APPENDIX 28

STELLENBOSCH MUNICIPALITY

SUPPLY CHAIN MANAGEMENT POLICY

2024-2025

STELLENBOSCH MUNICIPALITY

SUPPLY CHAIN MANAGEMENT POLICY

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Definitions

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

1.1.1. **"Act"** means the Municipal Finance Management Act, No. 56 of 2003;

1.1.2. **"Bid"** means a written offer in a prescribed or stipulated form in response to an invitation by the municipality for the provision of goods, services or construction works through price quotations, advertised competitive bidding process or proposals;

1.1.3. **"Bidder"** means any person submitting a competitive bid or a quotation;

1.1.4. **"Closing time"** means the time and day specified in the bid documents for the receipt of bids;

1.1.5. **"Competitive bidding process"** means a competitive bidding process referred to in paragraph 12(1)(b)(i of this Policy;

1.1.6. **"Competitive bid"** means a bid in terms of a competitive bidding process;

1.1.7. **"Contract"** means the agreement which is concluded when the municipality accepts, in writing, a competitive bid or quotation submitted by a supplier;

1.1.8. **"Contract manager"** means an official of the Municipality who is responsible for the planning for the planning and execution of a transaction involving the procurement of goods, services or works;

1.1.9. **"Contractor"** means any person or entity whose competitive bid or quotation has been accepted by the municipality;

1.1.10. **"Delegated authority"** means any person or committee delegated with authority by the municipality in terms of the provisions of the Municipal Finance Management Act;

1.1.11. **"Department"** means a section within a specific directorate in terms of the municipal organigram;

1.1.12. **"Electronic format"** means a bid submitted by a bidder via email or made available through a cloud storage services;

1.1.13. "**Emergency dispensation"** means emergency as referred to in paragraph 36(1)(a)(i) of this policy under which one or more of the following is in existence that warrants an emergency dispensation;

(a) The possibility of human injury or death;

(b) The prevalence of human suffering or deprivation of rights;

(c) The possibility of damage to property, or suffering and death of livestock and animals;

(d) The interruption of essential services, including transportation and communication facilities or support services critical to the effective functioning of the municipality as a whole;

(e) The possibility of serious damage occurring to the natural environment;

(f) The possibility that failure to take necessary action may result in the municipality not being able to render an essential community service;

(g) The possibility that the security of the state could be compromised; or

(h) The prevailing situation, or imminent danger, should be of such a scale and nature that it could not readily be alleviated by interim measures, in order to allow time for the formal procurement process. Emergency dispensation shall not be granted in respect of circumstances other than those contemplated above.

1.1.14. **"Final award"**, in relation to bids or quotations submitted for a contract, means the final decision on which a bid or quote is accepted;

1.1.15. **"Formal written price quotation"** means quotations referred to in paragraph 12 (1) (d) of this Policy;

1.1.16. **"Green procurement"** means the procurement of environmentally friendly products and services;

1.1.17. **"in the service of the state"** means to be –

(a) A member of –

(i) Any municipal council;

(ii) Any provincial legislature; or

(iii) The National Assembly or the National Council of Provinces;

(b) A member of the board of directors of any municipal entity;

(c) An official of any municipality or municipal entity;

(d) An employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the public Finance Management Act, 1999 (Act No.1 of 1999);

(e) A member of the accounting authority of any national or provincial public entity; or

(f) An employee of Parliament or a provincial legislature;

1.1.18. **"Long term contract"** means a contract with a duration period exceeding one year and does not have the same meaning as contracts of a long term nature referred to in paragraph 22(1)(b)(vi) of this policy;

1.1.19. **"Long term nature contract"** means a contract as defined by section 33(1) of the Municipal Finance Management Act imposing financial obligations on the Municipality beyond the first three years covered in the approved annual budget;

1.1.20. **"List of accredited prospective providers"** means the list of accredited prospective providers in terms of Central Supplier Database (CSD) of National Treasury;

1.1.21. **"Other applicable legislation"** means any other legislation applicable to municipal supply chain management, including but not limited to the following –

(a) The Preferential Procurement Policy Framework Act;

(b) The Broad-Based Black Economic Empowerment Act; ~~and~~

(c) The Construction Industry Development Board Act;

(d) The Local Government: Municipal Systems Act;

(e) The Competition Act; and

(f) The Promotion of Administrative Justice Act.

1.1.22. **"Policy"** means the Supply Chain Management Policy of Stellenbosch municipality as amended from time to time;

1.1.23. "**Parent municipality"** has the meaning assigned to it in section 1 of the Municipal Systems Act;

1.1.24. **"Petty Cash",** means the procurement of goods and services through the supply chain management requisition and order system by means of one written quotation below a determined amount in relation with the Petty Cash Policy;

1.1.25. **"Single source":** refers to when the competition exist in the market, but from a selected few suppliers due to technical capabilities and abilities comply with the requirements of the municipality;

1.1.26. **"Sole Supplier:"** It refers in instances where there is no competition and only one service provider exist in the market, with sole distribution rights and/or patent rights or manufacturer;

1.1.27. **"Strip and quote:"** When the repairs and maintenance on our machines, vehicles are done by one supplier and/or strip-and-quote, for example a municipal vehicle that needs repairs enters the workshop, however to do the repairs, the vehicle has to be send to a supplier that determines what repairs should be done;

1.1.28. **"Supplier database"** means the list of accredited prospective providers which the municipality or municipal entity must keep in terms of the Regulation 14 of the Supply Chain Management Regulations;

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

1.1.30. **"Trust"** means the agreement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person;

1.1.31. **"Trustee"** means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person;

1.1.32. **"The Act"** means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);

1.1.33. **"The Regulations"** means the Local Government: Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations published by Government Notice 868 of 2005;

1.1.34. **“The PPPF Regulations”** means Preferential Procurement Policy Regulations, 2017 Published under Government Notice R32 in Government Gazette 40553 of 20 January 2017; and

1.1.35. **“Unconditional Award”** means final awards made by the BAC/Accounting officer of which any appeals lodged by aggrieved service providers must be referred to the court of law

CHAPTER 1

IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

2. SUPPLY CHAIN MANAGEMENT POLICY

(1) All officials and other role players in the supply chain management system of the Stellenbosch Municipality must implement this Policy in a way that –

(a) Gives effect to –

(i) Section 217 of the Constitution; and

(ii) Part 1 of Chapter 11 and other applicable provisions of the Act;

(b) Is fair, equitable, transparent, competitive and cost effective;

(c) Complies with –

(i) The Regulations; and

(ii) Any minimum norms and standards that may be prescribed in terms of section 168 of the Act;

(d) Is consistent with other applicable legislation;

(e) Does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and

(f) Is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.

(2) The municipal entity must, in addition to complying with subparagraph (1), apply this Policy, to the extent determined by the parent municipality, in a way that is consistent with the supply chain management policy of the parent municipality.

(3) This Policy applies when the Stellenbosch Municipality –

(a) Procures goods or services;

(b) Disposes goods no longer needed;

(c) Selects contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies; or

(d) Selects external mechanisms referred to in section 80(1)(b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in section 83 of that Act.

(4) This Policy, except where provided otherwise, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Act, including –

(a) Water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and

(b) Electricity from Eskom or another public entity, another municipality or a municipal entity.

