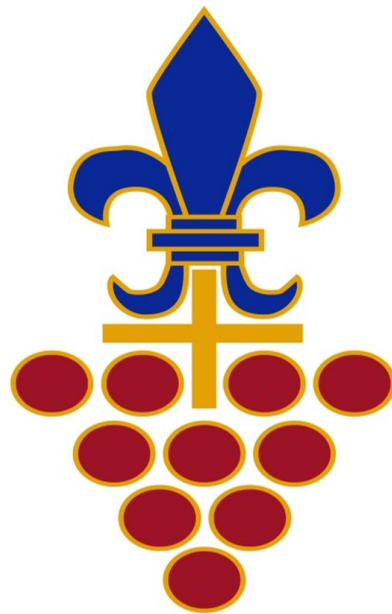


STELLENBOSCH MUNICIPALITY



**SUPPLY CHAIN MANAGEMENT POLICY
2015/2016**

APPENDIX 7

APPENDIX 7

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PREAMBLE

We, the people of the greater Stellenbosch, Recognise the injustices of our past;

Honour those who suffered for justice and freedom in our municipal area;

Respect those who have worked to build and develop our municipal area; and

Believe that the greater Stellenbosch belongs to all who live in it, united in our diversity.

We therefore, through our public representatives, officials and people adopt this Policy so as to -

- Heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights;
- Lay the foundations for a democratic and open society in which government is based on the will of the people and every citizen is equally protected by law;
- Improve the quality of life of all citizens and free the potential of each person; and
- Build a united, non-racist, non-sexist, democratic and prosperous greater Stellenbosch.

May God protect all our people.

Nkosi Sikelel' iStellenbosch. Morena boloka setjhaba sa heso.

God seën Stellenbosch. God bless Stellenbosch.

Therefore the policy on Supply Chain Management seeks to:

- Forster recognition, understanding and appreciation of the previously disadvantaged groups;
- Guide the development and implementation of policies and practices of the Supply Chain Management, and;
- Ensure that people of all cultures receive fair and equitable treatment, benefit and protection under policies and practices of the Supply Chain Management.

CHAPTER 1: INTRODUCTION

1.1 Introduction

Section 217 of the Constitution of the Republic of South Africa, 1996 requires an organ of state to contract for goods or services in accordance with a procurement system which is fair, equitable, transparent, competitive and cost effective. This policy will assist the Stellenbosch Municipality to continue to redress the skewed Employment and Ownership Patterns in the greater Stellenbosch.

This policy will achieve the above by providing procurement and employment opportunities to Historically Disadvantaged Individuals (HDI) and disadvantaged communities. It will enable socio-economic transformation objectives to be linked to *fair, transparent, equitable, competitive and cost effective* procurement practices that will encourage the entry of emerging business into Stellenbosch Municipality procurement, transformation and empowerment within nascent businesses, and the use as an instrument of Local Economic Development (LED) and redistribution.

1.2 Principles

In pursuance of these stated objectives the Stellenbosch Municipality commits itself to the following goals:

- 1.2.1 To impact significantly on improving the quality of life of the people of the greater Stellenbosch;
- 1.2.2 Growing the local economy by promoting the competitiveness of local businesses;
- 1.2.3 Ensure redress of inherited skewed ownership patterns and opportunities for the people of greater Stellenbosch with reference to previously disadvantaged groupings;
- 1.2.4 Continuing improvement in value for money;
- 1.2.5 Enhance competitiveness;
- 1.2.6 Enhance efficient and effective procurement practices;
- 1.2.7 Enhance integrity, honesty, transparency and combat corruption; and
- 1.2.8 Stimulate and promote local economic development in a targeted and focused manner.

1.3 Implementation Orientation

- 1.3.1 Increased Usage of Local Resources;
- 1.3.2 Redressing of Skewed Employment and Ownership Patterns through BBBEE aims;
- 1.3.3 Creation of Opportunities for job creation in order to alleviate poverty;
- 1.3.4 Stimulation of Skills Development and Transfer; and

1.3.5 Fast tracking the growth and Ensuring Sustainability of SMMEs.

1.4 **Legislative Framework**

- 1.4.1 The Constitution of the Republic of South Africa, 1996 (as amended), Section 217
- 1.4.2 The Municipal Finance Management Act, 2003 (Act 56 of 2003) and the Regulations on Supply Chain Management enacted in terms thereof,
- 1.4.3 The Municipal Systems Act, 2000 (Act 32 of 2000),
- 1.4.4 Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000)
- 1.4.5 Preferential Procurement Policy Framework Regulations of 2001 and 2011
- 1.4.6 The Labour Relations Act, 1995 (Act 66 of 1995)
- 1.4.7 Broad-Based Black Economic Empowerment Act, 2003 (Act 53 of 2003)
- 1.4.8 Any other current or subsequent applicable legislation

CHAPTER 2: ROLES, RESPONSIBILITIES AND FUNCTIONS

2.1 Management Responsibility

2.1.1 The ultimate responsibility to ensure that the Stellenbosch Municipality delivers in accordance with its strategic vision that lies with the respective line function components. With regard to Supply Chain Management, it will be the responsibility of the relevant line managers to:

- a) Understand and plan for their future needs.
- b) Identify critical delivery dates in consultation with the Supply Chain Management unit.
- c) Ensure that the necessary funds are available for the products or services to be procured.
- d) Draft specifications.
- e) Timeously provide the Supply Chain Management Unit (the unit) with all the necessary information to arrange for the acquisition of the goods and/or services required.
- f) Provide technical input on bids during the evaluation process.
- g) Entering into Service Level Agreements, providing for quality control and follow up.

2.1.2 Functions of the unit

The Supply Chain Management Unit of the Stellenbosch Municipality will perform the following functions:

- a) Rendering of all administrative support to the line function managers, Bid Adjudication Committee and the delegated persons in the performance of their duties.
- b) Monitor award of bids for compliance to all legislative and municipal requirements.
- c) Communicate with service providers up until contract has been awarded.
- d) Contribute towards the finalisation of bid specifications in line with the Accounting Officer's delegations.
- e) Procure goods and services for the Stellenbosch Municipality.
- f) Act as secretariat to the Bid Adjudication Committee/Subcommittee. This implies that the unit will be responsible for the preparation and presentation of cases to the Bid Adjudication Committee.
- g) Report on Supply Chain Management matters as prescribed.
- h) Ensure compliance with the Accounting Officer's delegations on Supply Chain Management.
- i) Corporate Services to administer all contracts emanating from the SCM section.
- j) Report on achievements in terms of preferential procurement and recommend changes, if any.
- k) Any other functions the Accounting Officer deems necessary to ensure efficiency.

2.1.3 Responsibilities of the Unit

In line with Municipal delegations, the Supply Chain Management Unit will have the following responsibilities:

- a) To procure on behalf of the Stellenbosch Municipality.
- b) To recommend the amendment, unbundling, cancellation and/or ceding of contracts to the Accounting Officer.
- c) To act as the administrative arm of the procurement function of the Stellenbosch Municipality.
- d) Negotiate acceptable prices with service providers as stipulated in the Regulations.
- e) Negotiate and conclude agreements with suppliers.
- f) To support the broad strategic objectives of the Stellenbosch Municipality as it relates to Supply Chain Management
- g) SCMU must strive as far as reasonable possible to incorporate, for all specifications of goods, services and construction works, the principles of Green Procurement. Green Procurement is defined as taking into account environmental criteria for goods and services to be purchased in order to ensure that the related environmental impact is minimised.

The following serves as examples of incorporating the principles of green Procurement within the specifications of goods and services:

- Adherence to the EU Emission standards for vehicles;
- Resources savings campaigns like minimising energy consumption etc.

In the event of the above criteria not being met at the stage of submission of the specifications as a result of Green Procurement not being applicable, the respective director must certify same via a memo to the SCM Manager.

2.1.4 The responsibilities of the Bid Adjudication Committee

The Bid Adjudication Committee will operate within the following procedural framework:

- a) Prior to commencement of meetings, members of the committee must sign a register declaring their interest in a bid (if any) under consideration.
- b) A quorum is at least two-thirds of the members
- c) Conducts scheduled meetings at least every two weeks and ad-hoc meetings when necessary.
- d) Keep minutes with a record of recommendations made.
- e) Recommendations will be based on a majority vote. Where an equal vote exists, the Chairperson will cast a deciding vote.
- f) Adhere to all legislation on Supply Chain Management and ensure adherence to the implementation of the Municipal Preferential Procurement Policy Plan.
- g) The operation of the committee is limited to the approved system of delegations.

2.1.5 Training of supply chain management officials

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

2.2 Delegation of Authority

This entire Policy will be implemented within Council's approved system of delegations. The delegated persons will perform all relevant delegations issued by the Accounting Officer. Persons acting officially in a certain rank may exercise the delegations assigned to that rank unless the delegation specifies otherwise. If a person has failed to comply with the requirements in exercising the delegations and this resulted in irregular, fruitless and wasteful expenditure, disciplinary actions can be instituted against the delegated person. The Council or Accounting officer may **not** delegate or sub delegate any supply chain management powers or duties to a person who is not an official of the municipality or to a committee which is not exclusively composed of officials of the municipality. This may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system. No supply chain management decision-making powers may be delegated to an advisor or consultant.

To the extent that it may be necessary, Council authorises the Municipal Manager to delegate or sub-delegate to a staff member any power conferred on the municipal manager in terms of the MFMA and the Supply Chain Management Regulations relating to supply chain management insofar that the legislation allows for sub-delegation.

Notwithstanding the delegations, the Head of Supply Chain Management is authorised to amend orders that was subject to price fluctuations within 2.5 percent of the contract value after satisfying himself with the reason /s for the amendment.

2.3 Oversight Role of Council

- (1) The Council must maintain oversight over the implementation of this policy.
- (2) For the purposes of such oversight the Accounting Officer must .
 - (a) within 30 days of the end of each financial year, submit a report on the implementation of the Supply Chain Management Policy of the municipality to the council of the municipality; and
 - (b) whenever there are serious and material problems in the implementation of such Supply Chain Management Policy, immediately submit a report to the Council.
- (3) The Accounting Officer must, within **ten (10) working days of the end of each quarter**, submit a report on the implementation of the Supply Chain Management Policy to the Mayor.
- (4) The reports must be made public in accordance with section 21A of the Municipal Systems Act.

