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GOVERNMENT NOTICE

NATIONAL TREASURY

No. R.

2026

GENERAL PUBLIC PROCUREMENT REGULATIONS, 2026

The Minister of Finance has, under section 63 of the Public Procurement Act, 2024 (Act No. 28 of 2024 and with effect from XX, made the regulations set out in the Schedule.

FOR PUBLIC CONSULTATION *ITO S63(3) OF ACT*

SCHEDULE

GENERAL PUBLIC PROCUREMENT REGULATIONS, 2026

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FOR PUBLIC CONSULTATION IIC 563(3) CRAFT

CHAPTER 1 GENERAL PROVISIONS

1. Short title and commencement

These Regulations are called the General Public Procurement Regulations, 2026, and take effect on XX.

2. Definitions

In these Regulations any word or expression bears the meaning that is assigned in the Act, unless the context indicates otherwise –

“Broad-Based Black Economic Empowerment Act” means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);

“call-off” means a specific order made by a procuring institution to purchase goods or services from a supplier that has entered into a framework agreement or a transversal term contract contemplated in regulations 15 and 16 respectively;

“Companies Act” means the Companies Act, 2008 (Act No. 71 of 2008);

“evaluation criteria” means the criteria contemplated in regulation 24;

“executive authority” means the authority as defined in section 1 of the Public Finance Management Act;

“RFB” means a Request For Bid referred to in regulation 8;

“RFP” means a Request For Proposals referred to in regulation 9;

“RFQ” means a Request For Quotation referred to in regulation 7;

“specifications” means a clear, accurate and complete description of the goods, services, infrastructure or capital assets to be procured;

“the Act” means the Public Procurement Act, 2024 (Act No. 28 of 2024) and its regulations, codes of conduct, instructions and notices made or issued in terms of it;

“value for money” means the optimal use of public resources to achieve intended procurement outcomes across the full lifecycle of goods, services, infrastructure or capital assets to be procured, taking into account the following factors –

- (a) their economical acquisition at the lowest possible price, which is consistent with the required standards of quality, functionality, and sustainability;
- (b) their efficient use to maximise outcome with minimal waste or duplication; and

- (c) their effectiveness in achieving their intended objectives, including service delivery and transformation imperatives, sustainable development goals, and infrastructure performance targets.

3. **Application to Parliament and provincial legislatures**

Pursuant to section 3(2) of the Act, the regulations in Part 9 of Chapter 2 and Chapter 5 apply to Parliament and provincial legislatures.

CHAPTER 2 GENERAL PROCUREMENT REQUIREMENTS

Part 1

Procurement framework for procuring institutions

4. **Promotion of strategic procurement**

[Section 24(1) of the Act]

- (1) A procuring institution must develop and implement its procurement system in a structured, systematic and data-driven approach to plan, manage, and develop its supply base in line with its objectives by –
- (a) analysing –
- (i) its spending;
 - (ii) its internal needs; and
 - (iii) external market information;
- (b) using the information from this analysis to–
- (i) identify the categories of goods, services, infrastructure or capital assets in its spending portfolio, their intended use and the sources of supply; and
 - (ii) develop a strategic procurement plan to achieve, at a strategic level, value for money balancing the objectives of fairness, competitiveness, transparency and equitability.
- (2) A procuring institution must, in developing a differentiated approach to procurement, determine the strategic importance of its procurement categories and the complexity of the supply market to categorise the strategic procurement of goods, services, infrastructure or capital assets.

- (3) Without limiting the procuring institution's categorisation under subregulation (2), the institution may consider applying the following categories –
- (a) a strategic category which –
 - (i) is of high value, critical to service delivery or has complex or rigid specifications or a combination thereof; and
 - (ii) has a limited supplier base;
 - (b) a leverage category which –
 - (i) is of high value or critical to service delivery or a combination of both; and
 - (ii) has many suppliers in the market;
 - (c) a bottleneck category which –
 - (i) is of low value or not critical to service delivery or combination of both; and
 - (ii) has a limited supply base.
 - (d) routine or non-critical category which –
 - (i) is of low value, simple specifications; and
 - (ii) has many suppliers in the market.
- (4) The sourcing strategies in each of the categories referred to in subregulation (2) may include for –
- (a) the strategic category, subject to subregulation (5), long term collaborative partnerships;
 - (b) the leverage category –
 - (i) consolidating needs to leverage on economies of scale; and
 - (ii) maintaining market competition to achieve value for money;
 - (c) the bottleneck category –
 - (i) ensuring supply continuity; and
 - (ii) managing the risk of supply by identifying measures to reduce dependency on a limited market;
 - (d) the routine or non-critical category –

