

# CAPRICORN DISTRICT MUNICIPALITY



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**EXTRACT FROM THE MINUTES OF COUNCIL MEETING HELD ON 16  
FEBRUARY 2023**

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**ITEM**  
**SC 07/2022 – 2023/5.1      Reviewed Supply Chain Management Policy**

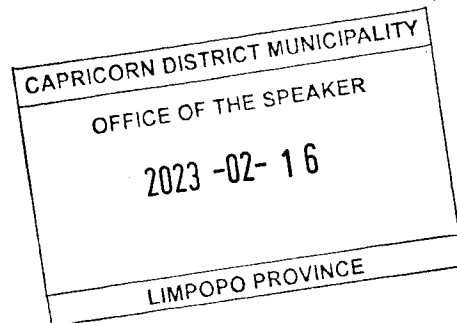
**RESOLUTION**  
*Resolved,* That the reviewed Supply Chain Management Policy be approved.

**CERTIFIED AS A TRUE EXTRACT FROM THE MINUTES**

A handwritten signature in black ink, appearing to read "Maseka Pheedi", written over a horizontal line.

**CLLR MASEKA PHEEDI**  
**SPEAKER**

**2023/02/16**  
**DATE**





# CAPRICORN

## DISTRICT MUNICIPALITY

### SUBMISSION

Date: 13 February 2023

Memo Ref: 12/3/3

**TO: COUNCIL**  
**DATE: 16 FEBRUARY 2023**  
**FROM: MAYORAL COMMITTEE**  
**SUBJECT: FINAL DRAFT SUPPLY CHAIN MANAGEMENT POLICY- PREFERENTIAL PROCUREMENT**

#### 1. PURPOSE

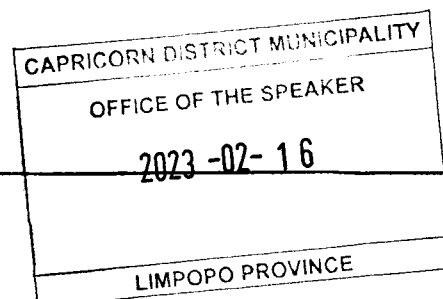
To request Council to consider the final draft amendment Supply Chain Management (SCM) Policy in line with the new Preferential Procurement Regulations 2022 (PPR 2022), that was subjected to public participation.

#### 2. BACKGROUND

The Preferential Procurement Regulations, 2017 under regulations 3, 4 and 9 were successfully challenged through a court process that started in the Pretoria High Court and ended in the Constitutional Court.

##### The judgement overview:

- a. Regulations 4 and 9 were an important part of achieving Section 217(2) of the Constitution,
- b. the majority judgement felt that it was not necessary or expedient for the Minister to prescribe the impugned regulations.
- c. Section 2(1) of the Act vested the power to determine preferential procurement policy with an organ of state.



d. what the Minister did by prescribing Regulations 4 and 9 amounted to the determination of preferential procurement policy.

The SCM Policy was reviewed in order to comply with the Government Gazette no 47452, dated 4 November 2022 and to align it with the PPR 2022. The engagement meeting with Provincial Treasury and all Municipalities in the Province was held on the 06 January 2023 and advised that as of the 16 January 2023 the Municipality must not procure any goods and services until the new Policy shall have been adopted.

**i) The specific goals presented to Council on the 23<sup>rd</sup> January 2023:**

- A maximum of 20 points may be awarded to a tenderer for the specific goal specified for the tender.

<b>Preference points for specific goal:</b>	<b>Means of verification:</b>	<b>Number of points:</b>
Owned by black people	Identity document	4
Owned by people who are women	Identity document	4
Owned by black people who are youth	Identity document	4
Owned by black people with disabilities	Medical report indicating disability	4
Owned by black people living in rural areas	Letter from traditional authority	4

The 90/10 preference point system for acquisition/ income-generating contracts of goods or services with Rand value above R50 million and the following formula must be used to calculate the points out 90 for price in respect of an invitation for tender with a Rand value above R50 million, inclusive of all applicable taxes:

- A maximum of 10 points may be awarded to a tenderer for the specific goal specified for the tender.