2.4 Approval Authority

All the amounts in the table below are inclusive of VAT and the specific goals applicable to bids also apply to quotations. The amount categories as indicated shall be amended as and when the relevant policy change.

MONETARY VALUES	CONDITIONS ATTACHED TO PROCUREMENT
R0 . R2 000	Direct Purchases-par . 4.8
R2 001 . R10 000	<ul style="list-style-type: none"> • Three written quotations will be required from suppliers listed on the database where possible. Reasons must be listed, if not possible. (SCM Reg 17) • The supplier of the lowest quotation is to be appointed, provided that goods and/or services could be supplied immediately and are of the required standard. (Price, Quality and Availability) • Normal items: The Buyer will re-order on the agreed minimum stock level. • For the purchasing of non-stock items authorisation is required in accordance with delegations. • Prices from suppliers will always be used for comparison. • Frequency of same suppliers must be limited to a reasonable degree and monitored. • Ensure a reasonable spread of suppliers.
R10 001 . R200000	<p><u>Offers below R30 000 (VAT included)</u></p> <ul style="list-style-type: none"> • Must be awarded based on compliance to specifications and conditions of contract, ability and capability to deliver the goods and services and lowest price. • Three written quotations will be required from suppliers listed on the database where possible. Reasons must be listed, if not possible. (SCM Reg 17) <p><u>Offers of R30 000 (VAT included) and above</u></p> <ul style="list-style-type: none"> • Are subject to the preference points system (PPPFA and associated regulations) and must be dealt in accordance with the Council's Procurement Policy. • Three written quotations are required through a competitive bidding process which entails advertisement.
R200 001 . R10000 000	<ul style="list-style-type: none"> • Public bid - for finalisation by the Bid Adjudication Committee chaired by the Chief Financial Officer.
Above R10000 000	<ul style="list-style-type: none"> • Public bid (Municipal Manager/ Accounting Officer)

2.5 List of centres for advertisements for R30 001.00 and above.

A list of all centres where these quotations are advertised and / or obtained is to be compiled. These are to be as wide as possible and should include:

- a) Official Notice Boards

- b) Official Website

CHAPTER3: PREFERENTIAL PROCUREMENT

3.1 Introduction

Stellenbosch Municipality acknowledges that designated groups have been excluded from meaningful participation in the mainstream of the economy and that it is required to address the economic imbalances and lead to increased equalization of opportunity in business. The Stellenbosch Municipal Supply Chain Management Policy seeks to encourage socio-economic transformation within the area of Stellenbosch. To achieve this, empowerment goals have been set, which aim to redress the skewed distribution of wealth and therefore contribute to the alleviation of poverty. Stellenbosch Municipality Supply Chain Management Policy must encourage increased usage of local resources, stimulation of skills development and transfer, fast tracking the growth and ensuring sustainability of SMMEs. The Supply Chain Management Policy will form the basis of the evaluation criteria used in the evaluation of quotations and bids; as it is embodied from the principles as pertain in the Preferential Procurement Regulations, 2001 (which pertain to the Preferential Procurement Policy Framework Act (Act No 5 of 2000), as well as the revised Preferential Procurement Regulations of 2011.

3.2 THE 80/ 20 PREFERENCE POINTS SYSTEM

- 3.2.1 For all quotations and bids with an estimated value between **R30,001.00** and **R1 000 000.00**; preference points will be allocated as follows:

	POINTS
Value for money substantially to specification (price and functionality)	80
B-BBEE Status level of contributor	20
Total	100

- 3.2.2 The following formula must be used to calculate the points for price in respect of quotations/ bids with a Rand value equal to, or above **R30,001.00** and up to a Rand value of **R1 000, 000, 00**

$$Ps = 80 \left[1 - \frac{Pt - P \min}{P \min} \right]$$

Ps = Points scored for comparative price of tender or offer under consideration;

Pt = Comparative price of tender or offer under consideration; and

Pmin = Comparative price of lowest acceptable tender or offer.

- 3.2.3 The points scored by a tenderer in respect of B-BBEE contribution contemplated in 3.3.4 must be **added** to the points scored for price as calculated in accordance with 3.3.2.
- 3.2.4 Application of 20 points must be awarded to a tenderer for attaining the B-BBEE status level of contributor in accordance with the table below.

B-BBEE Status Level of Contributor	Number of Points
1	20
2	18
3	16
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

- 3.2.5 Bidders including Exempted Micro Enterprises must submit to Stellenbosch Municipality their original and valid B-BBEE status level verification certificate, or a certified copy thereof, substantiating their B-BBEE status level of contributor.
- 3.2.6 Submission of such certificates must comply with the requirements of instructions and guidelines issued by the National Treasury and be in accordance with notices published by the Department of Trade and Industry in the Government Gazette.
- 3.2.7 Bidder who fail to submit the required certificates or certified copies thereof will be deemed to be non-compliant contributors.
- 3.2.8 For the purposes of transparency and fairness, bidders shall, in respect of all competitive bids (over R200 000), be required to claim, in their bid submission, a preference in accordance with their B-BBEE status.
- 3.2.9 Notwithstanding what is contained within the bid submission, preference points will be allocated during the bid evaluation process in accordance with the verified B-BBEE Status level (or deemed status level) of contributor.

3.3 THE 90/ 10 PREFERENCE POINTS SYSTEM

- 3.3.1 For all bids with an estimated value equal to or above **R1 000, 001.00**, preference points will be allocated as follows:

	POINTS
Value for money substantially to specification (price and functionality)	90
B-BBEE Status level of contributor	10
Total	100

- 3.3.2 The following formula must be used to calculate the points for price in respect of quotations/ bids with a Rand value equal to or above **R1 000, 001. 00**

$$Ps = 90 \left[1 - \frac{Pt - P \text{ min}}{P \text{ min}} \right]$$

- Ps = Points scored for comparative price of tender or offer under consideration;
Pt = Comparative price of tender or offer under consideration; and
Pmin = Comparative price of lowest acceptable tender or offer.

3.3.3 The points scored by a tenderer in respect of B-BBEE contribution contemplated in 3.5.4 must be **added** to the points scored for price as calculated in accordance with 3.5.2.

3.3.4 Application of 10 points must be awarded to a tenderer for attaining the B-BBEE status level of contributor in accordance with the table below.

B-BBEE Status Level of Contributor	Number of Points
1	10
2	9
3	8
4	5
5	4
6	3
7	2
8	1
Non-compliant contributor	0

3.3.5 Bidders including Exempted Micro Enterprises must submit to Stellenbosch Municipality their original and valid B-BBEE status level verification certificate, or a certified copy thereof, substantiating their B-BBEE status level of contributor.

3.3.6 Submission of such certificates must comply with the requirements of instructions and guidelines issued by the National Treasury and be in accordance with notices published by the Department of Trade and Industry in the Government Gazette.

3.3.7 Bidder who fail to submit the required certificates or certified copies thereof will be deemed to be non-compliant contributors.

3.3.8 For the purposes of transparency and fairness, bidders shall, in respect of all competitive bids (over R200 000), be required to claim, in their bid submission, a preference in accordance with their B-BBEE status.

3.3.9 Notwithstanding what is contained within bid submission, preference points will be allocated during the bid evaluation process in accordance with the verified B-BBEE Status level (or deemed status level) of contributor.

3.4.1 EVALUATION OF BIDS ON FUNCTIONALITY AND PRICE

3.4.1 Stellenbosch Municipality must indicate in the invitation to submit a tender, if that tender will be evaluated on functionality.

3.4.2 The evaluation criteria for measuring functionality must be objective.

3.4.3 When evaluating tenders on functionality, the .

- (a) Evaluation criteria for measuring functionality;
- (b) Weight for each criterion;
- (c) Applicable values; and

(d) Minimum qualifying score for functionality,

Must be clearly specified in the invitation to submit a tender.

- 3.4.4 No tender must be regarded as an acceptable tender, if it fails to achieve the minimum qualifying score for functionality as indicated in the tender invitation.
- 3.4.5 Tenders that have achieved the minimum qualification score for functionality must be evaluated further in terms of the preference point systems, described in 3.3 and 3.5
- 3.4.6 Please refer for further guidance regarding evaluation of bids based on functionality and price; to the **National Treasury MFMA Circular No.53 – Amended guidelines in respect of Bids that include Functionality as a criterion for evaluation.**
- 3.4.7 The norm for the minimum qualifying score for functionality shall be 70% of the total possible score. For more specialised or complex projects the minimum score may, at the discretion of the Bid Specifications Committee, be increased to up to 80% of the total possible score. The setting of a minimum score any higher than 80% of the total possible score must be motivated to, and approved by, the Manager: SCM prior to use.

CHAPTER4: SUPPLY CHAIN MANAGEMENT SYSTEM

4.1 Demand Management

The demand management includes the analysis of the end users needs as well as the analysis of budget for the goods/service requirements. The Supply Chain Practitioner must work together with the end user to determine their requirements, to discuss the delivery times, price, location, specifications etc.

