

MATJHABENG LOCAL MUNICIPALITY



FINAL DRAFT PREFERENTIAL PROCUREMENT REGULATION POLICY 2026/2027

PREFERENTIAL PROCUREMENT REGULATION POLICY

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1. Introduction and purpose

The Preferential Procurement Policy Framework Act 5 of 2000 requires an organ of state to determine its Preferential Procurement Policy and to implement it within the prescribed framework. The purpose of this policy is therefore to give effect to such.

Where this Policy does not provide for a matter regulated by the Preferential Procurement Regulations, 2022 the provisions of the regulations will prevail in respect of a “tender” as defined in the regulations.

2. 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 –

“B-BBEE status level of contribution” means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment.”

“competitive bidding process” means a competitive bidding process referred to in paragraph 12 (1) (d) of this Policy;

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

“cooperatives” means registered in term of section 7 of the Co-operatives Act 2005 (Act No 14, of 2005)

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

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

- (a) the Constitution of the Republic of South Africa, 1996;
- (b) the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (c) the Preferential Procurement Regulations, 2022; and
- (d) the Social Responsibility Policy.
- (e) Municipal Finance Management Act, 2003 (Act No. 56 of 2003);
- (f) Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations published by Government Notice 868 of 2005;
- (g) Small , Medium and Micro Enterprise (SMME)” bears the same meaning as referred to in the National Small Business Act , 102 of 1996

“Designated Group” means black designated groups, black people, women, people with disabilities or small enterprises as defined in section 1 of the National Small Enterprises Act, 1996 (act no. 102 of 1996);

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“Functionality” means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents

“Bid” means a written offer in a prescribed or stipulated form in response to an invitation by the City for the provision of goods, services or construction works through price quotations, advertised competitive bidding processes or proposals, or any other proposition for business with the City whether solicited or not;

“tender” means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;

“Tender/Tenderer” means “bid/bidder”;

“highest acceptable tender” means a tender that complies with all specifications and conditions of tender and that has the highest price compared to other tenders;

“lowest acceptable tender” means a tender that complies with all specifications and conditions of tender and that has lowest price compared to other tenders;

“price” means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;

“Rand value” means the total estimated value of a contract in Rand, calculated at the time of the tender invitation;

Unless otherwise indicated, all amounts/limits stated in this document shall be deemed to be inclusive of all applicable taxes.

“specific goals” means specific goals as contemplated in section 2(1)(d) of the Act which may include contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender and disability including the implementation of programmes of the Reconstruction and Development Programme as published in Government Gazette No. 16085 dated 23 November 1994;

“tender for income-generating contracts” means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions;

“People with Disabilities” has the meaning assigned to it in section 1 of the Employment Equity Act, 1998 (Act No. 55 of 1998);

“Youth” has the meaning assigned to it in section 1 of the National Youth Development Agency Act, 2008 (Act No. 54 of 2008).

3. Key principles

The key principles of this system are:

- 3.1 the application of an 80/20 preference point system for procurement (competitive bids or quotations) with a Rand value of greater than R2 000 (Incl VAT) but less than or equal to R50 000 000 (Incl VAT);
- 3.2 the application of a 90/10 preference point system for procurement (competitive bids) with a Rand value greater than R50 000 000 (Incl VAT);
- 3.3 if it is unclear which preference point system will be applicable, 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;
- 3.4 The preference point system shall be used in the evaluation of responsive bids for the purposes of determining preferred/recommended bidders, and for the adjudication thereof.
- 3.5 The preference point system is not applicable to petty cash purchases.

4. Preference point system 80/20 and 90/10

4.1) 80/20 preference point system for acquisition of goods or services with Rand value equal to or below R50 million

The following formula must be used to calculate the points out of 80 for price in respect of an invitation for a tender with a Rand value equal to or below R50 million, inclusive of all applicable taxes:

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

Where:

P_s = Points scored for price of tender under consideration.

P_t = Price of tender under consideration; and

P_{\min} = Price of lowest acceptable tender.

- a) A maximum of 20 points may be awarded to a tenderer for the specific goal specified for the tender.
- b) The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.
- c) Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.

4.2) 90/10 preference point system for acquisition of goods or services with Rand value above R50 million

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:

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

Where:

P_s = Points scored for price of tender under consideration;

P_t = Price of tender under consideration; and

P_{\min} = Price of lowest acceptable tender.

- a) A maximum of 10 points may be awarded to a tenderer for the specific goal specified for the tender.
- b) The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.
- c) Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.

4.3) 80/20 preference points system for tenders for income-generating contracts with Rand value equal to or below R50 million

The following formula must be used to calculate the points for price in respect of an invitation for tender for income-generating contracts, with a Rand value equal to or below R50 million, inclusive of all applicable taxes:

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

Where:

P_s = Points scored for the price of tender under consideration;

P_t = Price of tender under consideration; and

P_{\max} = Price of highest acceptable tender

- a) A maximum of 20 points may be awarded to a tenderer for the specific goal specified for the tender.
- b) The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.
- c) Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.

3.4) 90/10 preference point system for tenders for income-generating contracts with Rand value above R50 million

The following formula must be used to calculate the points for price in respect of a tender for income-generating contracts, with a Rand value above R50 million, inclusive of all applicable taxes:

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

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Where:

Ps = Points scored for price of tender under consideration;

Pt = Price of tender under consideration; and

Pmax = Price of highest acceptable tender.

