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National Treasury
REPUBLIC OF SOUTH AFRICA

MEDIA STATEMENT

REVISED PREFERENTIAL PROCUREMENT REGULATIONS, 2017

National Treasury has released the revised Preferential Procurement Regulations, 2017 which were gazetted on Friday 20 January. The regulations were initially promulgated in 2001 and revised in 2011 thus making this the second revision since the initial promulgation.

The revision of the Preferential Procurement Regulations of 2011 was largely influenced by the need to provide for a mechanism to empower certain categories (Small Medium and Micro Enterprises (SMME) also classified as EMEs or QSEs, Co-operatives, Township and Rural enterprises) through procurement. This was an outcome of social dialogue on the New Growth Path (NGP) wherein government and social partners signed a Local Procurement Accord on 31 October 2011. To this end, commitment made by government was to leverage public procurement.

The revised regulations are also aligned to President Jacob Zuma's pronouncement in his 2015 State of the Nation Address, wherein he said that government will set-aside 30% of appropriate categories of State procurement for purchasing from SMMEs, co-operatives as well as township and rural enterprises. Also giving impetus to the NGP the highlights of the revision are:-

- Introducing the prequalification criteria which allow the advancement of these selected categories of people by limiting competition only amongst themselves. This restricts the inclusion of well established companies unless they meet further requirements of subcontracting to these groups should they (established company) be successful. (Refer to regulation 4).
- Acknowledging that in the main, the high value tender in the region of R30 million and above tend to be awarded to established companies due to economies of scale and affordability, leaving out categories of aspiring businesses, the revised regulations requires all those with ability to deliver the required service to demonstrate the element of subcontracting to the categorised groups at a tendering stage. (Refer to regulation 9).





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- Addressing the outcry of the categorised groups who felt that the threshold of R1 million is too insignificant for them to grow to a level of established companies. Current regulations have increased to R50 million. This now give the smaller companies greater chances to compete in the economy in a meaningful way .(Refer to 6 & 7)

Commenting on the release of the regulations, Minister Pravin Gordhan says the regulations aim to use public procurement as a lever to promote socio-economic transformation, empowerment of small enterprises, rural and township enterprises, designated groups and promotion of local industrial development. He said this is in line with the current dialogue on inclusive economic growth in South Africa.

Minister Gordhan extended National Treasury's appreciation to all South Africans, both institutions and individuals, who took the time to submit comments on the Draft Preferential Procurement Regulations. He said, although not all comments and suggestions could be incorporated in the final set of regulations, they did however provide valuable insight and assistance in finalising the regulations.

Ends

Issued on behalf of National Treasury

Date: 23 January 2017

The revised Regulations are available on **www.treasury.gov.za**.





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ANNEXURES

Regulations in brief

The main changes contained in the revised Preferential Procurement Regulations to effect these key policy objectives are as follows:

- **80/20 preference points system**

The rand value, including all applicable taxes, for the application of the 80/20 preference point system has been increased from a maximum R 1 million to a maximum R 50 million.

In applying the preference point system, 80 points are allocated to a tenderer who submits the lowest acceptable tender price and a maximum of 20 points may be awarded to a tenderer for B-BBEE status level of contributor.

Both the points allocated for price (80) and the B-BBEE points (20) are combined or calculated to a total out of 100, and the tender must be awarded to the tenderer who scores the highest number of total points.

- **90/10 preference points system**

Similarly the 90/10 preference point system applies to tenders with a Rand value above R 50 Million, all applicable taxes included.

In applying the preference point system, 90 points are allocated to the tenderer who submits the lowest acceptable tender price and a maximum of 10 points may be awarded to a tenderer for B-BBEE status level of contributor.

Both the points allocated for price (90) and the B-BBEE points (10) are combined or calculated to a total out of 100, and the tender must be awarded to a tenderer who scores the highest number of total points.

In the revised Regulations the new threshold for the application of this 90/10 system has been increased from R1 million to transactions above R50 million.

Whilst government recognises the need to empower designated groups and other sectors, this must be done in a cost effective manner; and, as such, negotiating a fair market price is introduced to ensure that organs of state do not pay prices that are far higher than market prices.

- **Sub-contracting as a condition of tender**

The PPRs, 2011 do not make sub-contracting compulsory, however the revised regulations require organs of state to identify tenders, where it is feasible, to sub-contract a minimum of 30% of the value of the contract for contracts above R30 million.





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

- (a) an EME or QSE;
- (b) an EME or QSE which is at least 51% owned by black people;
- (c) an EME or QSE which is at least 51% owned by black people who are youth;
- (d) an EME or QSE which is at least 51% owned by black people who are women;
- (e) an EME or QSE which is at least 51% owned by black people with disabilities;
- (f) an EME or QSE which is 51% owned by black people living in rural or underdeveloped areas or townships;
- (g) a cooperative which is at least 51% owned by black people;
- (h) an EME or QSE which is at least 51% owned by black people who are military veterans; or
- (i) more than one of the categories referred to in paragraphs (a) to (h).

- **Pre-qualification criteria**

The PPRs, 2011 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 revised regulations as a means to further support small and emerging enterprises. Therefore this regulation is used to advance designated groups through:

- (a) a tenderer having a stipulated minimum B-BBEE status level of contributor;
- (b) an EME or QSE;
- (c) a tenderer subcontracting a minimum of 30% to-
 - (i) an EME or QSE which is at least 51% owned by black people;
 - (ii) an EME or QSE which is at least 51% owned by black people who are youth;
 - (iii) an EME or QSE which is at least 51% owned by black people who are women;
 - (iv) an EME or QSE which is at least 51% owned by black people with disabilities;
 - (v) an EME or QSE which is 51% owned by black people living in rural or underdeveloped areas or townships;
 - (vi) a cooperative which is at least 51% owned by black people;
 - (vii) an EME or QSE which is at least 51% owned by black people who are military veterans;
 - (viii) an EME or QSE.

A tender that fails to meet the pre-qualification criteria will not be an acceptable tender.

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