4.2 Acquisition Management

4.2.1 Procurement Prerequisites

- a) This function covers all requirements that have been identified for procurement by the Stellenbosch Municipality. Additional requirements have been identified for the procurement of goods and services, consultants, plant hire and service providers. No written quotation or bid will be considered should the information below be omitted:
- (i) Full name of the service provider;
 - (ii) Proof of company registration and / or any other form of legal standing must be submitted by all bidders (Identification Number).
 - (iii) Tax Reference Number and VAT registration number, if any;
 - (iv) A current, original and valid Tax Clearance certificate from South African Receiver of Revenue Services (SARS) certifying that the taxes of the bidder are in order or that suitable arrangements have been made with SARS to bring them in order. The Tax certificate will be reworded at the allocated space for the VAT number with the words **%Compulsory if turnover is more than R300 000+**. Where the person is not required to be registered for VAT, the Receiver of Revenue will write **%not required to register+** next to the allocated space for the VAT registration number. Bid price include VAT. Certified and faxed copies of an original and valid tax clearance certificate will **not** be accepted.
 - (v) A Declaration of Interest MBD4 form (including nil responses).
The following information must be indicated by the service provider:
 - whether he or she is in the service of the state, or has been in the service of the state in the previous twelve months;
 - if the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the state, or has been in the service of the state in the previous twelve months; or
 - whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in paragraph 4.2.1 (a) (v) is in the service of the state, or has been in service of the state in the previous twelve months.
- b) Bid documents must remain intact and no portion may be detached.
- c) The bid checklist must be completed.
- d) Please note that the information required under section 4.2.1(a) must be read in conjunction with the requirements as stipulated within the Bid documentation, to determine if it is applicable

- 4.2.2 All Professional Service Providers must submit the following information:
- a) Proof of registration with the relevant Professional Body, e.g. The Engineering Council of South Africa.
 - b) Professional indemnity and type of cover.
 - c) Written proof of Joint Ventures disclosing Joint Venture partnerships (reflected as percentages).
 - d) Proof of company composition.
- 4.2.3 All Service providers must submit the following information required:
- a) Should the service provider wish to sub contract any portion of the works, the service provider must submit details of subcontract together with names of sub-service provider to the Municipality.
 - b) A Bidder that has been awarded a contract may not sub-contract more than 25% of the value of the contract to enterprises that do not have an equal or higher B-BBEE status level than the bidder concerned, unless the sub-contractors are Exempted Micro Enterprises that have the capability and ability to execute the sub-contract. Compliance with this particular requirement is ultimately the duty and responsibility of the relevant end user department, irrespective thereof if a consulting engineer has been appointed to oversee project management and implementation.
 - c) If details of sub contract are not disclosed, the bid will be set aside.
 - d) If the subcontracting firm has been involved with Municipality previously and has performed poorly and/or has been involved in any irregular activities, the tender may be set aside.
 - e) No sub-service providers are to further sub contract any portion of the work without disclosing details to Stellenbosch Municipality for approval prior to commencement of work.
 - f) Submit proof of Joint Ventures disclosing joint venture partnerships (percentage or names or any other details required by Stellenbosch Municipality).
 - g) The company composition of the subcontracting firm must be disclosed.
 - h) If a company is registered with a professional body, a copy of such registration must be included in the bid document.
- 4.2.4 System of Acquisition Management
- a) A supply chain management policy must provide for an effective system of acquisition management in order to ensure-
 - (i) that goods and services are procured by the Municipality or municipal entity in accordance with authorised processes only;
 - (ii) that expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the Act;
 - (iii) that the threshold values for the different procurement processes are complied with;
 - (iv) that bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation; and
 - (v) that any Treasury guidelines on acquisition management are properly taken into account.
 - b) A supply chain management policy, except where provided otherwise in these Regulations, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Act, including .

- (i) water from the Department of Water Affairs or a public entity, another municipality or a municipality entity; and
- (ii) electricity from ESKOM or another public entity, another municipality or a municipality entity.
- i. (the acquisition of services of information and communication technology, licences, financial systems and services, alarms and CCTV cameras subject that the acquisition of such services be dealt with in terms of the delegated powers as provided for in the Municipality's delegation register as amended from time to time.
- c) the acquisition of services of specific vehicle agents for repair and services subject that the acquisition of such services be dealt with in terms of the delegated powers as provided for in the Municipality's delegation register as amended from time to time. A municipality or municipal entity procuring goods or services contemplated in section 110(2) of the Act must make public the fact that it procures such goods or services otherwise than through its supply chain management system, including .
 - (i) the kind of goods or services; and
 - (ii) the name of the supplier.

4.3 Procurement of Goods and Services

- 4.3.1 The procurement and letting of goods and services between the value R0 and R200 000 falls within the scope of the Manager: Supply Chain Management. That all awards from R200 001.00 be subject to the Supply Chain committee system as per the delegations. The Preferential Procurement Regulation will be followed by the responsible Supply Chain Official to ensure the alignment with the empowerment goals set out in Chapter 3.
- 4.3.2 The names of all service providers/suppliers has been established and will be updated annually where upon preferred service providers/ suppliers will be selected in terms of the empowerment goals set up in Chapter 3.
- 4.3.3 The Municipality will place annually advertisements in the local print media inviting vendors wishing to be included on the approved supplier database.
- 4.3.4 Applicants must submit with their application for registration on the supplier database the following:
 - a) A declaration of good standing in respect of the Stellenbosch Municipality's debts;
 - b) Original and valid tax clearance certificate, if applicable;
 - c) local office address in the jurisdiction of the Stellenbosch Municipality, if any;
 - d) company registration with the Registrar of Businesses; and
 - e) registration with a Professional Body where required.
 - f) Updated Municipal account of service provider or a copy of lease agreement
- 4.3.5 The Procurement Manager/official will submit a quarterly report on the procurement of goods and services in this category. Analysis will be provided on achievements or failure with the set of goals.

4.4 Bidding processes

- 4.4.1 It is the prerogative of the Accounting Officer of the Municipality to decide on the manner in which the market will be approached. There are two types of processes that can be followed, which is:
- a) Formal Bidding Process.
 - b) Limited bidding process.
- 4.4.2 Formal Approach, the requisition is received from the user. The buyers will complete the formal bidding process and advertise in terms of the Supply Chain Regulations unless otherwise approved by the Accounting Officer.
- 4.4.3 Limited bidding- this process is used only in instances that require specialized knowledge, experience, sole suppliers and single source appointments..

4.5 **Waiving Tender Procedures or Prerequisites**

- 4.5.1 The waiver will be allowed at the discretion of Municipal Manager in exceptional cases where a surety, guarantee or bridging finances cannot be accessed through any financial institution and written proof thereof must be submitted to Stellenbosch Municipality of bid shall only be allowed in exceptional circumstances by Municipal Manager. In circumstances where the goods/ services required within the Municipal Manager's delegated authority proof of Sole Supplier/Service Provider must be provided with motivating report why such procedures/prerequisites should be waived. Reasons must be justifiable. The Municipal Manager's approval will be required in such circumstances.
- 4.5.2 The procurement official will report on compliance in terms of this in the Quarterly Procurement Report, and where deviation occurs in terms of the reporting to the Municipal Manager or Executive Mayor, the necessary disciplinary Procedures will be instituted in terms of the Stellenbosch Municipality's Code of Conduct to prohibit unethical behaviour by officials.

4.6 **Calling for Bids and Quotations**

- 4.6.1 Bids and quotations must be invited by the unit and will have a predetermined closing time and date. As required by the Supply Chain Management policy, bids must at least be advertised in an accessible manner, including the local media. Other publication media may only be used if beneficial and cost effective for the municipality.
- 4.6.2 The Stellenbosch Municipality aims at improved access to information, simplification of documentation, and being easily accessible to all citizens within its area of jurisdiction.
- 4.6.3 Stellenbosch Municipality official language for communication with regards to placement of notices for formal quotations and bids is **“English”**.

4.7 **Accredited suppliers**

- 4.7.1 The accounting officer must-

- a) Keep a list of accredited prospective providers of goods and services that must be used for the procurement requirements through written or verbal quotations and formal written price quotations; and
- b) at least once a year through newspapers commonly circulating locally, the website and any other appropriate ways, invite prospective providers of goods or services to apply for evaluation and listing as accredited prospective providers;
- c) specify the listing criteria for accredited prospective providers; and
- d) disallow the listing of any prospective provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector.

4.7.2 The list must be updated at least **quarterly** to include any additional prospective providers and any new commodities or types or services. Prospective providers must be allowed to submit applications for listing at any time.

4.7.3 The list must be compiled per commodity and per type of service.

4.8 **Direct Purchases below R 2 000.00**

4.8.1 The conditions for the procurement of goods and services by means of petty cash purchases are governed by the Petty Cash Policy of Stellenbosch Municipality and therefore SCM Regulation 15 will not apply to the SCM Policy of Stellenbosch Municipality

4.9 **Verbal quotations are only allowed in emergency circumstances**

4.10 **Written or verbal quotations**

4.10.1 The conditions for the procurement of goods and services through written or verbal quotations are as follows:

- a) Quotations must be obtained from at least three different providers preferably from, but not limited to, providers whose names appear on the list of accredited prospective providers of the Stellenbosch Municipality, provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria set out in paragraphs 4.7.1, 4.7.2 and 4.7.3 of this Policy consistent with Paragraph 2.3;
- b) to the extent feasible, providers must be requested to submit such quotations in writing;
- c) if it is not possible to obtain at least three quotations, the reasons must be **recorded and reported quarterly to the accounting officer or another official designated by the accounting officer (Power has been subdelegated to the Manager: SCM as per the approved System of Delegation).**

Transactions that falls within the ambit of this relevant clause Cannot be treated as a deviation as envisaged under sub section 4.36.1(a)Following are possible examples of not being in a position to obtain three written or verbal quotations namely:

- (i) In the event of any contract relating to the publication of official and legal notices and advertisements in the media by or on behalf of the Stellenbosch Municipality, there is no requirement for a competitive bidding process to be followed; disciplinary hearings, training, courses, seminars, membership fees, DRs, medical specialists or as determined by the SCM Head.
- (ii) In the event of strip and quote transactions or ad-hoc repairs to plant, equipment and machinery where it is not possible to ascertain the nature or extent of the work required in order to call for quotations. Requirement that work must be conducted by an authorised agent or manufacturer and where possible, the rotation principle must be applied. Approval of such transactions is subject to recommendation of approval by signature on duly authorised requisition, from Managers directly accountable to their respective Directors.
- d) the accounting officer must record the names of the potential providers requested to provide such quotations with their quoted prices; and
- e) if a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider.

4.11 Formal written price quotations

4.11.1 The conditions for the procurement of goods or services through formal written price quotations are as follows:

- a) quotations must be obtained in writing from at least three different providers whose names appear on the list of accredited prospective providers of the Stellenbosch Municipality;
- b) quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria set out in paragraphs 4.7.1 to 4.7.3 of this Policy;
- c) that if it is not possible to obtain at least three quotations, the reasons must be **recorded and approved by the Chief Financial Officer or an official designated by the Chief Financial Officer (Power has been subdelegated to the Manager: SCM as per the approved System of Delegation)**;

Transactions that falls within the ambit of this relevant clause, cannot be treated as a deviation as envisaged under sub section 4.36.1(a).