3. AMENDMENT OF THE SUPPLY CHAIN MANAGEMENT POLICY

(1) The Accounting Officer must –

(a) At least annually review the implementation of this Policy; and

(b) When the Accounting Officer considers it necessary, submit proposals for the amendment of this Policy to the Stellenbosch Council.

(2) If the Accounting Officer submits proposed amendments to the Stellenbosch Council that differs from the model policy issued by the National Treasury, the Accounting Officer must -

(a) Ensure that such proposed amendments comply with the Regulations; and

(b) Report any deviation from the model policy to the National Treasury and the relevant provincial treasury.

(3) When amending this supply chain management policy, the need for uniformity in supply chain practices, procedures and forms between organs of state in all spheres, particularly to promote accessibility of supply chain management systems for small businesses must be taken into account.

4. DELEGATION OF SUPPLY CHAIN MANAGEMENT POWERS AND DUTIES

(1) The Stellenbosch Council hereby delegates all powers and duties to the Accounting Officer, which are necessary to enable the Accounting Officer –

(a) To discharge the supply chain management responsibilities conferred on Accounting Officers in terms of –

(i) Chapter 8 or 10 of the Act; and

(ii) This Policy;

(b) To maximize administrative and operational efficiency in the implementation of this Policy;

(c) To enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of this Policy; and

(d) To comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.

(2) Sections 79 and 106 of the Act apply to the sub-delegation of powers and duties delegated to an Accounting Officer in terms of subparagraph (1).

(3) The Accounting Officer may not sub-delegate any supply chain management powers or duties to a person who is not an official of Stellenbosch Municipality or to a committee, which is not exclusively composed of officials of the Stellenbosch Municipality.

(4) This paragraph may not be read as permitting an official, to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this Policy.

5. SUB-DELEGATIONS

(1) The Accounting Officer may in terms of section 79 or 106 of the Act sub-delegate any supply chain management powers and duties, including those delegated to the Accounting Officer in terms of this Policy, but any such sub-delegation must be consistent with subparagraph (2) of this paragraph and paragraph 4 of this Policy**.**

(2) The power to make a final award –

(a) Above R 10 million (VAT included) may not be sub-delegated by the Accounting Officer;

(b) Above R 200,000 (VAT included), but not exceeding R 10 million (VAT included), may be sub-delegated but only to –

(i) The Bid Adjudication Committee of which the Chief Financial Officer or a senior manager is a member; or

(ii) Accounting Officer of the municipality, after due consideration of all facts was done; and

(c) Below R 200,000 (VAT included) to be disposed by delegated official according approved delegatory power and functions issued by Accounting Officer.

(3) The Bid Adjudication Committee to which the power to make final awards has been sub-delegated in accordance with subparagraph (2) must within five days of the end of each month submit to the official referred to in subparagraph (4) a written report containing particulars of each final award made by such official or committee during that month, including –

(a) The amount of the award;

(b) The name of the person to whom the award was made; and

(c) The reason why the award was made to that person.

(4) A written report referred to in subparagraph (3) must be submitted –

(a) To the Accounting Officer, in the case of an award by –

(i) The Bid Adjudication Committee of which the Chief Financial Officer or a senior manager is a member; or

(b) To the Chief Financial Officer or the senior manager responsible for the relevant bid, in the case of an award by –

(i) The Bid Adjudication Committee of which the Chief Financial Officer or a senior manager is not a member.

(5) Subparagraphs (3) and (4) of this policy do not apply to procurements out of petty cash.

(6) This paragraph may not be interpreted as permitting an official to whom the power to make final awards has been sub-delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this Policy.

(7) No supply chain management decision-making powers may be delegated to an advisor or consultant.

6. OVERSIGHT ROLE OF COUNCIL

(1) The Stellenbosch Council reserves its right to maintain oversight over the implementation of this Policy.

(2) For the purposes of such oversight the Accounting Officer must –

(i) Within 30 days of the end of each financial year, submit a report on the implementation of this Policy and the supply chain management policy of any municipal entity under the sole or shared control of the municipality, to the council of the municipality; and

(ii) Whenever there are serious and material problems in the implementation of this Policy, immediately submit a report to Council.

(3) The Accounting Officer must, within 10 days of the end of each quarter, submit a report on the implementation of the supply chain management policy to the Executive Mayor.

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

7. SUPPLY CHAIN MANAGEMENT UNIT

(1) A supply chain management unit is hereby established to implement this Policy.

(2) The supply chain management unit operates under the direct supervision of the Chief Financial Officer or an official to whom this duty has been delegated in terms of section 82 of the Act.

8. TRAINING OF SUPPLY CHAIN MANAGEMENT OFFICIALS

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

CHAPTER 2

SUPPLY CHAIN MANAGEMENT SYSTEM

9. FORMAT OF SUPPLY CHAIN MANAGEMENT SYSTEM

(1) This Policy provides systems for –

(i) Demand management;

(ii) Acquisition management;

(iii) Logistics management;

(iv) Disposal management;

(v) Risk management; and

(vi) Performance management.

PART 1: DEMAND MANAGEMENT

10. SYSTEM OF DEMAND MANAGEMENT

(1) The Accounting Officer must establish and implement an appropriate demand management system in order to ensure that the resources required by Stellenbosch Municipality support its operational commitments and its strategic goals outlined in the Integrated Development Plan.

(2) The demand management system must –

(a) Include timely planning and management processes to ensure that all goods and services required by Stellenbosch Municipality are quantified, budgeted for and timely and effectively delivered at the right locations and at the critical delivery dates, and are of the appropriate quality and quantity at a fair cost;

(b) Take into account any benefits of economies of scale that may be derived in the case of acquisitions of a repetitive nature;

(c) Provide for the compilation of the required specifications to ensure that its needs are met; and

(d) To undertake appropriate industry analysis and research to ensure that innovations and technological benefits are maximized.

(3) Green procurement must be incorporated as far as reasonably possible for all specifications of goods, services and construction works.

(4) In the development of bid specifications, innovative mechanisms should be explored to render the service or product more resource and energy efficient.

PART 2: ACQUISITION MANAGEMENT

11. SYSTEM OF ACQUISITION MANAGEMENT

(1) The Accounting Officer must implement the system of acquisition management set out in this Part in order to ensure –

(a) That goods and services are procured by Stellenbosch Municipality in accordance with authorised processes only;

(b) That expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the Act;

(c) That the threshold values for the different procurement processes are complied with;

(d) That bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation; and

(e) That any Treasury guidelines on acquisition management are properly taken into account.

(2) Unless otherwise indicated in the bid documents, the Municipality shall not be liable for any expenses incurred by prospective bidders in the preparation and / or submission of a bid or quotation.

12. RANGE OF PROCUREMENT PROCESSES

(1) Goods and / or services may only be procured by way of –

(a) Cash purchases administered by the Expenditure Division up to a transaction value as defined in Council's Petty Cash Policy;

(b) Removed

(c) formal written price quotations for procurement of a transaction value over R2000 up to R300 000 (VAT included).

(d) a competitive bidding process for procurement above a transaction value of R300 000 (VAT included).