- a) A maximum of 10 points may be awarded to a tenderer for the specific goal specified for the tender.
- b) The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.
- c) Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.

4.5) If there is uncertainty regarding the estimated price and which preference point system will be applicable, then the tender documents should state that either the 80/20 or the 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system.”

4.6) Bidders are required to submit supporting documents for their bids to claim the specific goals points.

4.7) Non-compliance to specific goals will not lead to a disqualification but bidders will not be allocated specific goals points. Bidders will score points out of 90 or 80 for price only and zero (0) points out of 10 or 20 for specific goals;

4.8) A trust, consortium or joint venture will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate.

4.9) A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every bid.

4.10) The Municipality shall act against any bidder or person, when it was detected that the BBEE status level of contribution or specific goals were claimed or obtained on a fraudulent basis.

4.11) The accounting officer must ensure that the B-BBEE Status Level Verification Certificates or sworn affidavit form submitted are issued by an appropriate authority. These certificates are identifiable by a SANAS logo and a unique BVA number.

4.12) In order to qualify for preference points in terms of this Policy, bidders must submit documentary proof in accordance with the applicable codes of good practice as specified in the tender documents.

4.13) The submission of such documentary proof must comply with the requirements of instructions and circulars / guidelines issued by the National Treasury and be in accordance with notices published by the Department of Trade and Industry in the Government Gazette.

4.14) Bidders who fail to submit the required documentary proof, or certified copies thereof, will not be allocated points for documents not submitted

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5. Points for specific goals

5.1) The tendering conditions will stipulate specific goals, as contemplated in section 2(1)(d)(ii) of the Preferential Procurement Policy Framework Act, be attained.

5.2) A maximum of 20 points (80/20 preference point system) or 10 (90/10) preference points system), will be allocated for specific goals. These goals are:

- a) contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender or disability.
- b) The promotion of enterprises located in the local area (phased in approach to be applied for other RDP goals).

5.3) Regarding paragraph 5.2(a) 50% of the 20/10 points will be allocated to promote this goal and points in terms of the B-BBEE scorecard as follows:

B-BEE Status Level of Contributor	Number of Points for Preference (80/20)	Number of Points for Preference (90/10)
1	10	5
2	8	4
3	6	3
4	4	2
5	2	1
6	2	1
7	2	1
8	2	1
Non-compliant contributor	0	0

5.4) A tenderer must submit prove of its B-BBEE status level contributor.

5.5) A tenderer failing to submit proof of B-BBEE status level of contributor or is noncontributor to B-BBEE may not be disqualified, but –

- a. May only score points out of 80 or 90 for price, and
- b. Scores 0 points out of 10 or 5 for B-BBEE status level of contributor, which is in line with section 2(1)(d)(i) of the Act, where the supplier or service provider did not provide proof thereof

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5.6) 50% of the 20/10 points will be allocated to promote this goal.

Local area of supplier	Number of Points for Preference	
	80/20	90/10
Within the boundaries of the Municipality	10	5
Outside of the boundaries of the Municipality, but within the Lejweleputswa District Municipality.	6	3
Within the boundaries of Free State Province	4	2
Outside of the boundaries of Free State Province	0	0

5.7) Any specific goal for which a point may be awarded, must be clearly specified in the invitation to submit a tender. The Accounting Officer may from time to time determine different specific goals for any award to be made. The specific goals should be in accordance with the requirements of Preferential Procurement Regulations of 2022

5.9) A tenderer failing to submit proof of required evidence to claim preference for other specified goals, which is in line with section 2(1)(ii) of the Act.

- a) May only score in terms of the 80/20-point formula for price; and
- b) Scores 0 points out of 10/5 of the relevant specific goals where the supplier or service provider did not stipulate.

5.10) The preference points scored by a tenderer must be added to the points for the price.

5.11) The points scored must be rounded off to the nearest two decimal places.

5.12) The contract must be awarded to the tenderer scoring the highest points.

6. Criteria for breaking deadlock in scoring

6.1) If two or more tenderers score an equal total number of points, the contract must be awarded to the tenderer that scored the highest points for specific goals.

6.2) If functionality is part of the evaluation process and two or more tenderers score an equal total number of points and equal preference points for specific goals, the contract must be awarded to the tenderer that scored the highest points for functionality.

6.3) If two or more tenderers score equal total points in all respects, the award must be decided by drawing of lots.

7. Remedies

7.1) If a Municipality is of the view that a tenderer submitted false information regarding a specific goal, it must:

- a) inform the tenderer; accordingly, and
- b) give the tenderer an opportunity to make representations within 14 days as to why the tender may be terminated in whole or in part-

7.2) After considering the representations referred to in paragraph 1(b), the Municipality may, if it concludes that such false information was submitted by the tenderer:

- a) Disqualify the tenderer or terminate the contract in whole or in part; and
- b) If applicable, claim damages from the tenderer.

8. Declarations

8.1) A bidder must, in the stipulated manner, declare that:

- a) The information regarding any claim from preference points provided is true and correct;
- b) The signatory to the bid document is duly authorized; and
- c) Documentary proof regarding any bidding issue will, when required, be submitted to the satisfaction of the Municipality.

9. Policy Revision & Approval

9.1) This policy will come into effect from 01 July 2026 and will be reviewed at least annually by way of council resolution