Following are possible examples of not being in a position to obtain three formal written price quotations namely:

- (i) In the event of any contract relating to the publication of official and legal notices and advertisements in the media by or on behalf of the Stellenbosch Municipality, there is no requirement for a competitive bidding process to be followed; disciplinary hearings, training, courses, seminars, membership fees, DRs, medical specialists or as determined by the SCM Head.
- (ii) In the event of strip and quote transactions or ad-hoc repairs to plant, equipment and machinery where it is not possible to ascertain the nature or extent of the work required in order to call for quotations. Requirement that work must be conducted by an authorised agent or manufacturer and where possible, the rotation principle must be applied. Approval of such transactions is subject to recommendation of approval by signature on duly authorised requisition, from Managers directly accountable to their respective Directors up to a monetary value of R 30 000 (VAT Inclusive). Above a monetary value of R 30 000 (VAT inclusive) only the Directors signature will be accepted as recommendation for approval on duly authorised requisition.

d) that the accounting officer must record the names of the potential providers and their written quotations.

4.11.2 A designated official referred to in sub regulation (1)(c) must within three days of the end of each month report to the Chief Financial Officer on any approvals given during that month by that official in terms of that sub regulation.

4.12 **Procedures for procuring goods or services through written or verbal quotations and formal written price quotations**

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

- a) when using the list of accredited prospective providers the accounting officer must promote on-going competition amongst providers by inviting providers to submit quotations on a rotation basis, par 2.3;
- b) that all requirements in excess of or equal to R30 001.00 (VAT included) procured by means of formal written price quotations, must in addition to the requirements of section 4.11, be advertised for at least seven days with a predetermined closing date and time on the website and an official notice board of the municipality or municipal entity;
- c) offers received must be evaluated on a comparative basis taking into account unconditional discounts;
- d) the accounting officer or chief financial officer must on a monthly basis be notified in writing of all written or verbal quotations and formal written price quotations accepted by an official acting in terms of a sub delegation;
- e) offers equal to or below R30 000 (VAT included) must be awarded based on compliance to specification and conditions of contract, ability and capability to deliver the goods and services and lowest price; and
- f) acceptable offers, which are subject to the preference points system(PPPFA and associated regulations), must be awarded to the bidder who scored the highest points.

4.13 **Competitive bids**

- a) Goods or services equal to or above a transaction value of R200 001.00 (VAT included) and long term contracts may only be procured through a competitive bidding process, subject to paragraph 4.14 of this Policy.
- b) No requirement for goods or services equal to or above an estimated transaction value of R200 001.00 (VAT included), may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.

4.14 **Process for competitive bidding**

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

- a) Compilation of bidding documentation as detailed in paragraph 4.15;
- b) Public invitation of bids as detailed in paragraph 4.16;
- c) Site meetings or briefing sessions (If deemed compulsory; Bids received from interested bidders that did not attend or arrived later than predetermined date and time, will be **disqualified**) as detailed in paragraph 4.21.2(e);

- d) Handling of bids submitted in response to public invitation as detailed in paragraph 4.17;
- e) Evaluation of bids as detailed in paragraph 4.21;
- f) Award of contracts as detailed in paragraph 4.27;
- g) Administration of contracts
- h) After approval of a bid, the accounting officer and the bidder must enter into a written agreement.
- i) Proper record keeping
- j) Original / legal copies of written contracts agreements should be kept in a secure place for reference purposes.

4.15 **Bid documentation for competitive bids**

The criteria to which bid documentation for a competitive bidding process must comply, must .

- a) take into account .
 - (i) the general conditions of contract and any special conditions of contract, if specified;
 - (ii) any Treasury guidelines on bid documentation; and
 - (iii) the requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;
- b) include the preference points system to be used , goals as contemplated in the Preferential Procurement Regulations and evaluation and adjudication criteria, including any criteria required by other applicable legislation;
- c) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;
- d) if the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish.
 - (i) if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements .
 - (1) for the past three years; or
 - (2) since their establishment if established during the past three years;
 - (ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;
 - (iii) particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
 - (iv) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality or municipal entity is expected to be transferred out of the Republic; and
- e) stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law.

4.16 **Public invitation for competitive bids**

4.16.1 The procedure for the invitation of competitive bids, is as follows:

- a) Any invitation to prospective providers to submit bids must be by means of a public advertisement in newspapers commonly circulating locally, the website of the Stellenbosch Municipality or any other appropriate ways (which may include an advertisement in the Government Tender Bulletin); and
- b) the information contained in a public advertisement must include .
 - (i) the closure date for the submission of bids, which may not be less than 30 days in the case of transactions over R10 million (VAT included), or which are of a long term nature, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to subparagraph 4.23.1 of this policy;
 - (ii) a statement that bids may only be submitted on the bid documentation provided by the Stellenbosch Municipality; and
 - (iii) date, time and venue of any proposed site meetings or briefing sessions.;

4.16.2 The accounting officer may determine a closure date for the submission of bids which is less than the 30 or 14 days requirement, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official process.

4.16.3 Bids submitted must be sealed.

4.16.4 Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies.

4.17 **Procedure for handling, opening and recording of bids**

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

- a) Bids.
 - (i) must be opened only in public;
 - (ii) must be opened at the same time and as soon as possible after the period for the submission of bids has expired; and
 - (iii) received after the closing time should not be considered and returned unopened immediately.
- b) Any bidder or member of the public has the right to request that the names of the bidders who submitted bids in time must be read out and, if practical, also each bidder's total bidding price;
- c) No information, except the provisions in subparagraph 4.28, relating to the bid should be disclosed to bidders or other persons until the successful bidder is notified of the award; and
- d) The accounting officer must .
 - (i) record in a register all bids received in time;
 - (ii) make the register available for public inspection; and
 - (iii) publish the entries in the register and the bid results on the website.

4.18 **Negotiations with preferred bidders**

4.18.1 The accounting officer or delegated official may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provided that such negotiation .

- a) does not allow any preferred bidder a second or unfair opportunity;
- b) is not to the detriment of any other bidder; and
- c) does not lead to a higher price than the bid as submitted.

4.18.2 Minutes of such negotiations must be kept for record purposes.

4.19 **Two-stage bidding process**

4.19.1 A two-stage bidding process is allowed for .

- a) large complex projects;
- b) projects where it may be undesirable to prepare complete detailed technical specifications; or
- c) long term projects with a duration period exceeding three years.

4.19.2 In the first stage technical proposals on conceptual design or performance specifications should be invited, subject to technical as well as commercial clarifications and adjustments.

4.19.3 In the second stage final technical proposals and priced bids should be invited.

4.20 **Committee system for competitive bids**

4.20.1 A supply chain management policy must provide for a committee system for competitive bids consisting of at least

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

4.20.2 The accounting officer appoints the members of each committee, taking into account section 117 of the Act; and

4.20.3 A neutral or independent observer, appointed by the accounting officer, must attend or oversee a committee only when this is appropriate for ensuring fairness and promoting transparency.

4.20.4 The committee system must be consistent with .

- a) Bid specification committee
- b) Specification committee
- c) Bid Adjudication

4.20.5 The accounting officer may apply the committee system to formal written price quotations.

4.21 **Bid specification committees and Bid Evaluation Committees**

4.21.1 A bid specification committee must compile the specifications (for competitive bidding or any other procurement of a technical nature) for goods or services by the Stellenbosch Municipality.

4.21.2 Specifications.

- a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
- b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organisation, or an authority accredited or recognised by the South African National Accreditation System with which the equipment or material or workmanship should comply;
- c) must, where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;
- d) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labelling of conformity certification;
- e) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the word ~~“equivalent”~~;
- f) must indicate each specific goal for which points may be awarded in terms of the points system set out in the Preferential Procurement Regulations 2001; and
- g) must be approved by the accounting officer or delegated official prior to publication of the invitation for bids in terms of competitive bids.

4.21.3 A bid specification committee must be composed of one or more officials of the Stellenbosch Municipality preferably the manager responsible for the function involved, and may, when appropriate, include external specialist advisors.

4.21.4 No person, advisor or corporate entity involved with the bid specification committee, or director of such a corporate entity, may bid for any resulting contracts.

4.21.5 Evaluations .

- a) A bid evaluation committee must .
 - (i) evaluate bids in accordance with .
 - (1) the specifications for a specific procurement; and
 - (2) the points system ;
 - (ii) evaluate each bidder's ability to execute the contract;
 - (iii) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears, and;
 - (iv) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.
- b) A bid evaluation committee must as far as possible be composed of-
 - (i) officials from departments requiring the goods or services; and
 - (ii) at least one supply chain management practitioner of the supply chain management unit

4.22 **Process**

- 4.22.1 Bids notices are to be advertised in all relevant media and will be distributed and displayed on all local municipality notice boards within the Stellenbosch Municipality area of jurisdiction.
- 4.22.2 Stellenbosch Municipality will co-ordinate all tender notices by local municipalities within its area of jurisdiction and develops a monthly tender bulletin.
- 4.22.3 Bid information and Stellenbosch Municipality Procurement Policy will also be available on the Stellenbosch Municipality Website.
- 4.22.4 Bid adjudication criteria will be included in all bid documents.
- 4.22.5 Pre-bid meeting may be a standard requirement of the bid process in order to obtain details for the bid requirements and answer questions from prospective bidders.
- 4.22.6 All bid notices will contain the following information:
- a) Full details of the Stellenbosch Municipality contact official including:
 - (i) Telephone number
 - (ii) Fax number
 - (iii) E-mail address
 - b) Closing date and time of bid.
 - c) Physical address for depositing bids.
 - d) When and where bids will be opened.