(2) The Accounting Officer may, in writing-

(a) Lower, but not increase, the different threshold values specified in subparagraph (1); or

(b) Direct that –

(i) Removed
(ii) Formal written price quotations be obtained for any specific procurement of a transaction value lower than R 10,000; or
(iii) A competitive bidding process be followed for any specific procurement of a transaction value lower than R 300,000.

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(3) Goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of the policy. When determining transaction values, a requirement for goods or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction.

13. GENERAL PRECONDITIONS FOR CONSIDERATION OF WRITTEN QUOTATIONS OR BIDS

(1) A written quotation or bid may not be considered unless the provider who submitted the quotation or bid –

(a) Has furnished that provider's –

(i) Full name;

(ii) Identification number or company or other registration number; and

(iii) Tax reference number and VAT registration number, if any;

(b) Has authorised the Stellenbosch Municipality to obtain a tax clearance by means of the Tax Compliance Status Pin from, from the South African Revenue Services and Central Supplier Database Number (CSD) that the provider's tax matters are in order; and

(c) Has indicated –

(i) Whether he or she is in the service of the state, or has been in the service of the state in the previous twelve months;
(ii) If the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the state, or has been in the service of the state in the previous twelve months; or
(iii) Whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in sub-paragraph (ii) is in the service of the state, or has been in the service of the state in the previous twelve months.

14. LISTS OF ACCREDITED PROSPECTIVE PROVIDERS

(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 formal written price quotations;

(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 as stated within the database registration forms; 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.

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

(3) The list must be compiled per commodity and per type of service.

15. PETTY CASH PURCHASES

(1) The Accounting Officer must establish the conditions for the procurement of goods by means of cash purchases and petty cash purchases referred to in paragraph 12(1)(a) and (b) of this Policy, which must include conditions –

(a) determining the terms on which a manager may delegate responsibility for cash purchases and petty cash purchases to an official reporting to the manager;

(b) limiting the maximum number of cash purchases and petty cash purchases or the maximum amounts per month for each manager;

(c) excluding any types of expenditure from cash purchases and petty cash purchases, where this is considered necessary;

(d) requiring a monthly reconciliation report from each manager to the

Chief Financial Officer, including –

(i) the total amount of cash purchases and petty cash purchases for that month; and
(ii) receipts and appropriate documents for each purchase; and

(e) any other conditions determined by the Chief Financial Officer.

(2) Cash purchases will be dealt with in terms of the Petty Cash Policy of Council.

(3) Petty cash purchases will be dealt with in terms of the Supply Chain Management Policy of Council.

16. WRITTEN OR VERBAL QUOTATIONS

Removed

17. FORMAL WRITTEN PRICE QUOTATIONS

(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. Quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria set out in paragraph 13 of this Policy;

(b) Where no suitable providers are available from the list of accredited prospective providers, quotations may be obtained from other possible

providers not registered on the municipal supplier database;

(c) 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;

(d) The Accounting Officer must record the names of the potential providers and their written quotations; and

(e) For the obtaining of quotations for services, Stellenbosch Municipality will utilize their notice boards.

(2) A designated official referred to in subparagraph (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 subparagraph.

18. PROCEDURES FOR PROCURING GOODS OR SERVICES THROUGH FORMAL WRITTEN PRICE QUOTATIONS

(1) The procedure for the procurement of goods or services through 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;

(b) Where no suitable providers are available from the list of accredited prospective providers, quotations may be obtained from other possible providers not registered on the municipal supplier database;

i. All requirements in excess of R 30,000 (VAT included) that are to be procured by means of formal written price quotations must, in addition to the requirements of paragraph 17, be advertised for at least seven days on the website and an official notice board of the Stellenbosch Municipality;

(c) The accounting officer must take all reasonable steps to ensure that the procurement of goods and services through formal written quotations are not abused;

(d) The Accounting Officer or Chief Financial Officer must on a monthly basis be notified in writing of all formal written price quotations accepted by an official acting in terms of a sub-delegation;

(e) Offers received must be evaluated on a comparative basis taking into account unconditional discounts;

(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; and

(g) Stellenbosch Municipality will maintain a proper record keeping system.

19. COMPETITIVE BIDS

(1) Goods or services above a transaction value of R 300,000 (VAT included) and long term contracts may only be procured through a competitive bidding process, subject to paragraph 11(2) of this Policy.

(2) No requirement for goods or services above an estimated transaction value of R 300,000 (VAT included), may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.

20. PROCESS FOR COMPETITIVE BIDDING

(1) The procedures for the following stages of a competitive bidding process are as follows:-

(a) Compilation of bidding documentation as detailed in paragraph 21;

(b) Public invitation of bids as detailed in paragraph 22;

(c) Site meetings or briefing sessions as detailed in paragraph 22;

(d) Handling of bids submitted in response to public invitation as detailed in paragraph 23;

(e) Evaluation of bids as detailed in paragraph 28;

(f) Award of contracts as detailed in paragraph 29;

(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; and

(j) Original / legal copies of written contracts agreements must be kept in a secure place for reference purposes.

21. BID DOCUMENTATION FOR COMPETITIVE BIDS

(1) 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 R 10 million (VAT included), require bidders to furnish –

(i) If the bidder is required by law to prepare annual financial statements (AFS) for auditing, their audited AFS –

(aa) For the past three years; or

(bb) Since their establishment if established during the past three years;

(ii) A certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;

(iii) Particulars of any contracts awarded to the bidder by 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, adjudication (with or without legal representation), or, when unsuccessful, in a South African court of law;

(f) The period for which bids are to remain valid and binding must be indicated in the bid documents; and

(g) A provision for the termination of the contract in the case of non- or under-performance and objections and complaints must be included in the bid documentation.

22. PUBLIC INVITATION FOR COMPETITIVE BIDS

(1) The procedure for the invitation of competitive bids is as follows –

(a) Any invitation to prospective providers to submit bids must be by means of a public advertisement in a newspaper 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 at least 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 (2) of this policy; and

(ii) A statement that bids may only be submitted on the bid documentation provided by the Stellenbosch Municipality

(iii) Contact details for further enquiries.

(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 procurement process.

(3) Bids submitted must be sealed and must clearly indicate the bid number on the outside of the envelope for which the bid is being submitted.

(4) Where bids are requested by the Municipality in electronic format, such bids must be supplemented by sealed hard copies.

(5) The municipality may require bidders to submit section(s) of their bid in electronic format, but only after the bid closing date. If the electronic copy differs from the original hard copy, the original hard copy will be binding.

23. PROCEDURE FOR HANDLING, OPENING AND RECORDING OF COMPETITIVE BIDS AND FORMAL WRITTEN PRICE QUOTATIONS IN EXCESS OF R 30,000

(1) 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; and

(b) Any bidder or member of the public has the right to request that the names of the bidders who submitted bids in time must be read out and, if practical, also each bidder's total bidding price;

(c) No information, except the provisions in subparagraph (b), relating to the bid should be disclosed to bidders or other persons until the successful bidder is notified of the award;

(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.

(e) The bidder shall choose a *domicilium citandi et executandi* in the Republic and unless notice of the change thereof has duly been given in writing, it shall be the address stated in the bid.