<b>Preference points for specific goal:</b>	<b>Means of verification:</b>	<b>Number of points:</b>
Owned by black people	Identity document	2
Owned by black people who are women	Identity document	2

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Owned by black people who are youth	Identity document	2
Owned by black people with disabilities	Medical report indicating disability	2
Owned by black people living in rural areas	Letter from traditional authority	2

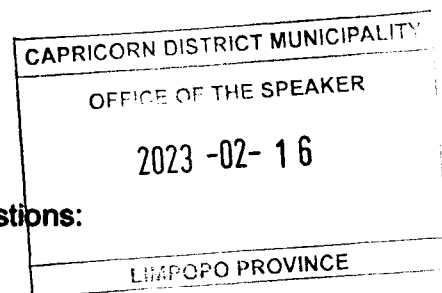
In order to fast track the SCM Policy review to avoid extended impact on service delivery, the following process plan was proposed.

#### Engagements with stakeholders and Role Players

Stakeholder/ players	Role	Progress	Date
Management Meeting		Completed	09 January 2023
Executive Meeting	Management	Completed	18 January 2023
Finance Portfolio Meeting		Completed	19 January 2023
Mayoral Committee Meeting		Completed	20 January 2023
Special Council Meeting		Completed	23 January 2023
Public Participations (Issuing of notice for public to provide comments)		Completed	24 January 2023 to 06 February 2023

#### ii) Specific goals as per Public Participation/ Public Comments:

The Municipality embarked on public participation for 14 days through the municipal website and local newspapers for public comments on the draft reviewed SCM Policy (Preferential Procurement).



The public commented on the specific goals and below are the suggestions:

Preference point for 80/20 and 90/10 comments:

1. Change from owned by black people to African people.
2. Change from owned by black people who are women to only women.

3. Change from black people who are youth to only Youth.
4. Change from black people with disabilities to people with disability.
5. Remove black people living in rural areas to avoid disadvantaging those who reside in town, and in townships.
6. The allocation of points change from 4 or 2 points for each specific goal to 0-20 or 0-10 for each.

Refer to comments attached letters received from the public participation process.

Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000) paragraph 3: "An organ of state must, in the tender documents, stipulate—  
 (a) the applicable preference point system as envisaged in regulations 4, 5, 6 or 7;  
 (b) the specific goal in the invitation to submit the tender for which a point may be awarded, and the number of points that will be awarded to each goal, and proof of the claim for such goal.

**Example:**

A range of 0- 20 points may be awarded to a tenderer for the specific goal specified for per tender.

Preference points for specific goal:	Means of verification:
African	Identity document
Women	Identity document
Youth	Identity document
People with disability	Medical report indicating disability

A range of 0- 10 points may be awarded to a tenderer for the specific goal specified for the tender.

Preference points for specific goal:	Means of verification:
African	Identity document
Women	Identity document
Youth	Identity document

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People with disability	Medical report indicating disability
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**iii) Provisions of the amended regulation**

**The following are the key aspects that scrapped in the new regulation on the preferential procurement 2022:**

- 1.1 Scrapping of Black Economic Empowerment and
- 1.2 Local content production.
- 1.3 Subcontracting of 30% of contracts above R30 million
- 1.4 Definitions, etc

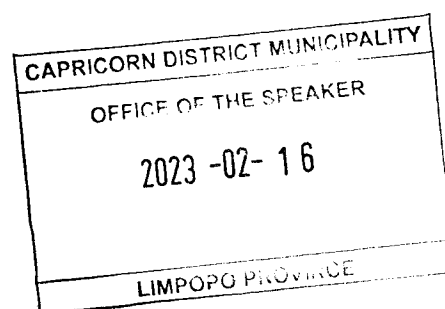
**iv) The following are the new aspects that are included in the SCM Policy:**

(1) The Municipality, in the tender documents must, stipulate—

- (a) the applicable preference point system as envisaged in regulations 4, 5, 6 or 7;
- (b) the **specific goal** in the invitation to submit the tender for which a point may be awarded, and the number of points that will be awarded to each goal, and proof of the claim for such goal.

(2) If it is unclear whether the 80/20 or 90/10 preference point system applies, The Municipality must, in the tender documents, stipulate in the case of—

- (a) an **invitation for tender for income-generating contracts**, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or
- (b) **any other invitation for tender**, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system.



