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National Treasury
REPUBLIC OF SOUTH AFRICA

MEDIA STATEMENT

PROPOSED NEW PREFERENTIAL PROCUREMENT REGULATIONS, 2016

The Office of the Chief Procurement Officer (OCPO) has published the proposed new Preferential Procurement Regulations in terms of section 5(2) of the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000) (PPPFA), to afford the public an opportunity to provide comments.

The revision of the Preferential Procurement Regulations of 2011 was influenced, to a large extent, by the need to provide for a mechanism that will assist in targeting certain categories of persons, including looking at how government can procure at least 30 per cent from SMMEs, co-operatives, township and rural enterprises, and other targeted groups.

The main changes contained in the proposed new Preferential Procurement Regulations are the following:

- **80/20 preference points system**

In the current 80/20 preference point system, 80 points are allocated for the lowest price and a maximum of 20 points count towards the level of broad-based black economic empowerment (BB-BEE) status of the supplier. This applies to tenders of the rand value equal to or above R30 000 to a maximum of R1 million.

The points for price (80) and the B-BBEE level (20) are combined or calculated to a total of 100. Only a tender with the highest number of points scored may be selected on the highest points scored.

The draft regulations propose that this threshold for the application of the 80/20 system be increased to R100 million to further stimulate the development of small enterprises.

- **90/10 preference points system**

Similarly, in the current 90/10 preference point system, 90 points are allocated for price and a maximum of 10 points for B-BBEE status level. The 90/10 applies to tenders that are above R 1 million, with all applicable taxes included.

The proposal in the draft regulations is for the 90/10 rule to apply to tenders above R100 million.





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- **30 per cent sub contracting**

The current regulations do not make sub-contracting compulsory, however with the draft regulations it will be compulsory to sub-contract a minimum of 30 per cent of the value of the contract for all contracts above R30 million to further develop emerging suppliers.

The tenderer must sub-contract a minimum of 30 per cent of the value of the contract to-

- (a) one or more black female-owned Exempted Micro Enterprises (EMEs); or
- (b) one or more black youth-owned EMEs; or
- (c) one or more black-owned EMEs; or
- (d) one or more Qualifying Small Business Enterprises (QSE); or
- (e) one or more small business, as defined in the National Small Business Act, 1996 (Act No. 102 of 1996).

- **Pre-qualification criteria**

The current regulations do not provide for pre-qualification; however the option to use pre-qualification criteria based on B-BBEE levels of contribution is introduced in the draft regulations as a means to further support small and emerging enterprises. Examples of such pre-qualification criteria, although not exhaustive, are:

- (a) The tenderer must have a stipulated minimum B-BBEE status level of contribution;
- (b) The tenderer must sub-contract at a minimum of 30 per cent of the value of the contract to one or more-
 - (i) black female owned EMEs;
 - (ii) black youth owned EMEs;
 - (iii) black owned EMEs.

A tender that fails to meet the pre-qualification criteria will not be accepted

- **Objective criteria**

The current regulations are silent on the use of objective criteria as envisaged in section 2(1)(f) of the Act. The draft Regulations introduce objective criteria in terms of section 2(1)(f) of the Act, to be taken into account after price and preference have been evaluated. The organs of state who intend using the objective criteria on evaluation of tenders will be required to indicate in the advertisement of such tenders that the tender will be subject to further evaluation in terms of objective criteria over and above the 80/20 or 90/10 preference point system.





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The criteria must be objective and may include, but not limited to-

- (a) A tenderer sub-contracting a minimum of 30 per cent of the value of the resulting contract to one or more-
- (i) black female owned EMEs;
 - (ii) black youth-owned EMEs;
 - (iii) black owned EMEs;
 - (iv) co-operatives conducting business in the municipal area or province where the goods or services are required;
 - (v) enterprises conducting business in a township or rural area in the municipal area or the province where the goods or services are required;
 - (vi) Small Medium and Micro Enterprises (SMMEs)

The draft regulations aim to allow for the development of certain targeted groups, including SMMEs, Co-operative, Township and Rural enterprises.

The draft Regulations are available on www.treasury.gov.za, please send your emailed comments to pppfainputs@treasury.gov.za using the word template accompanying the Draft Regulations. Further enquiries can directed to Leanda Kleinbooi at (012) 315 5715.

The closing date for public comments is 15 July 2016.

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