(f) Opening of bid procedures –

(i) At the specified closing time on the closing date the applicable bid box shall be closed;

(ii) The bid box shall be opened in public as soon as practical after the closing time by at least two officials from the Supply Chain Management Unit and the Security Officer on duty;

(iii) It is the responsibility of the bidder to ensure that their bid is placed in the correct bid box. The municipality will not on its own initiative redirect any bid if it is placed in an incorrect bid box before the closing time of submissions.

(iv) Immediately after the opening of the bid box all bids shall be opened in public;

(v) At the official opening of the bids, the bids shall in all cases be read out in terms of the name of the bidder and, if practical, the amount of the bid;

(vi) As soon as a bid or technical proposal has been opened the bid / proposal shall be stamped with the official stamps, and endorsed with the opening officials' signatures;

(viii) The name of the bidder, and where possible, the bid sum shall be recorded in a bid opening record kept for that purpose; and The responsible officials who opened the bidding documentation received shall forthwith place their signatures on the bid opening record (register) and shall ensure that the bid opening record, indicating at least the bid price of each bidder, the BBBEE status level contribution of each bidder and where applicable the local content percentages of the goods offered are made available for public inspection and are published on the municipality's website.

(g) Site Inspections / clarification meeting –

(i) Site inspections / clarifications meeting, where applicable, will be compulsory.

(ii) If site inspections / clarification meeting are to be held, full details must be included in the bid notice. Service providers that are late for the commencement of the site inspection/clarification meeting will be disqualified.

(iii) Minutes of all site inspection/clarification meetings must be kept for record purposes

(iv) Any proposed Addendums to the advertised bid document must be tabled at the Bid Specification Committee Meeting for consideration and approval.

(h) Bid validity periods

(i) The validity period is calculated from the bid closure date and bids shall remain in force and binding for a period of six (6) months as indicated in the invitation to bid and the bid documents, subject to any other applicable legislation and instructions from the National Treasury

for specific types of procurement.

(ii) The period of validity may be extended by the SCM Department, provided that the original bid validity period has not expired and that all bidders are given an opportunity to extend such period.

(iii) Any such extension shall be agreed to by a bidder in writing.

Bidders who fail to respond to such a request before the validity of their bid expires, or who decline such a request shall not be considered further in the bid evaluation process.

(iv) All bidders who indicated the acceptance of the extension of the bid validity period, bids will be considered for evaluation purposes.

(v) If the validity of all bids expired without it being awarded within the bid validity period, including any extensions thereof allowable in terms of applicable legislation, the bid must be cancelled and published in the same media in which the original bid invitation appeared.

(vi) All bidders must be notified in writing of the cancellation of a bid.

(i) Samples

(i) The call for samples should be limited to where samples are called for in the bid documents, samples (marked with the bid and item number as well as the bidder's name and address) shall be delivered separately (to the bid) to the addressee mentioned in the bid documents by no later than the closing time of the bid.

(ii) Bids may not be included in parcels containing samples.

(iii) If samples are not submitted as required in the bid documents, then the part of the bid for which no sample is provided shall be declared invalid.

(iv) Samples shall be supplied by a bidder at his / her own expense and risk. Stellenbosch Municipality shall not be obliged to pay for such samples or compensate for the loss thereof, unless otherwise specified in the bid documents, and shall reserve the right to return such samples or to dispose of them at its own discretion.

(v) If a bid is accepted for the supply of goods according to a sample submitted by the bidder, that sample will become the contract sample. All goods/materials supplied shall comply in all respects to that contract sample.

(j) Bid Sum

(i) A bid will not necessarily be invalidated if the amount in words and the amount in figures do not correspond, in which case the amount in words shall be read out at the bid opening.

24. NEGOTIATIONS WITH PREFERRED BIDDERS

(1) The Accounting Officer may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provided that such negotiation –

(a) Does not allow any preferred bidder a second or unfair opportunity;

(b) Is not to the detriment of any other bidder; and

(c) Does not lead to a higher price than the bid as submitted.

(2) Minutes of such negotiations must be kept for record purposes.

25. TWO-STAGE BIDDING PROCESS

(1) A two-stage bidding process is allowed for –

(a) Large complex projects;

(b) Projects where it may be undesirable to prepare complete detailed technical specifications; or

(c) Long term projects with a duration period exceeding three years.

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

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

26. COMMITTEE SYSTEM FOR COMPETITIVE BIDS

(1) A committee system for competitive bids is hereby established, consisting of the following committees for each procurement or cluster of procurements as the Accounting Officer may determine as issued within the directive and stating the terms of reference of each bid committee –

(a) A Bid Specifications Committee;
(b) A Bid Evaluation Committee; and
(c) A Bid Adjudication Committee.

(2) The Accounting Officer appoints the members of each committee, taking into account section 117 of the Act; and

(3) The committee system must be consistent with –

(a) Paragraph 27, 28 and 29 of this Policy;

(b) Any other applicable legislation; and

(c) The Accounting Officer may apply the committee system to formal written price quotations.

27. BID SPECIFICATIONS COMMITTEES

(1) A Bid Specifications Committee must compile the specifications for each procurement of goods or services by the Stellenbosch Municipality.

(2) Specifications –

(a) Must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;

(b) Must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organisation, or an authority accredited or recognised by the South African National Accreditation System with which the equipment or material or workmanship should comply;

(c) Must, where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;

(d) May not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or 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 the preference points system set out in the Preferential Procurement Regulations 2017;

(g) Must be approved by the Accounting Officer prior to publication of the invitation for bids in terms of paragraph 22 of this Policy; and

(h) The Accounting Officer may sub-delegate the requirements in sub-paragraph 2(g) above to the Chairperson of the Bid Specifications Committee.

(3) A Bid Specifications 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 and / or internal specialist advisors.

(4) No person, advisor or corporate entity involved with the Bid Specifications Committee, or director of such a corporate entity, may bid for any resulting contracts.

28. BID EVALUATION COMMITTEES

(1) A Bid Evaluation Committee must –

(a) Evaluate bids in accordance with –

(i) The specifications for a specific procurement; and

(ii) The points system set out in terms of paragraph 27(2)(f);

(b) Evaluate each bidder’s ability to execute the contract;

(c) Check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears; and

(d) Submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.

(2) A Bid Evaluation Committee must as far as possible be composed of

(a) Officials from departments requiring the goods or services; and

(b) At least one supply chain management practitioner of the Stellenbosch Municipality.

(3) The relevant user department's official shall carry out a preliminary evaluation of all valid bids received and shall submit a bid evaluation report to the Bid Evaluation Committee for consideration.

(4) Any evaluation of a bid shall consider the bids received and shall note for inclusion in the evaluation report, a bidder –

(a) Whose bid does not comply with the provisions of paragraph 38 of this Policy;

(b) Whose bid does not comply with the provisions of paragraph 13 of this Policy;

(c) Whose bid is not in compliance with the specification;

(d) Whose bid is not in compliance with the terms and conditions of the bid documentation;

(e) Who is not registered and verified on the municipality's supplier database within seven days of the closing time for bids. In this regard bid documentation shall state that the responsibility for registration and verification rests solely with the bidder;

(f) Who, in the case of construction works acquisitions, does not comply with the requirements of the Construction Industry Development Board Act regarding registration of contractors. Verification of compliance with this requirement shall be by means of Stellenbosch Municipality's Supplier Database;

(g) Whose tax status are non-compliant and cannot be verified with the South African Revenue Services (SARS) certifying that the taxes of the bidder are in order or that suitable arrangements have been made with SARS; and

(h) Who fails to comply with any applicable Bargaining Council agreement.