**Specific goals as per Executive Management and Finance Portfolio Committee on the 13<sup>th</sup> February 2023:**

- A maximum of 20 points may be awarded to a tenderer for the specific goal specified for the tender.

<b>Preference points for specific goal:</b>	<b>Means of verification:</b>	<b>Number of points:</b>
Owned by black South African people (Male or female)	Identity document	5
Owned by people who are women (of all races)	Identity document	5
Owned by black South African people who are youth	Identity document	5
Owned by people with disabilities	Medical report indicating disability	5

The 90/10 preference point system for acquisition/ income-generating contracts of goods or services with Rand value above R50 million and the following formula must be used to calculate the points out 90 for price in respect of an invitation for tender with a Rand value above R50 million, inclusive of all applicable taxes:

- A maximum of 10 points may be awarded to a tenderer for the specific goal specified for the tender.

<b>Preference points for specific goal:</b>	<b>Means of verification:</b>	<b>Number of points:</b>
Owned by black South African person (Male or female)	Identity document	3
Owned by people who are women (of all races)	Identity document	3
Owned by black South African people who are youth	Identity document	2
Owned by black people with disabilities	Medical report indicating disability	2

In conclusion of public participation, the FINAL updated draft policy should serve in the following committees for FINAL adoption and approval:

<b>Meeting</b>	<b>Stage</b>	<b>Proposed date</b>
Executive Management	Completed	13 February 2023
Special Finance Portfolio	Completed	13 February 2023

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Special Mayoral Committee	Completed	14 February 2023
Approval by Special Council	Pending	16 February 2023

### 3. FINANCIAL IMPLICATIONS


The cost for publication of the notice was incurred from the public participation vote.

### 4. LEGAL IMPLICATIONS

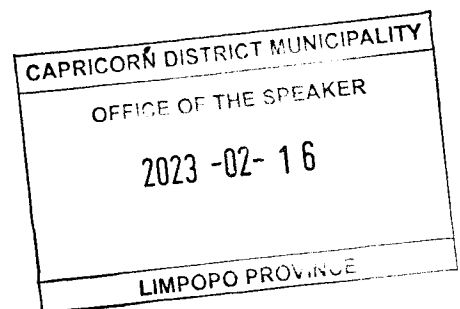
- I. The new PPR 2022 repeal the 2017 Regulations in their entirety, including any designation circulars or instructions saved under the 2017 Regulations. These regulations contain the short title and proposes that the regulations take effect on 16 January 2023.
- II. The Supply Chain Policy is aligned to the provisions of the new preferential procurement regulations and supply chain regulations.
- III. The Supply Chain Policy is in compliance with the provisions of the Constitution of the Republic of South Africa, 1996 and other applicable legislations including the Contract Management Policy of Capricorn District Municipality.

### 5. RECOMMENDATIONS

- 5.1 That Council notes that the draft SCM Policy on preferential procurement was subjected to public participation for 14 days and received comments from the public.
- 5.2. That Council approves the new SCM Policy based on the Preferential Procurement Regulations 2022 and the public participation comments.

  
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**CLLR MAMEDUPI TEFFO**  
**EXECUTIVE MAYOR**

2023/02/13  
**DATE**





**SUPPLY CHAIN MANAGEMENT POLICY**



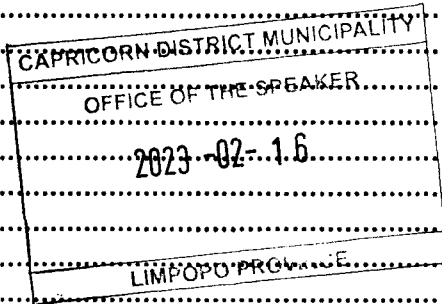
**CAPRICORN DISTRICT MUNICIPALITY**

<b>Policy Number:</b>	<b>Date of Approval:</b>
<b>Date of Effect:</b>	<b>Date of Approval:</b>