- (i) simplifying the acquisition process;
 - (ii) reducing the administration of transactions; and
 - (iii) automating the procurement process.
- (5) A strategic procurement plan referred to in subregulation (1)(b)(ii) must –
- (a) take into account –
 - (i) any government-wide integrated planning framework;
 - (ii) any medium-term government development plan;
 - (iii) sectoral priorities; and
 - (iv) the procuring institution's strategic priorities;
 - (b) be aligned with the Medium-Term Expenditure Framework;
 - (c) be included in the procuring institution's strategic plan;
 - (d) include –
 - (i) the institution's infrastructure procurement plan contemplated in regulation 40;
 - (ii) measures to stimulate innovation;
 - (e) identify the sources of goods, services, infrastructure or capital assets that –
 - (i) are to be sourced by the institution;
 - (ii) can be sourced in terms of section 25(a) and (b) of the Act;
 - (iii) can be sourced through a framework agreement method or a transversal term contract;
 - (f) identify the assets for disposal –
 - (i) to another organ of state in terms of regulation 33(3);
 - (ii) by any other appropriate means taking into account the public interest, impact to the community and the cultural, historical or environmental significance of the asset;
 - (g) identify the institution's assets that can be strategically let taking into account its long-term needs to –
 - (i) another organ of state in accordance with regulation 32;

- (ii) any other person;
 - (h) identify the institution's strategic leasing needs to be procured in terms of regulation 53;
 - (i) establish and maintain an emergency preparedness plan which includes –
 - (i) defining and documenting delegated authority levels for emergency procurement;
 - (ii) distinguishing between predictable and unforeseeable emergencies; and
 - (iii) measures to be contained in the annual procurement plan for predictable emergencies including a list of pre-qualified suppliers;
 - (j) inform the procuring institution's annual procurement plan.
- (6) A procuring institution must, in its use of long-term collaborative partnerships contemplated in subregulation (4)(a), regularly review its limited supplier base to-
- (a) identify potential suppliers to expand that supplier base through skills transfer and other means of state promotion; and
 - (b) ensure that these partnerships do not prevent open competitive procurement from new and emerging suppliers.
- (7) A procuring institution must publish its strategic procurement plan and a summary of the analysis contemplated in subregulation (1)(b)(ii) on its official website within 7 days of approval.
- (8) In developing a procurement strategy in terms of this Part for procurement in other countries contemplated in section 24(1)(a)(i) of the Act, a procuring institution must –
- (a) promote the procurement from South African entities;
 - (b) must align the strategy with host country's laws and any applicable international trade agreement.

Part 2

Prospective supplier database

[Section 24(6) of the Act]

5. Prospective supplier database

- (1) The Public Procurement Office must –

- (a) create and maintain a prospective supplier database contemplated in section 24(6) of the Act;
 - (b) ensure that no person automatically excluded in terms of section 13 of the Act is registered on the database;
 - (c) remove a supplier from the database for the period contemplated in regulation 83(1);
 - (d) publish a version of the database that excludes confidential information on an easily accessible central online portal.
- (2) A prospective supplier must self-register on the prospective supplier database contemplated in section 24(6) of the Act before it can submit a bid in terms of these regulations.
- (3) A prospective supplier must provide and keep up to date the following information on the prospective supplier database:
- (a) identity information;
 - (b) industry classification;
 - (c) contact details including business or registered addresses;
 - (d) bank information;
 - (e) accreditation information;
 - (f) ownership information including directors, members, owners and beneficial owners;
 - (g) any other information required by the Public Procurement Office.
- (4) The procuring institution must verify, against available data sources and databases, the information submitted by a prospective supplier on the prospective supplier database and determine whether the supplier in any bid–
- (a) is automatically excluded in terms of section 13 of the Act;
 - (b) is debarred under section 15(3) of the Act;
 - (c) has not provided complete information required in terms of subregulation (3); or
 - (d) has provided incorrect or false information.