(5) Bids shall be evaluated according to the following as applicable –

(i) Bid price (corrected if applicable and brought to a comparative level where necessary);

(ii) The unit rates and prices;

(iii) The bidder's ability to fulfil its obligations in terms of the bid documents;

(iv) Any qualifications to the bid;

(v) The bid ranking obtained in respect of Preferential Procurement as required

by Stellenbosch Municipality's Preferential Procurement Policy;

(vi) The financial standing of the bidder, including its ability to furnish the required institutional guarantee, where applicable; and

(vii) Any other criteria specified in the bid documents.

(6) The Bid Evaluation Committee shall check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears.

(7) The evaluation of bids on an equitable basis may be considered during the evaluation process.

(8) Additional information or clarification of bids may be called for if required.

(9) Alternative bids may be considered, provided that a bid free of qualifications and strictly in accordance with the bid documents is also submitted. Stellenbosch Municipality shall not be bound to consider alternative bids. The alternative offer is to be submitted with the main offer together with a schedule that compares the specifications of the bid documents with the alternative offer.

(10) If a bidder requests in writing, after the closing of bids, that his/her bid be withdrawn, then such a request may be considered and reported in the bid evaluation report.

(11) If, after bids have been brought to a comparative level, two or more scores equal total adjudication points, regulation 11(5) of the Preferential Procurement Regulations of 2017 will apply.

(12) If two or more bids are equal in all respects after applying regulation 11(5), the

Bid Evaluation Committee shall draw lots to decide on the recommendation for award.

(13) All disclosures of conflict of interest shall be considered by the Bid Evaluation Committee and if the conflict of interest is of a material nature, this shall be reported to the Bid Adjudication Committee.

(14) The relevant User Department in consultation with the SCM Unit may, before the bid is considered by the Bid Evaluation Committee, provide a reasonable opportunity to a bidder who made an innocent error and / or omission in their bid document, to correct the innocent error and / or omission, provided that such opportunity will not unduly prejudice any of the other bidders.

(15) In an event as described in sub-paragraph 14, bidders shall be afforded a minimum of two (2) working days up to a maximum of five (5) working days (in consultation with the relevant User Department or the Manager: Supply Chain Management) from time of notification to correct such innocent errors and / or omissions. If no response is received from such bidders at the deadline the bid may be deemed to be non-responsive.

29. BID ADJUDICATION COMMITTEES

(1) A Bid Adjudication Committee must –

(a) Consider the report and recommendations of the Bid Evaluation Committee; and

(b) Either –

(i) Depending on its delegations, make a final award or a recommendation to the Accounting Officer to make the final award; or

(ii) Make another recommendation to the Accounting Officer how to proceed with the relevant procurement.

(2) A Bid Adjudication Committee must consist of at least four senior managers of the Stellenbosch Municipality, which must include –

(a) 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;

(b) At least one senior supply chain management practitioner who is an official of the Stellenbosch Municipality; and

(c) A technical expert in the relevant field who is an official, if such an expert exists.

(3) The Accounting Officer must appoint the chairperson of the committee. If the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside at the meeting.

(4) Neither a member of a Bid Evaluation Committee, nor an advisor or person assisting the evaluation committee, may be a member of a Bid Adjudication Committee.

(a) If the Bid Adjudication Committee decides to award a bid other than the one recommended by the Bid Evaluation Committee, the Bid Adjudication Committee must prior to awarding the bid–

(i) Check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears; and

(ii) Notify the Accounting Officer.

(b) The Accounting Officer may –

(i) After due consideration of the reasons for the deviation, ratify or reject the decision of the Bid Adjudication Committee referred to in paragraph (a); and

(ii) If the decision of the Bid Adjudication Committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.

(6) The 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.

(7) The Accounting Officer must comply with section 114 of the Act within 10 working

days

30. PROCUREMENT OF BANKING SERVICES

(1) A contract for banking services –

(a) Must be procured through competitive bids;

(b) Must be consistent with section 7 or 85 of the Act; and

(c) May not be for a period of more than five years at a time.

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

(3) The closure date for the submission of bids may not be less than 60 days from the date on which the advertisement is placed in a newspaper in terms of paragraph 22(1). Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

31. PROCUREMENT OF IT RELATED GOODS OR SERVICES

(1) The 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.

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

(3) The Accounting Officer must notify SITA together with a motivation of the IT needs if –

(a) The transaction value of IT related goods or services required in any financial year will exceed R 50 million (VAT included); or

(b) The transaction value of a contract to be procured whether for one or more years exceeds R 50 million (VAT included).

(4) If SITA's 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.

32. PROCUREMENT OF GOODS AND SERVICES UNDER CONTRACTS SECURED BY OTHER ORGANS OF STATE

(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 validly procured;
(c) There are demonstrable discounts or benefits to do so; and

(d) That other organ of state and the provider has consented to such procurement in writing.

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

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

(3) If paragraph (1) is complied with, Stellenbosch Municipality must request at least the following documents from the relevant organ of state and service provider as referred to under subparagraph (1)(d) –

(a) A written declaration confirming –

(i) That the organ of state followed a competitive bidding process applicable to it;
(ii) That the organ of state has no reason to believe that the contract was not validly procured by itself;
(iii) That the organ of state evaluated the bid in terms of price and

BBBEE and if applicable, in terms of functionality or quality, and concluded that the bid(s) that were accepted were in all aspects the best compliant and respective bid(s); and

(iv) That the organ of state gives formal written permission to

Stellenbosch Municipality to procure goods and / or services from the approved bid(s) as accepted by the organ of state;

(b) Agenda and minutes of the organ of state's Bid Evaluation Committee at which the specific bid was evaluated;

(c) Agenda and minutes of the organ of state's Bid Adjudication Committee at which the bid was awarded or the approval of the
Accounting Officer of that organ of state who approved the bid;

(d) A copy of the successful bidder(s) bid submissions; and

(e) Written consent from the service provider.

(4) If Stellenbosch Municipality should enter into a contract secured by other organs of state, it shall enter into a contract with the successful bidder(s) on the same terms and conditions as accepted by the relevant organ of state.

(5) Contracts entered into by Stellenbosch Municipality under paragraph (4) shall not be deemed to be a deviation from the official procurement processes.

(6) The Accounting Officer shall report to Council on a monthly basis all contracts entered into in terms of paragraph (4) above.

33. PROCUREMENT OF GOODS NECESSITATING SPECIAL SAFETY ARRANGEMENTS

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

possible.

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

34. PROUDLY SA CAMPAIGN

(1) Stellenbosch Municipality supports the Proudly SA Campaign to the extent that, all things being equal, 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; and

(c) Thirdly: Suppliers and businesses within the Republic.

35. APPOINTMENT OF CONSULTANTS

(1) The Accounting Officer may procure consulting services provided that any Treasury guidelines in respect of consulting services, Construction Industry Development Board guidelines and Council's Cost-Containment Policy in respect of services related to the built environment and construction works are taken into account when such procurements are made.