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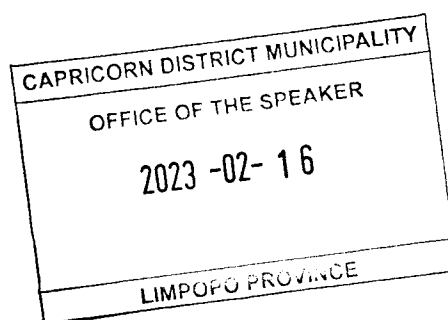
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## DEFINITIONS

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 –

**Acceptable Bid**”- means any bid or quotation which, in all respects, complies with the specification and conditions as set out in the procurement document, upon which a final award will be made in writing;

**“Accounting Officer”** means a municipal official appointed in terms of section 60 of Municipal Finance Management Act, 2003 or the person who has been appointed to perform the functions in the absence of the accounting officer or during a vacancy;

**“Closing time”** - means the day and time as specified in the bid documents for the purpose of receipts by Capricorn District Municipality.

**“Black people”** means is a generic term which means Africans, Coloureds and Indians who are citizens of the Republic of South Africa by birth or descent; or who became citizens of the Republic of South Africa by naturalisation before 27 April 1994 or on or after the 27 April 1994 and who would have been entitled to acquire citizenship by naturalisation prior to that date.

**“Bid”** – means a written offer in a prescribed or stipulated form in response and compliance to the invitation by the Capricorn District Municipality's requirements and further in compliance with the specifications and conditions of the bid as set out in the procurement document as part of competitive bidding process.

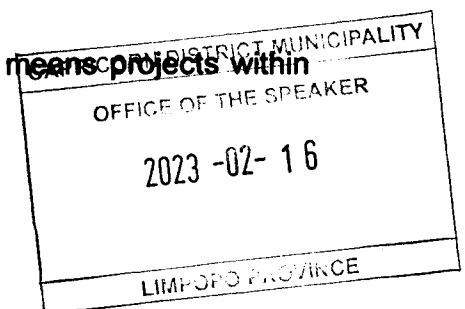
**“Bidder”** means any legal person/entity submitting a bid. This refers to service providers invited by the municipality for the required service.

**“Bid Committees”** – refers to the Specification Committee, Bid Evaluation Committee and Bid Adjudication Committee. The Bid Adjudication Committee is responsible for adjudicating the award of bids on the basis of the recommendation or recommendations as submitted by the Bid Evaluation Committee.

**“Categories of projects”** in relation to this policy means projects within the following price range:

- a) Micro : 150 001 – 300 000
- b) Small : 300 001 – 750 000
- c) Medium : 750 001 – 1 500 000
- d) Large A : 1 500 001 – 2 500 000
- e) Large B : 2 500 001

**“Competitive bid”** means a bid in terms of a competitive bidding process;



**“Competitive bidding”** – means competitive bidding process as envisaged by the SCM Regulations; or competitive bidding process.

**“Consultant”** means a professional service provider which is a partnership, sole trader or legal entity which provides on a fiduciary basis, labour and knowledge-based expertise which is applied with reasonable skill, care and diligence, and adheres to statutory labour practices; which can be a natural or juristic person who or which, as an independent contractor, provides any of the following services on an ad hoc basis to the Capricorn District Municipality against remuneration:

- a) Expert advice;
- b) Drafting of proposals for the execution of specific tasks; and/or
- c) Execution of specific tasks, which are of a technical or intellectual nature;

**“Contract”** means the agreement that results from the acceptance of a quotation or bid by the Municipality or agreement which is concluded when Capricorn District Municipality accepts in writing a bid or a quote submitted by a service provider;

**“Council”** means the Municipal Council of Capricorn District Municipality, its legal successor in title and its delegates;

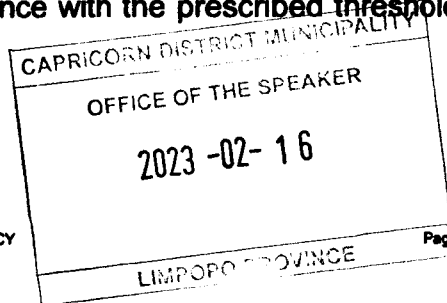
**“Delegation”** means the issuing of a written authorization by a delegating authority to a delegated body to act in his stead, and in relation to a sub-delegation of a power, means that delegated body;

**“Disability”** means a permanent impairment of a physical, intellectual or sensory function which results in a restricted, or lack of ability to perform an activity in the manner or range considered to be normal;