4.23 **All bids will be opened in public**

- 4.23.1 The normal closing period for bids is 14 days and 30 days for transactions above R10 million, after advertising, if supplies are expected to be in stock in the Republic of South Africa or manufactured from material, which is available in the RSA.
- 4.23.2 Shortening of the closing date will only be allowed provided that:
- a) A submission was made to the Supply Chain Manager.
 - b) The latter made a positive recommendation.
 - c) The relevant delegated person took a decision in support of the recommendation.
 - d) The minimum period for such bids is 5 working days.
- 4.23.3 In the interest of uniformity, fairness and in order to maintain the bidders' confidence in the system, it is essential that a definite cut-off time is set for submitting bids and it must be strictly observed. The cut-off time for bids is **12:00 pm** on the day indicated on the bid documents.
- 4.23.4 Advertisements for bids are to be cancelled (unless remedied with all collecting parties of bid documentation) and fresh bids invited if conditions or specifications or any other information has changed before the closing time or if mistakes have been discovered in the documents before the closing time.
- 4.23.5 The cancellation of a bid must be approved by the Manager: SCM. Approval is subject to report being tabled to the Manager: SCM with relevant reasons for cancellation thereof, by the relevant end user department.

A bid may be cancelled before the award is made if:

- The circumstances have changed, i.e. there is no longer a need for the goods, works or services offered or,
- Funds are no longer available to cover the total envisaged expenditure.
- No acceptable tenders are received.

The decision to cancel a tender must be published in the Government Tender Bulletin or the media in which the original tender invitation was advertised.

4.23.6 In the case of an advertised bid, the bid closing date may be postponed only if the postponed date can be advertised in the local media at least one week before the original closing date. A bid's closing time may be postponed only if all bidders intending to bid can be advised of the postponed date in writing at least one week before the original closing date.

4.23.7 Bid documents must be ready before advertisement. Documents can be posted to potential bidders or bidders may collect documents. The latter is preferable unless practicality otherwise necessitates. Bid documents will be available at the Stellenbosch Municipality. The name of the bidder to whom documents were issued, the bid number, the name of the person who collected the bid, the firm/company on whose behalf the document is collected, phone number, fax number, contact person, date and time the document was collected and the date the document was posted where a bidder requests a document by telephone, must be entered in a register. Apart from the fact that the register serves as a record in the event of disputes, it also serve the purpose of providing all the detail of the bidders who collected documents in the event where amendments have to be effected to the bid document.

4.23.8 Bidders are allowed to deposit their completed bids in the bid box located at Stellenbosch Municipality in Plein Street which is clearly marked "Bid Box". Bid box will be accessible to the public on a 24-hour basis including weekends and public holidays. The following details must be entered:

- a) The bid number
- b) The closing date of the bid
- c) The date and time the bid was received
- d) The name of the company/individual submitting the bid
- e) How the bid was received, i.e. via courier services, or registry
- f) The state in which the bid was upon receipt, for example was it open or not
- g) Whether the bid was received in time or late

- h) Whether the bid was opened by the receiving officials and the reasons why the bid was opened.
- i) Signature of person that delivered the bid.
- j) Signature of the person who received the bid.

To ensure that this recording is properly handled, this register will be checked by the Supply Chain Manager or his/her delegate, after each opening process.

4.24 **Closing of Bids**

4.24.1 At the closing time of bid/bids on a particular day, the bid/s will be removed to the Supply Chain Office at 12pm on the particular day where bids will be date stamped on the envelope, sorted according to the particular bid numbers, entered in the **Bids Received Register**.

4.24.2 For security purposes, the following pages of the bids received must be date stamped and checked for any correction fluid marks, write-overs, deletions, signature omissions (especially on the bid forms), alternative offers, documents that must have been submitted with the bid, etc. The pages mentioned above are as follows:

- a) Original and valid Tax Clearance Certificate (MBD 2 form).
- b) Declaration of interest form (MBD4 form)
- c) Declaration of past SCM practises (MBD 8 form)
- d) Pricing schedule (MBD3 form)
- e) Certificate of Independent Bid Determination (MBD 9 form)
- f) Alternative offers, Development Proposals and documents that were required to be submitted with the bid as per the bid document

4.24.3 Where the official who checks the bid finds correction fluid marks, write-overs or deletions, the official must initial next to it and another official must co-initial it.

4.24.4 Where certain forms, which require signatures, have not been signed, notes to that effect are made on the temporary covers of the bid. Such bids must still be evaluated.

4.24.5 Where certain forms, which should have been submitted with the bid is not attached, such as the MBD 1, MBD 2 and MBD 3, notes to that effect must be made on the temporary covers of the bid. The idea is to bring it to the attention of the evaluation team, the moment they look at the bid.

4.24.6 All bids received without envelopes, must be sealed in an envelope, and the bid number and closing date shall be written on the envelope, if ascertainable. Bids received in envelopes (sealed or unsealed) without the bid number on the envelope, must be opened, the bid number established, the envelope sealed and the bid number and closing date is written on the envelope. All bids will then be kept unopened in safe custody until the closing time of the bids.

4.25 **Bids received after closing time**

Late bids should be handled as follows:

- a) Bid received late will not be considered
- b) Bids are late if they are received at the address indicated in the bid documents after closure time
- c) Late bids should will not be submitted for consideration and where practicable will be returned unopened to the bidder accompanied by an explanation
- d) Accounting officers/authorities should re-advertise the bid if no bid or no suitable bid was received by closure time.

4.26 **Evaluation Criteria**

The evaluation shall be in terms of the size, nature and complexity of the goods or services required by the Municipality. The purpose of bid evaluation is to determine the lowest evaluated responsive bid from amongst the substantially responsive bids. The Stellenbosch Municipality will evaluate and adjudicate bids by means of a point scoring system and which will vary for different classes or contracts as depicted under Chapter 3 of the SCM Policy.

Each responsible Practitioner must determine the responsiveness of each bid that is whether each bid:

- a) has been submitted on the prescribed form and is properly signed;
- b) has been responsive to the requirements of the bid document;
- c) provides any clarification that may be required;
- d) is realistically priced in relation to the goods and services required;
- e) the successful bidder will be the one who has a responsive bid, is awarded the most adjudication points; and
- f) in cases, however where the bid with the highest adjudication points is not recommended, full details must be provided to the Delegated Authority for consideration. The Bid adjudication criteria have to be clearly stated including the manner in which points are calculated.

4.27 **Bid Adjudication Committee**

- a) The successful bidder whose bid has been determined to be substantially responsive and has been determined to be qualified to perform the contract satisfactorily, must be recommended for award of the contract. A bid evaluation report with the award recommendation must be prepared. The bid evaluation report should reflect the logical sequence of the bid evaluation process in the following manner:
 - (i) Receipt and opening of bids
 - (ii) Examination of bids
 - (iii) Compliance to specification
 - (iv) Substantially non-responsive
 - (v) Correction of arithmetic errors
 - (vi) Currency conversion
 - (vii) Adjustment for nonmaterial deviations
 - (viii) Bids subject to detailed evaluation
 - (ix) Evaluation of bids
 - (x) Comparison of bids
 - (xi) Lowest evaluated responsive bid
 - (xii) Post qualification

(xiii) Award recommendation

- b) The bid adjudication committee must .
- (i) consider the report and recommendations of the bid evaluation committee; and
 - (ii) either;
 - depending on its delegations, make a final award or a recommendation to the Accounting Officer to make the final award; or
 - make another recommendation to the Accounting Officer how to proceed with the relevant procurement.
- c) The bid adjudication committee must consist of at least four senior managers of the municipality which must include .
- (i) the Chief Financial Officer or, if the Chief Financial Officer is not available, another manager in the budget and treasury office reporting directly to the Chief Financial Officer and designated by the Chief Financial Officer; and
 - (ii) at least one senior supply chain management practitioner who is an official of the municipality; and
 - (iii) a technical expert in the relevant field who is an official in the line department or external consultant, if such an expert exists.
 - (iv) the relevant Director responsible for the function.
- d) Neither a member of a bid evaluation committee, nor an advisor or person assisting the evaluation committee, may be a member of a bid adjudication committee.
- e) (i) If the bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee, the bid adjudication committee must prior to awarding the bid;
- check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears; and
 - notify the Accounting Officer.
- (ii) The Accounting Officer may:
- after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in paragraph 4.27(f); and
 - if the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.
- f) The Accounting Officer may at any stage of a bidding process, refer any recommendation made by the evaluation committee or the adjudication committee back to that committee for reconsideration of the recommendation.
- g) The Accounting Officer must comply with section 114 of the Act within 10 working days.

4.28 Notification of Award

- a) When the award recommendation has been approved, a notification of award (letter of acceptance) should be sent out immediately to the successful bidder.

- b) Negotiations must not be held with the successful bidder with the intention of getting a reduction in price or a change in the scope of the contract.
- c) Negotiations are only allowed under exceptional circumstances under the supervision of the Municipal Manager.

4.29 **Logistics**

- a) Goods is linked to inventory
- b) Transit action (Check for quality and quantity on receipt of goods)
- c) Issuing of an order
- d) Effective and efficient use of resources
- e) Coding of items
- f) Distribution of goods/items

4.30 **Procurement of banking services**

4.30.1 A contract for banking services .

- a) must be procured through competitive bids;
- b) must be consistent with section 7 or 85 of the Act; and
- c) may not be for a period of more than five years at a time.

4.30.2 The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.

4.30.3 The closure date for the submission of bids may not be less than 60 days from the date on which the advertisement is placed in a newspaper in terms of paragraph 4.16. Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

4.31 **Procurement of IT related goods or services**

4.31.1 The accounting officer may request the State Information Technology Agency (SITA) to assist with the acquisition of IT related goods or services through a competitive bidding process.

4.31.2 Both parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to, SITA.

4.31.3 The accounting officer must notify SITA together with a motivation of the IT needs if .

- a) the transaction value of IT related goods or services required in any financial year will exceed R50 million (VAT included); or
- b) the transaction value of a contract to be procured whether for one or more years exceeds R50 million (VAT included).

4.31.4 If SITA comments on the submission and the Stellenbosch Municipality disagree with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the council, the National Treasury, the relevant Provincial Treasury and the Auditor General.

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

- 4.32.1 The accounting officer may procure goods or services under a contract secured by another organ of state, but only if .
- a) the contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;
 - b) there is no reason to believe that such contract was not valid to procure;
 - c) there are demonstrable discounts or benefits to do so; and
 - d) that other organ of state and the provider have consented to such procurement in writing.

