are elaborated in this procurement ethics section.

For most of the rules common sense and good judgment should be used at all times. It must be remembered that we live in a small community and our actions are observed. Adhering to these principles and rules is an integral part of the procurement process at UMW.

8.1 Applicability

This procurement ethics is applicable to all those involved in the procurement process in UMW, i.e.:

- All Directors;
- All employees and employees seconded to UMW, and
- All existing and potential suppliers to UMW including their directors and employees.

8.2 The Ethics Rules

8.2.1 Objectivity/Neutrality

- Integrity shall be maintained at all times by observing truthfulness in every transaction, by respecting the confidence of each supplier and by keeping free from any personal obligations to suppliers.
- Give first consideration to the objectives and requirements of UMW and create commercial advantage by applying the highest standards of professional competence through having insightful supply market knowledge and deploying the necessary procurement practices.
- Decline personal gifts in any form from an existing or potential supplier even if the gifts are products sold by the supplier or samples for the bid exercise. In purchasing there is effectively no gift that is not intended to influence or reward an individual or entity. However, UMW’s Code of Business Ethics shall be the primary document for reference.
- However, it is permitted to be hospitable to suppliers but only to an extent that it cannot be perceived as an inducement, and seek to be easy for suppliers to do business with in order to minimize costs, risks and time.
- If an employee involved in the procurement process has or potentially will have conflicts of interest with suppliers, the employee must immediately inform his/her superior. The superior will then decide whether the employee can remain, should be abstained or replaced in the procurement process.
- No employee may directly or indirectly benefit personally from his/her position in the procurement process. Solicitation of gifts or favors in any form is absolutely prohibited.
- All costs related to site visits, trips, seminars etc., local or overseas shall be borne by SBU/OPCO. However, participation in user-group conventions/meetings organized by a supplier shall be submitted to the appropriate authority for prior approval.

8.2.2 Transparency/Traceability

- Conduct business with existing and potential suppliers in an atmosphere of good faith, devoid of intentional misrepresentation.
- All salient items with respect to a purchasing decision must be recorded in document(s) that is kept on file at least until the contract is concluded or preferably until after expiry of the applicable statute of limitation.
- In particular, this document(s) should contain the technical and commercial factors that influenced the choice, as well as the opinions and authorizations that preceded it, pursuant to the procedures in force at the time the choice was made.

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8.2.3 Disclosure/Confidentiality

- Ensure the confidentiality of information entrusted to us and treat supplier submissions as strictly confidential. Under no circumstances should this information be communicated outside the team conducting the procurement process.
- Unless otherwise required by law, the prices which the supplier quoted in its bid should not knowingly be disclosed by the supplier, directly or indirectly, to any other competing supplier prior to the closing date of the sourcing exercise.
- On the other hand, nothing prohibits us setting an objective with suppliers (e.g. a price target) in the course of negotiations, provided that this same objective is expressly set with all suppliers.
- Demand honesty from suppliers in their sales representation whether offered through the medium of a verbal or written statement, an advertisement, or a sample of the product.
- Although we are free to invite suppliers to quote/tender within guidelines, we are ethically and professionally bound to treat all potential suppliers fairly when it comes to consultations for major purchases. We should therefore receive consent from the originator of proprietary ideas and designs before using them for competitive purchasing purposes.

8.2.4 Fairness/Competitive bidding

- Foster fair and ethical practices by adhering to a procurement process (e.g. this procurement guidelines) which is equitable and promotes fair competition for suppliers.
- Strive to obtain the maximum value for each ringgit of expenditure.
- Make every reasonable effort to negotiate an equitable and mutually agreeable price or settlement with a supplier; and/or be willing to submit any major controversies to arbitration or other third party review, insofar as the established policies of UMW permit.
- Work with our suppliers to ensure that the goods and services that we buy are made and delivered in the quantity and quality and within the time-frame as per contract.

8.3 Representations from suppliers

This Procurement Ethics shall be communicated to all our suppliers. UMW expects its suppliers to declare and warrant that:

- It will not collude with other suppliers when participating in a bid;
- It is not related in any form (shareholding, Board members, management) to any other suppliers participating in a bid;
- It will supply products of satisfactory quality;
- It shall not contract out or outsource any portion of a job unless prior written consent from UMW has been obtained;
- It shall maintain the highest standards of integrity and quality of work at all times; and
- It shall immediately report to UMW any and all requests made to them by any employee or member of the Board of UMW for a gift or any consideration.

In future we may consider the following: ‘As a condition of being considered for the award of any contract the supplier will be required to submit with its bid or proposal or enter into contract a certification attesting that the supplier and all personnel will abide by the Procurement Ethics’.

8.4 Self-approval test

As already mentioned; for most of the rules common sense and good judgment are critical. For added confirmation seek to answer the following questions to determine whether receiving/giving a gift or entertainment is appropriate:

- Intent – is the intent only to build a business relationship or offer normal courtesy, or is it to influence the recipient’s objectivity in making a business decision?
- Materiality and frequency – is the gift or entertainment modest and infrequent or could it place you (or the other party) under an obligation?
- Legality – Are you sure that the gift or entertainment is legal both in your country and in the country of the other party?
- Compliance with the other party’s rules – is the receipt of gift or entertainment allowed by the recipient’s organization? Special care must be taken when dealing with government officials as many countries do not allow officials to accept gifts or entertainment.
- Transparency – would you be embarrassed if your manager, colleagues or anyone outside UMW became aware? If so, there is probably something wrong.
- Hypocrisy – Are you adopting double standards? You should only offer what you would be comfortable to accept (and vice versa).