**“Equity ownership”** means the percentage of an enterprise or business owned by individuals or in respect of a private company, the percentage of a company’s shares that are owned by the individuals, who are actively involved in the management of the enterprise or business and exercise control over the enterprise or business, commensurate with their degree of ownership at the closing date of the bid; as envisaged by the Supply Chain Management Policy Framework;

**“Final award”** in relation to bids or quotations submitted for a contract, means the final decision on which bid or quote to accept,

**“Formal written price quotation”** means a written offer made on the prescribed forms by a supplier or service provider in response to a request from the Municipality and in compliance with the prescribed thresholds in this policy;



**“Functionality”** means the suitability of a proposal, design or product for the use for which it is intended, also referred to as “Quality.”

**“Goods”** means those raw material or commodities which are available for general sale;

**“HDI”** means a historically disadvantaged individual, who is a South African citizen, previously disadvantaged during the apartheid regime namely:

- a) Females of all races
- b) Black males and females
- c) People with disability and
- d) Youth

**“Informal price quotation,”** means a written offer made by a person, business or enterprise in response to a request from the Municipality;

**“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) an executive member of the accounting authority of any national or provincial public entity; or
- f) an employee of Parliament or a provincial legislature;

**“List of accredited prospective providers”** means the list of accredited prospective providers which the municipality must keep in terms of paragraph 3.2.5 of this policy;

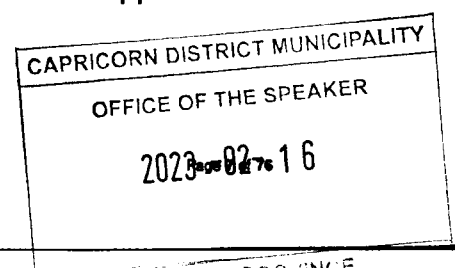
**“Long term contract”** means a contract with a duration period exceeding one year;

**“Municipality”** means Capricorn District Municipality, and when referred to as-

- a) an entity, means a municipality as described in section 2 of the Municipal System's Act; and
- b) a geographic area, means the municipal area determined in terms of Local Government: Municipal Demarcation Act, 1998;

**“Other applicable legislation”** means any other legislation applicable to municipal supply chain management, including –

- a) Preferential Procurement Regulation, 2022



- b) The Reconstruction and Development Programme as published in Government Gazette No. 16085 dated 23 November 1994.
- c) the Construction Industry Development Board Act, 2000 (Act No.38 of 2000);

**"POPIA"** means the Protection of Personal Information Act, (Act No. 4 of 2013).

**"Procurement"** means a process of preparing, negotiating and concluding a contract, whether verbally or in writing, which involve the acquiring of goods, services, engineering and construction works or any combination thereof, or the acquiring of capital assets or any rights in respect of the above, by means of a purchase, lease or donation;

**"Quotation"** means a written offer which not submitted in the form of a bid document prescribed by the Municipality, but is none-the less subject to a specification, conditions of purchase and any schedule and annexure;

**"Responsive bid"** means a bid which conforms to all the terms, conditions and specifications contained in the bid documentation without material deviation or qualification;

**"Services"** means the provision of labour and work carried out by hand, or with the assistance of plant and equipment, including input, as necessary, of knowledge based expertise;

**"Service provider"** means a current or potential supplier, manufacturer, contractor, vendor, agent or consultant;

**"Supply Chain Practitioner"** mean an employee of Capricorn District Municipality required to work with the procurement related work including members of the Bid Evaluation Committee, Bid Adjudication Committee and Bid Specification Committee.

**"TOR"** means the Terms of Reference.

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

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

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

**"Youth"** means any person who is thirty-five years old and below.

All amounts/limits stated in this document shall be deemed to be inclusive of Value Added Tax (VAT).

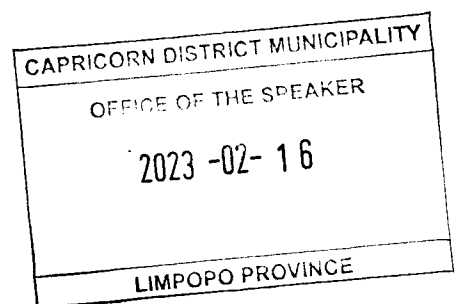


## NOTES

Reference, in this document, to one gender shall apply equally to the other gender unless the contrary is clearly and explicitly indicated.