- 4.32.2 Subparagraphs (4.32.1)(c) and (d) do not apply if .
- a) a municipal entity procures goods or services through a contract secured by its parent municipality; or
 - b) a municipality procures goods or services through a contract secured by a municipal entity of which it is the parent municipality.

4.33 **Procurement of goods necessitating special safety arrangements**

- a) The acquisition and storage of goods in bulk (other than water), which necessitate special safety arrangements, including gasses and fuel, should be avoided where ever possible.
- b) Where the storage of goods in bulk is justified, such justification must be based on sound reasons, including the total cost of ownership, cost advantages and environmental impact and must be approved by the accounting officer.

4.34 **Proudly SA Campaign**

The Stellenbosch Municipality supports the Proudly SA Campaign to the extent that, all things being equal after applying the principles of this policy, preference is given to procuring local goods and services from:

- a) Firstly . suppliers and businesses within the municipality or district;
- b) Secondly . suppliers and businesses within the relevant province;
- c) Thirdly . suppliers and businesses within the Republic.

4.35 **Appointment of consultants**

- 4.35.1 The accounting officer may procure consulting services provided that any Treasury guidelines in respect of consulting services are taken into account when such procurements are made.

- 4.35.2 Consultancy services will be procured through competitive bids if
- a) the value of the contract is equal to or above R200 001.00 (VAT included); or
 - b) the duration period of the contract exceeds one year.

- 4.35.3 In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish particulars of .
- a) all consultancy services provided to an organ of state in the last five years; and
 - b) any similar consultancy services provided to an organ of state in the last five years.
- Please note that this section must be read in conjunction with the requirements of the formal written quotations and/or bids.

4.35.4 The accounting officer must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, thing, system or process designed or devised, by a consultant in the course of the consultancy service is vested in the Stellenbosch Municipality.

4.35.5 Consultancy services equal to or below R200 000.00 must be procured from at least three (3) consultants in line with paragraph 2.3.

4.36 Deviation from, and ratification of minor breaches of, procurement processes

4.36.1 The accounting officer may .

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

4.36.5

4.37 Unsolicited bids

4.37.1 In accordance with section 113 of the Municipal Finance Management, 2003 (Act 56 of 2003), there is no obligation to consider unsolicited bids received outside a normal bidding process.

4.37.2 The accounting officer may decide in terms of section 113(2) of the Municipal Finance Management Act, 2003 (Act 56 of 2003) to consider an unsolicited bid, only if .

- a) the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;
- b) the product or service will be exceptionally beneficial to, or have exceptional cost advantages;
- c) the person who made the bid is the sole provider of the product or service; and
- d) the reasons for not going through the normal bidding processes are found to be sound by the accounting officer.

4.37.3 If the accounting officer decides to consider an unsolicited bid that complies with paragraph 4.37 of this policy, the decision must be made public in accordance with section 21A of the Municipal Systems Act, 2000 (Act 32 of 2000), together with .

- a) reasons as to why the bid should not be open to other competitors;
- b) an explanation of the potential benefits if the unsolicited bid were accepted; and

- c) an invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.

4.37.4 The accounting officer must submit all written comments received pursuant to subparagraph 4.37.3, including any responses from the unsolicited bidder, to the National Treasury and the relevant provincial treasury for comment.

4.37.5 The adjudication committee must consider the unsolicited bid and may award the bid or make a recommendation to the accounting officer, depending on its delegations.

4.37.6 A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.

4.37.7 When considering the matter, the adjudication committee must take into account .

- a) any comments submitted by the public; and
- b) any written comments and recommendations of the National Treasury or the relevant Provincial Treasury.

4.37.8 If any recommendations of the National Treasury or provincial treasury are rejected or not followed, the accounting officer must submit to the Auditor General, the relevant provincial treasury and the National Treasury the reasons for rejecting or not following those recommendations.

4.37.9 Such submission must be made within seven days after the decision on the award of the unsolicited bid is taken, but no contract committing the Stellenbosch Municipality to the bid may be entered into or signed within 30 days of the submission.

4.38 Prevention and combating of the abuse of supply chain management system

4.38.1 The accounting officer must.

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

- (i) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
 - (ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and
- g) reject the bid of any bidder if that bidder or any of its directors .
- (i) has abused the supply chain management system of the Stellenbosch Municipality or has committed any improper conduct in relation to such system;
 - (ii) has been convicted for fraud or corruption during the past five years;
 - (iii) has wilfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
 - (iv) has been listed in the Register for bid Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004).
- h) The accounting officer must inform the National Treasury and relevant Provincial Treasury in writing of any actions taken in terms of subparagraphs 4.38.1(b)(ii), (d) or (f) of this policy.

4.39 Prohibition on awards to persons whose tax matters are not in order

- a) The Accounting Officer must ensure that, irrespective of the procurement process followed, no award above R 30 000 (VAT included) is given to a person whose tax matters have not been declared by the South African Revenue Service to be in order.
- b) Before making an award to a provider or bidder, a tax clearance certificate from SARS must first be provided as contemplated in paragraph 4.2.1

4.40 Prohibition on awards to persons in the service of the state

The Accounting Officer must ensure that irrespective of the procurement process followed, no award may be made to a person .

- (a) who is in the service of the state; or
- (b) if that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state; or
- (c) who is an advisor or consultant contracted with the municipality in respect of a contract that would cause a conflict of interest.

4.41 Awards to close family members of persons in the service of the state

The notes to the annual financial statements must disclose particulars of any award of more than R2 000 (VAT included) to a person who is a spouse, child or parent of a person in the service of the state, or has been in the service of the state in the previous twelve months, including .

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

4.42 Right of Appeal and the handling of objections, disputes, complaints and Queries

The legislative framework that governs the following different administrative processes is as follows:

Administrative Process	Legislative Framework
Handling of objections , disputes, complaints and queries	Section 49 of the Municipal Supply Chain Management Regulations

Documentation submitted to the Municipal Manager in terms of any of the abovementioned administrative processes must contain the following minimum details:

4.42.1 reasons and/ or grounds

4.42.2 the way in which the person's rights have been affected; and

4.42.3 the remedy sought.

CHAPTER 5: DISPOSAL AND LETTING

5.1 Objective

The main objective of this Chapter is to provide a regulatory framework for the disposal and letting of immovable assets and to provide a framework when the Municipality enters into lease agreements. To give effect to Regulation 40 of the Supply Chain Management Regulations which requires an effective system for the disposal of letting of assets including unserviceable, redundant or obsolete assets and the Municipal Asset Transfer Regulations, subject to sections 14 and 90 of the Municipal Finance Management Act (MFMA) and any other applicable legislation.

5.2 Definitions

For the purposes of this Chapter, unless the context indicates to the contrary

- 5.2.1 "**Asset Transfer Regulations**" means the Municipal Asset Transfer Regulations promulgated in terms of the MFMA;
- 5.2.2 "**BEE Act**" means the Broad-Based Black Economic Empowerment Act 53 of 2003;
- 5.2.3 "**BEE**" means the economic empowerment envisaged by the BEE Act of all black people including women, workers, youth, people with disabilities and people living in rural areas through diverse but integrated socio-economic strategies that include, but are not limited to-
- (a) increasing the number of black people that manage, own and control enterprises and productive assets;
 - (b) facilitating ownership and management of enterprises and productive assets by communities, workers, cooperatives and other collective enterprises;
 - (c) human resource and skills development;
 - (d) achieving equitable representation in all occupational categories and levels in the workforce;
 - (e) preferential procurement; and
 - (f) investment in enterprises that are owned or managed by black people;
- 5.2.4 "**black people**" means Africans, Coloureds and Indians;
- 5.2.5 "**MFMA**" means the Local Government: Municipal Finance Management Act, 56 of 2003;
- 5.2.6 "**The Systems Act**" means the Local Government: Municipal Systems Act, 32 of 2000.
- 5.2.7 "**Local**" means within the context of the boundaries of WC024

5.3 General principles

5.3.1 Immovable property may only be sold at market-related prices and let at market related rates except when the public interest or plight of the poor demands otherwise and provided that all charges, rates, tariffs, scales of fees or other charges.
For purpose of this Chapter:

- **"public interest"** means disposal or letting to:-
 - (a) promote the achievement of equality by taking measures to protect or advance persons or categories of persons, disadvantaged by unfair discrimination;
 - (b) afford black people who are South African citizens a preference in respect of the disposal and letting of immovable property as envisaged in section 9(2) of the Constitution;
 - (c) promote BEE through disposal and letting;
 - (d) ensure and promote first time home ownership and enterprise development of black people including but not limited to ensuring that people that qualify in terms of the Municipality's GAP housing policy have access to adequate housing on a progressive basis;
 - (e) advance agricultural projects for land reform purposes,
 - (f) promote welfare and charitable purposes including non-profit rehabilitation facilities; shelters for the indigent and destitute; youth development and drug counseling;
 - (g) foster equitable access to public amenities, social and/or sports clubs and similar organizations by providing discounted prices or rates in the event that the beneficiaries or the membership component of such institution or body consist of at least 50% black people and/or the membership or subscription fee of black people is less than 50% of the normal membership or subscription fee.
- **"Plight of the poor"** means the needs of the people that are vulnerable and unable to meet their socio-economic needs independently or to support themselves and their dependents and are in need of social assistance.

5.3.2 Black people who are South African citizens will be afforded a preference in respect of the disposal and letting of immovable assets as envisaged in Section 9(2) of the Constitution regardless of whether it is sold or let at market related prices or rates or not.

5.3.3 In the case of the free disposal of computer equipment, the Provincial Department of Education must first be approached to indicate within 30 days whether any of the local schools are interested in the equipment.

5.3.4 In the case of the disposal of firearms, the National Conventional Arms Control Committee must approve any sale or donation of firearms to any person or institution within or outside the Republic.

- 5.3.5 All fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property must be reviewed annually.
- 5.3.6 Where assets are traded in for other assets, the highest possible trade-in price must be negotiated.
- 5.3.7 Non-exempted capital assets shall be transferred or permanently disposed of strictly in accordance with Chapter 2 of the Municipal Asset Transfer Regulations.
- 5.3.8 Exempted capital assets shall be transferred strictly in accordance with Chapter 3 of the Municipal Asset Transfer Regulations.