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For further illustration here are some examples of unacceptable behavior:

- Supplier A offers an engineer incentive, financial or otherwise, to influence the selection to the benefit of Supplier A.
- During a supplier pre-qualification process, Supplier B approaches the product manager and offers x% of the contract profits, in return for guaranteed qualification.
- Supplier C takes a product user on multiple all-expense-paid trips on the pretext of benchmarking and in return, the user product specification is skewed to suit Supplier C.
- Employee A pays a freight forwarder to expedite a shipment through customs.
- Employee B offers a person in the customer’s organization x% of the contract value to influence selection of product design or the product itself.

8.5 Breach

8.5.1 By employees

Breaches may result in disciplinary actions being taken against the employees concerned in accordance with any disciplinary procedures that are currently in force. In the case of employees seconded to UMW disciplinary actions would be in accordance to their respective employers’ disciplinary procedures.

8.5.2 By Directors

For Directors breaches may result in disciplinary actions in accordance with the Malaysian Companies Act 1965.

8.5.3 By suppliers

Suppliers who breach the procurement ethics shall be subjected to any one or any combination of the following:

- Penalties or any contractual or legal remedies available under the law.
- Immediate termination of contract(s).
- Suspension of registered supplier status by UMW, precluding them from any jobs for a specific period.
- Blacklisting by UMW, precluding them from any jobs for good.
- Additionally, violation of procurement ethics may subject the supplier to criminal or civil penalties under Malaysian and other applicable laws.

8.6 Monitoring compliance and escalation

Self-policing of the Procurement Ethics is encouraged and UMW has established a secure communication channel to enable employees and suppliers to raise their concerns confidentially and responsibly. Please refer to the ‘Whistle blower policy’ developed by Group Internal Audit Division for further details.

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8.7 FAQ

8.7.1 On corruption

Q1 Can I go for lunch/dinner or activities sponsored by a UMW supplier?

A: If in doubt, avoid accepting the meal/activity. Please refer to the self-approval test section for guidance or you can seek advice from your immediate superior.

Q2. In the event that I have/am forced to accept a gift (e.g. a surprise during a function) from a supplier, what shall I do? Shall I return the gift or report to the office?

A: The supplier should be aware or be made aware of our procurement ethics and hence an occurrence such as this should not arise. Nonetheless, in the event you are in a situation that you cannot refuse a gift with high value, you should try to return the gift at a later time/date. If this is still not possible i.e. might harm the relationship between UMW and the supplier, inform your immediate superior and consider donating the gift to a UMW sponsored charity.

Q3. An employee receives gifts from a supplier based on goodwill with no specific interest whatsoever; does it tantamount to a breach of the rules?

A: If the gift is not of nominal value, the employee should not accept the gift because we do not know the real intention of the supplier. Please report to your immediate superior immediately.

Q4. A supplier offered to pay for a weekend at a resort for my wife, to compensate for all the time I have spent over the last month evaluating that supplier's product. Since I have finished the assessment and the trip is only for her, may she accept?

A: No. Others could certainly see this as a reward or payoff to you for picking that supplier. This is an unacceptable offer that should be politely but firmly refused.

Q5. One of our supplier's employees told me he can help UMW to obtain a contract with a customer. I think he may be planning to offer lavish travel and entertainment to one of the customer's managers, which would break the customer's own rules. If it is the supplier that is doing this and we would benefit by getting the contract, is it my responsibility to do anything about this?

A: Yes. You need to report your suspicions to your superior. You should also inform your supplier that UMW strictly forbids its suppliers or their representatives to participate in either giving or receiving bribes or facilitation payments. Not only do we not want to get the contract under inappropriate circumstances, but we need to evaluate our relationship with the supplier to make sure that the activities of this one representative do not indicate a bigger problem in the way the supplier operates. Please report to your superior.

8.7.2 On conflict of interest

Q6. My spouse is an officer in a company that has business dealings with UMW. In my job at UMW, I also have contact with that company from time to time. Is this a problem?

A: These circumstances must be brought to the attention of your superior. It is important that all actual or potential conflicts be disclosed so that any issues can be anticipated and avoided.

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Q7. What if my relative participates in a UMW tender without my knowledge? What should I do?

A: If you have a personal relationship that has the potential to interfere with how you make decisions at work or can be perceived by others to interfere with how you make decisions at work, a conflict of interest may exist. After you have learned about the situation or if in doubt, inform your superior so that the situation can be addressed and that you may be relieved from any situations that may raise concerns around conflict of interest.

Q8. Does the Procurement Ethics apply to people with whom I have a close personal relationship but who are not my relatives?

A: The Procurement Ethics offer examples of areas where conflicts may arise, but it cannot describe every situation that could create a conflict. Always keep in mind that what the code tells us is the conflict - an activity or relationship that interferes with your loyalty and objectivity toward the company. If you have a personal relationship that has the potential of interfering with how you make decisions at work, or could appear to others as such, a conflict of interest may exist. If in doubt, raise your concerns to your superiors.

8.7.3 On applicability and monitoring of compliance

Q9. Who makes sure that the supplier and his/her representatives understand and comply to the Procurement Ethics?

A: It is each supplier’s responsibility as stated in clause 7.3. Nonetheless, if you discover that your supplier or his/her representatives do not understand or read the rules, please advise them on its importance and that it is imperative and their responsibility to read and understand it.

Q10. Is an omission to report a breach of the Procurement Ethics in itself a breach?

A: Yes. An omission to report a breach is a breach of the rules. The necessary disciplinary actions applied will depend on the nature and seriousness of the breach as well as the level of knowledge an employee or supplier may have regarding the breach.

Q11. What can I do if somebody maliciously reports of an alleged breach done by me?

A: Group Internal Audit Division will carefully investigate each report of breach before any action is taken. Appropriate disciplinary actions will be taken on the accuser if the report was found to be of malicious intent.