The term "competitive bid" has replaced the term "tender" in all the applicable legislation. The term "tender," which refers to both procurement and asset disposal, has been in use for many years and will remain in popular usage for some time to come.

The terms "competitive bid" and "tender" will thus be taken to have the same meaning in all documentation used by Capricorn District Municipality pertaining to supply chain management.



## **POLICY STATEMENT**

### **1.1 Introduction**

Section 217 of the Constitution of the Republic of South Africa (RSA), 1996 stipulates that an organ of state in national, provincial or local sphere of government, or any other institution identified in national legislation, contracts for goods or services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost effective.

Section 111 of the Municipal Finance Management Act No. 56 of 2003, mandates that all municipalities and municipal entities to have and implement a supply chain management policy, which gives effect to the development of the supply chain management.

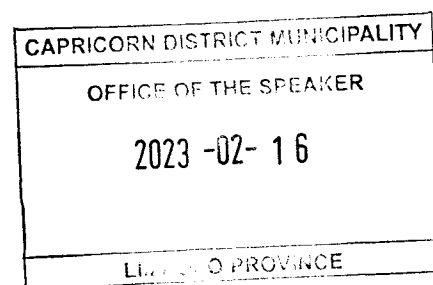
### **1.2 Goal**

The goal of this Policy is to provide a framework to ensure a sound and accountable system of supply chain management within the **Capricorn District Municipality**, whilst promoting the following five pillars of procurement:

- a) Value for money
- b) Open and effective competition
- c) Ethics and fair dealing
- d) Accounting and reporting
- e) Equity

Capricorn District Municipality intends to further use the supply chain management policy as a tool to achieve the following;

- a) stimulate economic growth;
- b) stimulate socio economic development;
- c) enhance quality services;
- d) empower local communities;
- e) create opportunities for local SMME's;
- f) eliminate and counter any form of corruption; and



### **1.3 Objectives**

The objectives of this Policy are:

- a) to give effect to the provisions of section 217 of the Constitution of the Republic of South Africa, 1996 by implementing a system that is fair, equitable, transparent, competitive and cost effective;
- b) to comply with all applicable provisions of the Municipal Finance Management Act including the Municipal Supply Chain Management Regulations published under GN868 in Government Gazette 27636 30 May 2005 and any National Treasury Guidelines issued in terms of

the MFMA;

- c) to ensure consistency with all other applicable legislation and any regulations pertaining thereto, including:
- i) The Constitution of the Republic of South Africa, 1996;
  - ii) The Reconstruction and Development Programme as published in Government Gazette No. 16085 dated 23 November 1994.
  - iii) The Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2000), the regulations and all amendments;
  - iv) The Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003), the regulations and all amendments;
  - v) The Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), the regulations and all amendments;
  - vi) The Construction Industry and Development Board Act, 2000 (Act No. 38 of 2000), the regulations and all amendments;
  - vii) The Prevention and Combating of Corrupt Activities Act, 2004, (Act No. 12 of 2004);
  - viii) The Competition Act, 1998 (Act No. 89 of 1998);
  - ix) The State Information Technology Agency, 1998, (Act No. 88 of 1998 as amended by Act No. 38 of 2002);
  - x) The National Small Business Act, 1996 (Act No. 102 of 1996);
  - xi) Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000);
  - xii) Protected Disclosures Act, 2000 (Act No. 26 of 2000);
  - xiii) Treasury regulations;
  - xiv) National Treasury Circulars and Letters;
  - xv) Supply Chain Management: A guide to Accounting Officers and Accounting Authorities; and
  - xvi) The King III Report on Corporate Governance for South Africa.

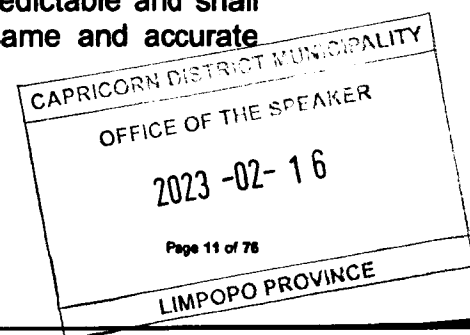
This Policy will also strive to ensure that the objectives for uniformity in supply chain management systems between organs of state, in all spheres, is not undermined and that consistency with national economic policy on the promotion of investments and doing business with the public sector is maintained.