(2) Consultancy services must be procured through competitive bids if –

(a) The value of the contract exceeds R 300,000 (VAT included); or

(b) The duration period of the contract exceeds one year.

(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.

(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.

(5) Where the estimated value of fees is less than R 300,000 and the duration of the appointment is less than one year, any National Treasury and, where applicable, Construction Industry Development Board guidelines in respect of consulting services are taken into account.

36. DEVIATION FROM AND RATIFICATION OF MINOR BREACHES OF PROCUREMENT PROCESSES

(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 (as per definition);

(ii) If such goods or services are produced or available from a single source or sole provider only (as per definition);

(iii) For the acquisition of special works of art or historical objects where specifications are difficult to compile;

(iv) Acquisition of animals for zoos and/or nature and game reserves; or

(v) In any other exceptional case where it is impractical or impossible to follow the official procurement processes; and

(b) Ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties, which are purely of a technical nature.

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

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

37. UNSOLICITED BIDS

(1) In accordance with section 113 of the Act there is no obligation to consider unsolicited bids received outside a normal bidding process.

(2) The Accounting Officer may decide in terms of section 113(2) of the Act to consider an unsolicited bid, only if –

(a) The product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;

(b) The product or service will be exceptionally beneficial to, or have exceptional cost advantages;

(c) The person who made the bid is the sole provider of the product or service; and

(d) The reasons for not going through the normal bidding processes are found to be sound by the Accounting Officer.

(3) If the Accounting Officer decides to consider an unsolicited bid that complies with subparagraph (2) of this policy, the decision must be made public in accordance with section 21A of the Municipal Systems Act, together with –

(a) Reasons as to why the bid should not be open to other competitors;

(b) An explanation of the potential benefits if the unsolicited bid were accepted; and

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

(4) The Accounting Officer must submit all written comments received pursuant to subparagraph (3), including any responses from the unsolicited bidder, to the National Treasury and the relevant provincial treasury for comment.

(5) The adjudication committee must consider the unsolicited bid and may award the bid or make a recommendation to the Accounting Officer, depending on its delegations.

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

(7) When considering the matter, the adjudication committee must take into account –

(a) Any comments submitted by the public; and

(b) Any written comments and recommendations of the National Treasury or the relevant provincial treasury.

(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.

(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.

38. COMBATING OF ABUSE OF SUPPLY CHAIN MANAGEMENT SYSTEM

(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 Stellenbosch 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, or trust or its trustees 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 Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).

(2) The Accounting Officer must inform the National Treasury and relevant provincial treasury in writing of any actions taken in terms of subparagraphs (1)(b)(ii), (e) or (f) of this Policy.

PART 3: LOGISTICS, DISPOSAL, RISK AND PERFORMANCE MANAGEMENT

39. LOGISTICS MANAGEMENT

(1) The Accounting Officer must establish and implement an effective system of logistics management, which must include –

(a) The monitoring of spending patterns on types or classes of goods and services incorporating, where practical, the coding of items to ensure that each item has a unique number;

(b) The setting of inventory levels that includes minimum and maximum levels and lead times wherever goods are placed in stock;

(c) The placing of manual or electronic orders for all acquisitions other than those from petty cash;

(d) Before payment is approved, certification by the responsible officer that the goods and services are received or rendered on time and is in accordance with the order, the general conditions of contract and specifications where applicable and that the price charged is as quoted in terms of a contract;

(e) Appropriate standards of internal control and warehouse management to ensure that goods placed in stores are secure and only used for the purpose for which they were purchased;

(f) Regular checking to ensure that all assets including official vehicles are properly managed, appropriately maintained and only used for official purposes; and

(g) Monitoring and review of the supply vendor performance to ensure compliance with specifications and contract conditions for particular goods or services.

40. DISPOSAL MANAGEMENT

(1) A supply chain management policy must provide for an effective system of disposal management for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the Act

(2) A supply chain management policy must specify the ways in which assets may be disposed of, including –

(a) Transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;

(b) Transferring the asset to another organ of state at market related value or, when appropriate, free of charge;

(c) Selling the asset; and

(d) Destroying the asset.

(3) The Accounting Officer must ensure that –

(a) Immovable property is sold only at market related prices except when the public interest or the plight of the poor demands otherwise;

(b) Movable assets are sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous, except when the public interest or the plight of the poor demands otherwise;

(c) Firearms are not sold or donated to any person or institution within or outside the Republic unless approved by the National Conventional Arms Control Committee;

(d) Immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise;

(e) All fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed;

(f) Where assets are traded in for other assets, the highest possible trade-in price is negotiated; and

(g) In the case of the free disposal of computer equipment, the provincial department of education is first approached to indicate within 30 days whether any of the local schools are interested in the equipment.

(4) All matters relating to the alienation of movable and immovable assets shall be dealt with in terms of Council's Asset Transfer Policy and the Asset Transfer Regulations, 2008 and Council's adopted Immovable Assets Policy.

(5) Notwithstanding the provisions of paragraph 3 hereof, the following statutory powers of Stellenbosch Council in respect of the alienation of immovable property, are reserved to be exercised by Council –

(a) To decide on reasonable grounds that an asset is not needed to provide the minimum level of basic municipal services; and

(b) To considered the fair market value of the asset and the economic and community value to be received in exchange for the asset, and

(6) Notwithstanding sub-paragraph (3)(b) & (g) above, the Accounting Officer must determine the most advantageous way for the disposal or letting of movable capital assets, i.e. written price quotations, competitive bidding, or auction, except when public interest or the plight of the poor demands otherwise.

(7) The Accounting Officer is hereby authorized to dispose of movable capital assets:

(8) (a) Up to a value of R 2 000 000.00
(b) Up to a value of R1 000 000.00 (CFO and BAC Members)

41. RISK MANAGEMENT

(1) The criteria for an effective risk management strategy within supply chain management system, should include the identification, consideration and avoidance of potential risks.

(2) Risk management should include –

(a) The identification of risks on a case-by-case basis;

(b) The allocation of risks to the party best suited to manage such risks;

(c) Acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;

(d) The management of risks in a pro-active manner and the provision of adequate cover for residual risks; and

(e) The assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.

42. PERFORMANCE MANAGEMENT

(1) The Accounting Officer must establish and implement an internal monitoring system in order to determine, on the basis of a retrospective analysis, whether the authorised supply chain management processes were followed and whether the objectives of this Policy were achieved. The retrospective analysis will link to the regulatory reports and submissions on the implementation of the supply chain management policy to the delegated authorities as prescribed in terms of supply chain management regulations and the delegation system of council, as amended from time to time.

PART 4: OTHER MATTERS

43. PROHIBITION ON AWARDS TO PERSONS WHOSE TAX MATTERS ARE NOT IN ORDER

(1) No award above R 30,000 (including VAT) may be made in terms of this Policy to a person whose tax matters have not been declared by the South African Revenue Service to be in order.

(2) Before making an award to a person the Accounting Officer must first check with SARS whether that person's tax matters are in order.

(3) If SARS does not respond within 7 days such person's tax matters may for purposes of subparagraph (1) be presumed to be in order.