5.4 Methods of disposal

- 5.4.1 Transferring assets to another organ of state in terms of a provision of the MFMA enabling the transfer of assets.
- 5.4.2 Transferring assets to another organ of state at market-related value or free of charge when appropriate.
- 5.4.3 Destroying assets.
- 5.4.4 Assets may be disposed of by sale or other agreement after a process which is fair, equitable, transparent and competitive and which may include:
 - 5.4.4.1 A tender process which involves the call for purely financial offers for disposal or letting of immovable assets taking into account the general principles above;
 - 5.4.4.2 A call for development proposals in order to fulfill the constitutional and legislative duties of the Municipality including but not limited to achieving the general principles and progressive realization of the right to access to adequate housing and the fostering of conditions which enable citizens to gain access to land on an equitable basis such as the specific objective of addressing skewed land ownership or control patterns focusing on and incorporating ownership of or control by black people; and
 - 5.4.4.3 A two-stage bidding process for large complex projects; projects where it may be undesirable to prepare complete detailed technical specifications or long term projects with a duration period exceeding three years.
- 5.4.5 Granting of servitudes and similar rights which confers on the person to whom the right is granted the power to use, control or manage the immovable asset as if that person is the beneficial owner are subject to the process and requirements set for disposal of immovable assets contained in this Chapter including the general principles in 5.3 and which must be fair, equitable, transparent and competitive. The granting of right (where sections 14 and 90 of the MFMA do not apply) by Stellenbosch Municipality shall be executed strictly in accordance with Chapter 4 of the Municipal Asset Transfer Regulations.
- 5.4.6 Movable assets may be sold by way of an advertised competitive bidding process followed or written price quotations or by auctions, whichever is the most advantageous to the Municipality (applicable to movable assets).The award must be made to the

highest bidder as per clause 20.2.1 of the Implementation Guideline, as promulgated by National Treasury wrt the Preferential Procurement Regulations 2011 pertaining to the Preferential Procurement Policy Framework Act.

5.5 Disposal of immovable assets

5.5.1 Process

- 5.5.1.1 An item consisting of the motivation for the disposal of immovable assets must be prepared by the Administration, enabling Council to make an informed decision in principle, in terms of Section 14 of the MFMA.
- 5.5.1.2 The motivation tabled must consist out of the valuation of the asset concerned, depicting its fair market value. Fair market value will be calculated as the average of the valuations sourced from two service providers and for purposes of This Chapter, market related prices shall have the same meaning.
- 5.5.1.3 After a decision in principle is taken by Council, Supply Chain Management will embark on the applicable process after the Accounting Officer has determined the applicable scoring methodology and/or preference points and/or weights and/or specific goals.
- 5.5.1.4 If the fair market value is above a prescribed value, a request for authorization to commence with a public participation process will be submitted by the Accounting Officer.
- 5.5.1.5 Irrespective of the process followed with the sale and letting of immovable assets, Council needs only to be informed by the Administration of relevant award made, in accordance with their in principle decision given in terms of section 14 of the MFMA. Council cannot approve award made by the Administration since it would be in contradiction with section 117 of the MFMA and encroach on the field and mandate of the Administration, as given by the statutory and legislative framework.

5.6 Letting

The letting of assets must be adhered to and achieve the general principles contained in 5.3.

5.6.1 Process

- 5.6.1.1 An item must be prepared by the administration to Council to obtain a decision in principle to let the immovable asset.
- 5.6.1.2 After a decision in principle is taken by Council, the Accounting Officer must determine the applicable scoring methodology and/or preference points and/or weights and/or specific goals.
- 5.6.1.3 Supply Chain Management must then embark on the applicable process within the framework of the general principles contained in 5.3 which process must be fair, equitable, transparent and competitive. The normal rental stock of the Municipality for housing purposes is explicitly excluded from this provision but the general principles contained in 5.3 must still be complied with.

5.6.1.4 The necessary contractual requirements must be drafted and finalised by the administration.

5.7 General

5.7.1 All items or reports to Council in terms of this Chapter must contain all the applicable and prescribed provisions in terms of the Asset Transfer Regulations including but not limited to factors that Council must consider as well as those pertaining to conditions that may be imposed.

5.7.2 All agreements concluded pursuant to disposal or letting must contain the minimum requirements stipulated in the Asset Transfer Regulations that are applicable to agreements as well as in the MFMA.

5.8 Application

This Chapter must be applied to all assets owned by the Municipality and must be complied with in every instance where the disposal or letting of assets is dealt with.

5.9 Payment for Immovable Assets Disposed of or Letting

Suspensive conditions in the form of a recommendation to the BAC by the Directorate of Corporate Services dealing with deposits and payments for immovable assets must incorporate final purchase price on date of registration as non negotiable. In the event of letting all payments must be paid in advance before the first of each month.

CHAPTER 6: RISK MANAGEMENT

6.1 Introduction

- 6.1.1 This section covers the control measures that the Municipality will apply to prevent fraud and corruption involving officials and Stellenbosch Municipality. A declaration schedule will form an integral part of all the Municipality's bid documents. Bidders will be required to complete the schedule as a prerequisite to the bid. Employees of any Organ of State will be required to complete the Schedule as a pre-requisite to the bid.
- 6.1.2 Stellenbosch Municipal officials, Councillors involved in the assessment and adjudication of bidders will be required to complete the Declaration of interest schedule. Consultants or any other service provider who are involved in the preparation of bid documentation and bid reporting will also be required to sign a Declaration of Interest Schedule. The Declaration of Interest seeks disclosure on any interest that a councillor, official, consultant and/or service provider may have with regards to bid being adjudicated. The schedule states in principle that there has been no undue influence by a councillors or officials to influence the awarding of the bid under consideration. The schedule must be completed prior to the award of a bid.

6.2 General risk management measures that will be applied by the Stellenbosch Municipality will include the following:

- a) Business Plans where applicable will be required for approval prior to the commencement of all projects.
- b) Feasibility and/or design reports will be required by the Stellenbosch Municipality before bid for projects are called.
- c) As far as possible tender documents will be specific and detailed.
- d) The applicable project standards will be made available for public perusal.
- e) Consultants and/or Stellenbosch Municipality officials will ensure time, cost and quality control while projects are being implemented.
- f) Bidders, where applicable, will be required to take public liability insurance to cover the Stellenbosch Municipality.
- g) Variation orders(Expanded or varied by not more than 20% for construction related goods, services and/ or infrastructure projects and 15% for all other goods and/ or services of the original value of the contract) to projects will require the approval of the delegated approval authority as stipulated under item 2.4, prior to execution on site. Any expansion or variation in excess of these thresholds must be dealt with in terms of the provisions of section 116(3) of the MFMA, which will be regarded as an amendment to the contract in accordance with the National Treasury MFMA Circular No.62 . SCM: Enhancing compliance and accountability.

6.3 Contract Risk

- 6.3.1 **Sureties** are normally required for construction projects. Surety requirements are classified under the following categories:

AMOUNT	PERCENTAGE
Up to R300 000	Nil
R300 001-R1 000 000	2.5%
R1 000 001-R3 000 000	5%

R3 000 001-R5 000 000	7.5%
R5 000 001- and above	10%

6.3.2 In the event that a contractor is unable to raise the required surety, the Chief Financial Officer may allow such surety to be deducted in full or part from monies that are to become due to the contractor. This may take the form of deductions from the first three [3] payment certificates due to the contractor.

6.3.3 At the discretion of the Municipality, it may waive the requirement for a surety on construction contracts that are estimated to be equal to or lower than one million rand [R1 000 000]. The Municipality would only consider waiver of sureties to assist and facilitate the entry of emerging entrepreneurs in the small works sector of the construction industry. The *waiver* will be allowed in exceptional cases where a surety, guarantee or bridging finance cannot be accessed through any financial institution and written proof thereof must be submitted to Stellenbosch Municipality. In the event surety is waived Stellenbosch Municipality will underwrite the risk of such contracts in order to provide opportunities that will target HDIs. Service providers/Contractors will not be allowed to engage in more than two contracts at a time where sureties have been waived. Surety will be released on application to Stellenbosch Municipality subsequent to Stellenbosch Municipality approving the completion certificate for the contract.

6.4 Retention and Penalties

6.4.1 The Stellenbosch Municipality requires a percentage of the project costs for all construction projects to be set aside as retention. A 10% retention fee up to a maximum of 5% of the contract sum will be applied on all contracts. Half of the retention amount will be released on issue of the completion certificate for the contract. The balance of the retention will be released on the completion of the defects liability period of the contract. All contracts must include a penalty clause.

6.5 Cession of Payment

6.5.1 To provide an opportunity to service providers who cannot raise the necessary capital to procure services and goods, the Municipality may at its discretion, enter into a cession of payment agreement with a service provider once approval has been received from the participating service provider and the Municipal Manager.

CHAPTER7: PERFORMANCE MANAGEMENT

7.1 Supplier Performance

- 7.1.1 Stellenbosch Municipality will monitor the Performance of a Service Provider. Performance will be used as one of the criterion to assist Stellenbosch Municipality with the distribution when procuring services. A service provider's name will be place on list labelled %Poor Performing Service Providers+when service providers fail to complete projects on time, within Budget and to the required standard of the Stellenbosch Municipality or its duly appointed representative. Consideration will be given to Poor Performing Service Providers due to poor support especially in relations to HDIs. Depending on the reasons for Poor Performance, service providers would be placed on the list for at least one year.
- 7.1.2 The process of monitoring contracts runs transversally through both the Demand and Acquisition Management stages within the Supply Chain Management system. As such, it is dealt with under a chapter 3 separate from either of the two. The following existing practices are therefore handled below:
- a) Constant monitoring is essential to ensure that contractors meet their contractual obligations and that contracts run with as little disruption as possible. There are several ways in which monitoring can be undertaken:
 - b) Regular site inspections. In respect of a service, where the service is being rendered at a Municipal site or at the contractor's own site, the Municipality must visit the site regularly to ascertain whether the service is still being rendered in accordance with the contract. Regular meetings with contractors to discuss contract issues i.e. progress, foreseeable contract problems, price variations etc.