## **1.4 Core Principles**

In order to achieve value for money, Capricorn District Municipality will base procurement outcomes around core principles of government procurement. As a result Capricorn District Municipality is committed to:

### **1.4.1 Transparency**

The procurement process shall be opened and predictable and shall afford prospective bidders timely access to the same and accurate information.



#### **1.4.2 Equal treatment**

All bidders and service providers shall be treated equally throughout the whole procurement process and shall be given access to the same information considering and without contravening the provisions of the POPIA Act.

#### **1.4.3 Effectiveness**

The municipality shall strive to standardise and simplify procedures where appropriate to enhance the SCM system's effectiveness and shall carry out its SCM processes as cost-effectively and efficiently as possible. The municipality shall strive to build relationships with service providers, shall ensure good working practices and shall encourage innovative solutions for providers.

#### **1.4.4 Competitiveness**

The municipality shall satisfy its requirements through competition unless there are justifiable reasons to the contrary.

#### **1.4.5 Fairness**

All bidders shall be dealt with fairly and without unfair discrimination. Unnecessary constraints shall not be imposed on bidders/contractors and commercial confidentiality shall be protected.

#### **1.4.6 Ethics**

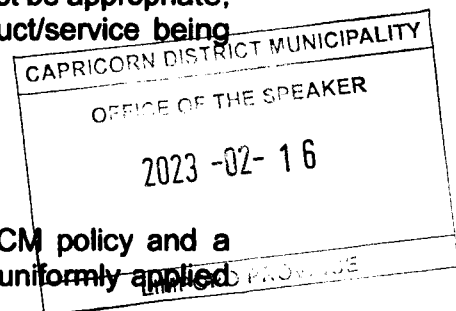
All bidders shall be treated equally whilst promoting certain empowerment objectives, all stakeholders shall conduct business and themselves professionally, fairly, reasonably and with integrity, all interest shall be disclosed, and all breaches shall be reported.

#### **1.4.7 Proportionality**

The product/service requirements stipulated in the specification /TOR and the qualification requirements attached thereto must be appropriate, necessary and in reasonable proportion to the product/service being procured.

#### **1.4.8 Uniform application**

The municipality shall ensure the application of a SCM policy and a streamlined SCM process and documentation that is uniformly applied.



by the municipality, all things being equal. The procurement processes shall be simple and adaptable to advances in modern technology to ensure efficiency and effectiveness.

#### **1.4.9 Responsibility**

Each supply chain practitioner shall be responsible for their decisions and actions related to their SCM responsibilities, the SCM process as well as in the implementation of concluded contracts. The municipality shall develop a system, when warranted by circumstances, to investigate and hold liable both employees and relevant private parties dealing with municipality, for their decisions and actions relative to their procurement responsibilities, the procurement process as well as in the implementation of concluded contracts.

#### **1.4.10 Openness**

The municipality shall ensure a procurement process and a subsequent contract award and implementation according to the predetermined specifications in line with the best practice procurement principles.

#### **1.4.11 Value for money**

The municipality shall achieve value for money through the optimum combination of whole life cost and quality (or fitness for purpose) to meet the customer's requirements while maximising efficiency, effectiveness and flexibility.

### **1.5 Oversight**

The Municipal Finance Management Act No. 56 of 2003, Section 117 prohibits a Municipal Councillor from being a member of a bid committee or any other committee evaluating or approving quotations or bids nor may a Municipal Councillor attend any such meeting as an observer.

Council, however, has an oversight role to ensure that the Municipality implements the Municipal Supply Chain Management policy and other relevant legislations.

For the purposes of such oversight, the Municipal Manager shall, within 10 (ten) days of the end of each quarter, submit a report on the implementation of this Policy to the Executive Mayor and, within 30 days of the end of each financial year, shall submit a similar such report to Council.

In addition, if any serious problem arises in relation to the implementation of this Policy, the Municipal Manager shall immediately report to Council