(4) **Where the recommended bidder is not tax compliant on the date of award, the bidder should be notified of the non-compliant status and be requested to submit written proof of tax compliance from SARS within 7 working days from the date of award. The proof of tax compliance submitted by the bidder must be verified by the Municipality. The Municipality will reject a bid submitted by the bidder if such bidder fails to provide proof of tax compliance within the timeframe as set out in this sub-paragraph.**

44. PROHIBITION ON AWARDS TO PERSONS IN THE SERVICE OF THE STATE

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

(a) Who is in the service of the state;

(b) If that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state; or

(c) A person who is an advisor or consultant contracted with the Stellenbosch Municipality.

45. AWARDS TO CLOSE FAMILY MEMBERS OF PERSONS IN THE SERVICE OF THE STATE

(1) The Accounting Officer must ensure that the notes to the annual financial statements disclose particulars of any award of more than R 2,000 to a person who is a spouse, child or parent of a person in the service of the state, or has been in the service of the state in the previous twelve months, including –

(a) The name of that person;

(b) The capacity in which that person is in the service of the state; and

(c) The amount of the award.

46. ETHICAL STANDARDS

(1) A code of ethical standards as set out in [subparagraph (2) / the "National Treasury's code of conduct for supply chain management practitioners and other role players involved in supply chain management, which also include all other municipal officials not involved in supply chain management system"] is hereby established for municipal officials and other role players in the supply chain management system of the Stellenbosch Municipality in order to promote-

(a) Mutual trust and respect; and

(b) An environment where business can be conducted with integrity and in a fair and reasonable manner.

(2) A municipal official or other role player involved in the implementation of this Policy–

(a) Must treat all providers and potential providers equitably;

(b) May not use his or her position for private gain or to improperly benefit another person;

(c) May not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R 350;

(d) Notwithstanding subparagraph (2)(c), must declare to the Accounting Officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;

(e) Must declare to the Accounting Officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by, the Stellenbosch Municipality;

(f) Must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;

(g) Must be scrupulous in his or her use of property belonging to Stellenbosch Municipality;

(h) Must assist the Accounting Officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system; and

(i) Must report to the Accounting Officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including –

(i) Any alleged fraud, corruption, favouritism or unfair conduct;

(ii) Any alleged contravention of paragraph 47(1) of this Policy; or

(iii) Any alleged breach of this code of ethical standards.

(3) Declarations in terms of subparagraphs (2)(d) and (e) –

(a) Must be recorded in a register, which the Accounting Officer must keep for this purpose; and

(b) By the Accounting Officer must be made to the Executive Mayor of the municipality who must ensure that such declarations are recorded in the register.

(4) The National Treasury's code of conduct and Schedule 2 of the Systems Act must be adhered to by supply chain management practitioners and other role players involved in supply chain management.

(5) A breach of the code of ethics must be dealt with as follows –

(a) In the case of an employee, in terms of the disciplinary procedures of the Stellenbosch Municipality envisaged in section 67(1)(h) of the Municipal Systems Act;

(b) In the case a role player who is not an employee, through other appropriate means in recognition of the severity of the breach;

(c) In all cases, financial misconduct must be dealt with in terms of chapter 15 of the Act; and

(d) All cases of non-compliance to this Policy should be reported to the Accounting Officer**.**

47. INDUCEMENTS, REWARDS, GIFTS AND FAVOURS TO MUNICIPALITIES, OFFICIALS AND OTHER ROLE PLAYERS

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

(a) Any inducement or reward to the Stellenbosch Municipality for or in connection with the award of a contract; or

(b) Any reward, gift, favour or hospitality to –

(i) Any official; or

(ii) Any other role player involved in the implementation of this Policy.

(2) The Accounting Officer must promptly report any alleged contravention of subparagraph (1) to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the public sector.

(3) Subparagraph (1) does not apply to gifts less than R 350 in value.

48. SPONSORSHIPS

(1) The Accounting Officer must promptly disclose to the National Treasury and the relevant provincial treasury any sponsorship promised, offered or granted, whether directly or through a representative or intermediary, by any person who is –

(a) A provider or prospective provider of goods or services; or

(b) A recipient or prospective recipient of goods disposed or to be disposed.

49. OBJECTIONS AND COMPLAINTS

(1) Persons aggrieved by decisions or actions taken in the implementation of this supply chain management system, may lodge within 14 days of the decision or action, a written objection or complaint against the decision or action.

50. RESOLUTION OF DISPUTES, OBJECTIONS, COMPLAINTS AND QUERIES

(1) The Accounting Officer may, if deem so, appoint an independent and impartial person, not directly involved in the supply chain management processes –

(a) To assist in the resolution of disputes between the Stellenbosch

Municipality and other persons regarding –

(i) Any decisions or actions taken in the implementation of the supply chain management system; or

(ii) Any matter arising from a contract awarded in the course of the supply chain management system; or

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

(2) The Accounting Officer, or another official designated by the Accounting

Officer, is responsible for assisting the appointed person to perform his or her functions effectively.

(3) The person appointed should, if appointed –

(a) Strive to resolve promptly all disputes, objections, complaints or queries received; and

(b) Submit monthly reports to the Accounting Officer on all disputes, objections, complaints or queries received, attended to or resolved.

(4) A dispute, objection, complaint or query may be referred to the relevant provincial treasury if –

(a) The dispute, objection, complaint or query is not resolved within 60 days; or

(b) No response is forthcoming within 60 days.

(5) If the provincial treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.

(6) This paragraph must not be read as affecting a person’s rights to approach a court at

any time.

51. CONTRACTS PROVIDING FOR COMPENSATION BASED ON TURNOVER

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

(a) A cap on the compensation payable to the service provider; and

(b) That such compensation must be performance based.

52 CONTRACTS HAVING BUDGETARY IMPLICATIONS BEYOND THREE FINANCIAL YEARS

(1) Stellenbosch Municipality may not enter into any contract that will impose financial obligations beyond the three years covered in the annual budget for that financial year, unless the requirements of Section 33 of the Act have been fully complied with.

53. INCREASE / EXTENSION IN APPROVED CONTRACT SUM / PERIOD

(1) Any increase and / or extension in the approved contract sum that may become necessary as a result of exceptional circumstances during the contract period must be approved by the appropriate bid committees prior to implementation.

(2) Contracts may be expanded or varied by not more than 20% of the original contract value for construction related goods, services and/or infrastructure projects and 15% for all other goods and/or services.

(3) Any expansion or variation in excess of these thresholds as stated under subparagraph (2) must be dealt with in terms of the provisions of section 116(3) of the Act which will be regarded as an amendment of a contract.

(4) Where community participation has been a part of the project, the community must be advised of the proposed increase and be invited to provide written comment within a minimum period of seven (7) days.

54. RIGHT OF APPEAL

(1) In terms of Section 62 of the Municipal Systems Act (Act 32 of 2000 as amended), a person whose rights are affected by a decision taken by the Municipality, in terms of a delegated authority, in the implementation of its supply chain management system, may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of the notification of the decision.

(2) Notification of the decision in terms of sub-paragraph 55(1) of this policy must state that any appeal must be submitted in writing to the Municipal Manager and must at least contain the following information:

(a) The reasons and / or grounds for the appeal;

(b) The way in which the appellants rights have been affected; and

(c) The remedy sought by the appellant.