7.2 Reporting

- 7.2.1 Regular reports from contractors as well as the Supply Chain Management Unit are crucial for efficient contract management.
- 7.2.2 Contractors must be informed via the Service Level Agreement that reporting must take place on predetermined issues. The timeframes for this reporting must also be known to the contractors prior to the start of the contract. As far as products are concerned a contractors can be requested to report on the following issues:
- a) Number of orders received
 - b) Date of orders;
 - c) Quantities ordered on individual items;
 - d) Delivery date of orders
- 7.2.3 The information must be scrutinised and matched with the Municipality's records to ascertain whether there are any abnormalities in the rendering of the service or delivery of the product.
- 7.2.4 When the Municipality starts with the renewal/new contract, these reports can play a crucial role in the Demand Management phase as it can provide crucial historical/current contract/item information.

7.2.5 This in turn has a direct influence on the Acquisition Management phase as it influences the form of bidding used.

7.3 **Enforcement & cancellation of contracts**

7.3.1 Breach of contract is when one of the parties to the agreement breaches a term thereof, does not comply thereto or indicates that he/she will not comply with the terms of the agreement.

7.3.2 Breach can be committed in several ways, i.e.:

- a) A debtor may fail to perform on or before the date fixed for performance and the debtor would then be said to be in failure to comply in time in respect of the obligation in question.
- b) Where no definite time for performance is agreed upon, the Municipal (as creditor) must demand performance within a specified time (must be reasonable in the circumstances) and if the contractor or service provider (as debtor) has failed to perform in that time, he/she is regarded as being in mora (breach of time aspect).
- c) The debtor may render performance on time, but deviate from the performance required by the agreement. (i.e. use materials of inferior quality).
- d) The debtor may repudiate his/she obligation(s) in the sense that he/she may, before or after the due date for performance, make it plain by his/her words or actions that he/she does not intend to perform, or perform properly, in terms of his/her obligation(s). The test in each case is whether the debtor has acted in such a way as to lead a reasonable person to the conclusion that he/she does not intend to fulfil the obligation(s) or is not in a position to fulfil his/her obligation(s). If a debtor repudiates his/her obligations after having breached it in some way or the other, the Municipal must claim relief on the basis of either form of breach.

7.4 **Remedies for Breach**

The Municipality will ensure that all contracts provide for appropriate legal remedies in case of breach.

CHAPTER 8: CODE OF CONDUCT

8.1 Introduction

- 8.1.1 This Code of Conduct is designed to convey the obligations and standards of behaviour expected of staff of the Stellenbosch Municipality and to help staff resolve any ethical issues that may arise during the course of their duties.
- 8.1.2 It is in the interests of all staff members and the Supply Chain Management Unit in particular to maintain the highest possible ethical standards including accuracy, honesty, cooperation, tolerance and acceptance of obligations as well as rights.
- 8.1.3 The Supply Chain Management Unit is committed to the principles of equal opportunity and encourages staff to think and behave ethically, pursue equity in all aspects of their activities, promote a high standard of professional ethics in the Unit in conjunction with other role players. This code of conduct is part of the Municipality's procurement policy document to enable all bidders to be informed about it. The code should therefore serve as an aid in developing and presenting short training courses for all Supply Chain unit employees. This can assist in maintaining public confidence, integrity and impartiality of the Stellenbosch Municipality. Thus, the following code will guide all persons in the service of Stellenbosch Municipality. It should be emphasized that the development of this code is a dynamic process and that it may require revision from time to time.
- 8.1.4 The values we hold among ourselves to be essential to responsible professional behaviour include: honesty, trustworthiness, respect and fairness in dealing with other people, a sense of responsibility toward others and loyalty toward the ethical principles espoused by the Unit. It is important that these values and the tradition of ethical behaviour be consistently demonstrated and carefully maintained.

8.2 Financial Interest/Conflict of Interest

- 8.2.1 A potential conflict of interest may arise when a staff member has a financial interest in a company and is in a position to influence contracts for business between that company and the Stellenbosch Municipality. In many cases, only the individual staff member will be aware of the potential for conflict of interest. Therefore the onus is on that person to notify the Supply Chain Manager, if a potential or actual conflict of interest arises.
- 8.2.2 Any Municipal staff member who is directly affected by the potential or actual conflict of interest may refer the matter to the Supply Chain Management Practitioner or Supply Chain Manager.
- 8.2.3 Failure to disclose by employees of the Municipality, the potential or actual conflict of interest can render decisions null and void, and can lead to disciplinary procedures under the relevant Local Government Basic Conditions of Service and Treasury Regulation.

8.3 Acceptance of gifts or benefits

- 8.3.1 The Stellenbosch Municipality acknowledges that relationships can develop between service providers (suppliers) and staff and does not seek to unduly interfere with such relationships.
- 8.3.2 However, staff should not solicit or encourage gifts or benefits in relation to their professional duties. Receipts of gifts may be perceived as an inducement by others, thus creating a potential conflict of interest. The National Treasury Guidelines on Conflict of Interest and Close Personal Relationships cover financial as well as other types of assets. It requires staff to avoid actual as well as potential conflicts of interest.
- 8.3.3 Issues of cultural sensitivity are important in our Municipality, as many of our Suppliers are from different backgrounds where certain practices may be acceptable. However, staff are required to comply with Constitutional standards, the National Treasury's Code of Conduct and Municipality's Guidelines. All gifts must be declared in writing. A gift register will be available at the office of the Supply Chain Manager. All gifts and benefits received by staff and councillors; must be declared, irrespective the value thereof.

8.4 Combative Practices

- 8.4.1 Combative practices are unethical and illegal and should be avoided at all cost. They include but are not limited to:
- a) Suggestions to fictitious quotations;
 - b) Reference to non-existent competition;
 - c) Exploiting errors in price quotations/bids;
 - d) Soliciting price quotations/bids from bidders/contractors whose names appear on the Register for Bidder Defaulters.

8.5 Protecting confidential information

- 8.5.1 All employees of the Stellenbosch Municipality must adhere to the principles of confidentiality outlined in the National Treasury Regulation and have a duty to maintain the confidentiality and security of any personal information for which they are responsible, including computerised data. No information regarding any bid/contract/bidder/contractor may be revealed to anyone on the relevant bidder's, unless the Bid Adjudication Committee has approved it.
- 8.5.2 Within the Supply Chain Management Unit, no staff member other than the officials in the unit shall have access to matters of confidential nature in the possession of Supply Chain Manager about any bidder, without that bidder's consent unless a responsible Practitioner/Manager of the Unit is satisfied that the staff member is acting in the course of his or her duties and that the information is relevant to the purpose for which it is sought.
- 8.5.3 Personal information about staff of the Supply Chain Management Unit will generally not be released to a third party unless the subject is informed of the reason for its collection and provides full written approval other than in special circumstances where the disclosure may prevent a serious and imminent threat to the life or health of the

individual concerned or of another person. However, the Supply Chain Management Unit is legally obliged to respond to any request for information in the form of a police warrant, subpoena, summons or other court order.

8.6 Reporting corrupt conduct, maladministration and serious and substantial waste of Stellenbosch Municipal resources

Employees in the Stellenbosch Municipality are urged to report suspicions of corrupt conduct, maladministration and serious and substantial waste of Municipal resources. When an employee of the Municipality or the public, suspects corrupts conduct, they may report the allegation in confidence to the Office of the Municipal Manager. Any such allegations will be treated in strict confidence and investigated as considered appropriate.

8.7 The Supply Chain Management Unit's Approach to Complaints

8.7.1 The Stellenbosch Municipality treats all complaints seriously and makes every effort to investigate complaints expeditiously.

8.7.2 The Municipality will apply the principles of natural justice in investigating complaints. The Municipality acknowledges that there are multiple pathways to deal with complaints. It is useful, prior to making a complaint, to consult with appropriate persons to identify the best way to proceed. These could include the Unions and other relevant structures. Employees are encouraged to consider all potential complaints carefully and should not make frivolous, malicious or vexatious complaints.

8.8 Harassment in the Stellenbosch Municipality (Sexually, racist or religious)

It is the policy of the Stellenbosch Municipality that harassment of applicants and employees on the basis of race, religion, colour, national origin, ancestry, handicap, medical condition, disability, marital status, age, sexual orientation and sex, including sexual harassment (all as defined and protected by applicable law), is unacceptable and will not be tolerated. This policy applies to all employees. It covers harassment by employees of the Municipality (including Supervisors and Managers), customers, vendors or other third parties with whom the Stellenbosch Municipality has business dealings.

8.9 Bid Evaluation Team

All members of the evaluation committee and Supply Chain Management staff involved in any way with the bid evaluation committee must be fully aware that the bid evaluation process up to the award of the contract is confidential, and this confidentiality must be respected and fully adhered to. Any effort by the bidder or its agent to influence the employer's evaluation bids or award decision, including the offering or giving of bribes, gifts, or other inducement should be reported to the evaluation committee. Such actions could result in the invalidation of its bid and the forfeiture of its bid security. Contacts between the Supply Chain Management staff, including the evaluation committee, bidders or their agents should be restricted to essential official communication only, such as the request for and receipt of clarification. All such information must be in writing. All Supply Chain Management staff must not entertain calls or informal

communication, meetings, or other contacts with any of the bidder or its agent.(Refer to paragraphs 4.22 and 2.1.4)

CHAPTER 9: CONCLUSION

As a general rule, all Suppliers, Service Providers and Contractors who want to do business with Stellenbosch Municipality should ensure that they are registered in the Stellenbosch Municipality Supplier Register / Database. The onus is on the Service Provider to obtain the required documentation from Supply Chain Management Unit, Finance Department. For Consultants, Contractors and Service Providers to be considered for appointment that has offices based outside Stellenbosch Municipality or outside the area of jurisdiction, proof of registration as a levy payer with the Local, District or Metropolitan Council in whose area the office is based is required.

Registration should be subject to the observance of the Procurement Code of Conduct. Enterprises and Individuals, who meet the requirements for direct preferences, need to apply for accreditation in order to qualify for additional points.

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