(3) No award, where a competitive bidding process was followed, shall be formally implemented until a ruling has been made on any appeal/s received. The Municipal Manager may however grant approval for the implementation of bid awards prior to the conclusion of the appeal process in respect of bids which in his / her opinion are deemed as urgent.

(4) The Appeal Authority will provide the service provider with copies of the Bid Committee minutes applicable to the specific tender on request within the 21 days period, of the service provider to enable him/her to motivate his/her appeal. Should the service provider request other documentation a PAIA application should be submitted.

(5) The appeal authority must consider the appeal and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.

55. NOTIFICATION OF BID DECISIONS

(1) The successful and unsuccessful bidders shall be notified in writing by the Supply Chain Management once a bid has been accepted.

(2) The bidders shall, in addition, be advised of the 21 day appeal period in terms of section 62 of the Municipal Systems Act and be notified that no rights will accrue to him / her until the bid is formally accepted in writing.

(3) Once the 21 day appeal period has lapsed and a decision has been made by the appeal authority, the appellant and the service provider who the tender was initially awarded will be notified in writing of the outcome thereof by the Supply Chain Management.

(4) Every notification of decision shall be faxed or sent via electronic mail and ordinary mail to the address chosen by the bidder, with a copy of proof of transmission kept for record purposes, or shall be delivered by hand, in which case acknowledgement of receipt must be signed and dated on a copy of such notification to be kept for record purposes.

56. UNSUCCESSFUL BIDDER DEBRIEFING

(1) The Municipality will offer an unsuccessful bidder debriefing service to unsuccessful bidders upon request.

(2) During the debriefing unsuccessful bidders will be informed of how their proposal scored against required criteria and obtain comments from the evaluation team on their bid.

(3) The debriefing should be a positive and constructive experience that explains how bidders can improve future submissions.

(4) The debriefing is an opportunity for unsuccessful bidders to –

(a) Learn more about the procurement and evaluation process in an informal setting;

(b) Find out how their proposal scored against the required criteria;

(c) Hear the overall comments from the evaluation team on their bid; and

(d) Gather information on how future submissions may be improved.

(5) The debriefing is not part of the Supply Chain complaint or appeal process in terms of paragraph 49 or 55 of this Policy.

(6) The debriefing is not a legal proceeding and no legal representation is permitted at the debriefing session.

(7) At the debriefing session the unsuccessful bid is not compared to other bids, nor will information be provided to the unsuccessful bidder about other bids.

(8) In scheduling a bidder's debriefings session upon the request of the unsuccessful bidder, the municipality must –

(a) Confirm the date and time of the debriefing session in writing;

(b) Conduct separate debriefings with each unsuccessful bidder;

(c) Ensure that proper minutes are kept of each debriefing session; and

(d) Retain all correspondence and documentation relevant to the debriefing session as part of the procurement documentation.

(9) In conducting bidders' debriefings, the municipality may –

(a) Provide a general overview of the evaluation process set out in the bid documents;

(b) Discuss the strengths and weaknesses of the bidder's submission in relation to the specific evaluation criteria and the bidders evaluated score;

(c) Provide suggestions on how the supplier may improve future submissions; and

(d) Address specific questions and issues raised by the supplier in relation to their submission.

57. THE SUSPENSION OF SERVICE PROVIDERS FOR POOR PERFORMANCE AND OTHER BREACHES

(1) Any failure to fulfil the deliverables in line with the contract or service levels constitutes a material breach or poor performance which will result in the termination of the contract and/or sanctions will be imposed in the form of suspension from the database.

(2) Such sanctions will have variation in the periods of suspension based on the gravity of the breach.

(3) The municipality must consider imposing following sanctions, subject to sub-clause (2) above:

a) 6 months for non-declarations of relative/spouse within the municipality;

b) 12 months for misleading information provided to the municipality; and

c) 24 months for certain or above a certain threshold value based.

d) All the above will be applicable based on the gravity of the poor performance and will be analysed on a case by case basis co-ordinated by the Contract Management Section.

58. CONDONATION OF POLICY CONTRAVENTIONS

(1) Council may condone a contravention in terms of this Policy, provided that such contravention is also not a contravention of the Act or the Municipal Supply Chain Management Regulations, 2005

(2) Any expenditure relating to such condonation by Council in terms of this Policy, will not constitute irregular expenditure as contemplated under section 1 of the Act.

(3) Contraventions of the Act relating to supply chain management or the Municipal Supply Chain Management Regulations, 2005 must be dealt with in terms of section 32 and section 170 of the Act.

59. GENERAL

Depending on the ability of Stellenbosch Municipality to implement the content of the Framework for Infrastructure Delivery and Procurement Management, only those parts that are practically implementable will be applied. The proper assessments will be done accordingly.

60 CANCELATION OF TENDERS

The municipality may, prior to the award of a tender, cancel the tender if:

1) Due to changed circumstances, there is no longer a need for the goods or services requested; or

2) Funds are no longer available to cover the total envisaged expenditure; or

3) No acceptable tenders are received. [If all bids received are rejected, the municipality must review the reasons justifying the rejection and consider making revisions to the specific conditions of contract, design and specifications, scope of the contract, or a combination of these, before inviting new bids]; or

4) Due to material irregularities in the tender process. If there are material irregularities that are committed during the tender process such that it renders the entire process unfair, the municipality may cancel the tender process and start afresh.

61 NEGOTIATING A FAIR MARKET RELATED PRICE

1) Tender documents must include a condition stating clearly that the award of the tender may be subject to price negotiation with the preferred tenderers.

2) The Bid Evaluation Committee may indicate in its report to the Bid Adjudication Committee that based on the evaluation the prices offered are above market related prices after factoring the premium to be paid in terms of the 80/20 or 90/10 preference point system and the findings of an objective market analysis conducted.

3) When the Bid Adjudication Committee considers the Evaluation report it must express itself on whether it agrees or disagrees with the Bid Evaluation Committee; if it disagrees, the decision must be recorded and reasons provided as part of the Bid Adjudication Committee report.

4) Where the Bid Adjudication Committee agrees with the BEC or on its own assessment is of the view that the tenderer is charging prices higher than the fair market price, the Bid Adjudication Committee may request from the AO/AA or delegated authority to subject the tender to price negotiations with the three preferred tenderers scoring the highest points (from first highest to third highest) before award is made.

5) Upon approval to negotiate, the AO/AA or delegated authority must appoint a cross functional negotiation team, with one member appointed to be team leader.

6) The negotiating team leader must ensure that all members of the negotiating team are clear on the negotiation strategy and desired outcomes.

7) Negotiations must be fair and objective and may not be used to unfairly prejudice the highest scoring / preferred tenderer or any other tenderer.

8) Members of the negotiating team must behave ethically at all material times during and after negotiations, may not divulge any information related to negotiations to third parties without prior consent from the accounting officer/ authority.

9) All negotiations must be officially closed with a decision communicated and agreed between parties before moving to negotiate with the next preferred tenderer.

10) Negotiating;
    (a) May not allow any preferred tenderer a second or unfair opportunity
    (b) Is not to the detriment of any other tenderer
    (c) Does not lead to higher price than the bid as submitted.

62 SHORT TITLE

(1) This policy is called the Stellenbosch Municipality Supply Chain Management Policy.