Part 3***Procurement methods, requirements and procedures***

[Section 24(1)(b)]

6. Procurement methods and procedures

- (1) Procurement methods are –
 - (a) open competitive methods which are:
 - (i) the RFQ method referred to in regulation 7;
 - (ii) the RFB method referred to in regulation 8;
 - (iii) the RFP method referred to in regulation 9;
 - (iv) the competitive dialogue method referred to in regulation 12;
 - (v) the framework agreement method referred to in regulation 15;
 - (b) direct procurement referred to in regulation 14.
- (2) The methods referred to in subregulation (1) may –
 - (a) be adapted or modified depending on circumstances or conditions;
 - (b) comprise a combination of methods and procedures tailored to the specific requirements of that procurement.
- (3) Procurement procedures include –
 - (a) the two-envelope procedure referred to in regulation 10;
 - (b) the two-stage bidding procedure referred to in regulation 11;
 - (c) competitive negotiation procedure referred to in regulation 13;
 - (d) procurement from manufacturers referred to in regulation 17;
 - (e) unsolicited bids referred to in regulation 18;
 - (f) transversal term contract referred to in regulation 16;
 - (g) electronic bidding referred to in regulation 17;
 - (h) pre-qualification procedure referred to in regulation 20;
 - (i) emergency procurement referred to in regulation 21.

Part 4
Open competitive methods

7. Request for quotation method

- (1) A request for quotation (RFQ) method is one in which a procuring institution requests a written quotation, subject to subregulation (3), from at least three bidders on the prospective supplier database referred to in regulation 5.
- (2) A procuring institution may only use the RFQ method if –
 - (a) the specifications are clear, standardised and low risk;
 - (b) the market is competitive and evaluation is primarily based on price; and
 - (c) if the value of the procurement is below a threshold determined by notice in terms of section 24(2) of the Act;
- (3) A procuring institution may request a quotation from less than three bidders if –
 - (a) an emergency procurement in terms of regulation 21 is required;
 - (b) it is required on grounds of national security;
 - (c) there are less than three suppliers on the prospective supplier database that meet the requirements of the RFQ; or
 - (d) sole supplier conditions apply.
- (4) The procuring institution must evaluate the proposals in accordance with the evaluation criteria and weightings and award the bid to the bidder with the lowest price, unless the bid must be shared, in which case, to several bidders with the lowest prices.
- (5) The procuring institution must document the justification for the use of an RFQ contemplated in subregulation (3).

8. Request for bid method

- (1) A request for bid (RFB) method is one in which a procuring institution publicly advertises an invitation to bid in an open competitive bid process.
- (2) A procuring institution may use the RFB method if –
 - (a) the specifications are clear, standardised and low risk;
 - (b) the market is competitive and evaluation is primarily based on price; and

- (c) a condition of the RFB is that the award is made to the supplier that meets all the requirements of the RFB and offers the lowest possible price in writing.
- (3) A procuring institution must use the RFB method –
 - (a) if the value of the procurement is above a threshold determined by notice in terms of section 24(2) of the Act; and
 - (b) in the circumstances contemplated in subregulation (2).
- (4) A procuring institution –
 - (a) must publicly advertise an RFB in the eTender Publications Portal for a minimum period of 21 days before closure, except in emergency procurement contemplated in regulation 21;
 - (b) may publicly advertise an RFB in any other media;
 - (c) must include in any RFB the project background, standard specifications or scope of work, evaluation criteria and weightings, and a request for price.
- (5) The procuring institution must evaluate the proposals in accordance with the evaluation criteria and weightings and award the bid to the bidder with the highest points.

9. Request for proposals method

- (1) A request for proposal (RFP) is one in which a procuring institution publicly advertises an invitation to bid in an open competitive bid process.
- (2) A procuring institution may use this method if –
 - (a) the subject matter of the bid is –
 - (i) complex;
 - (ii) requires specialised expertise;
 - (iii) requires performance-based outcomes; or
 - (iv) requires innovation;
 - (b) the market is competitive;
 - (c) the evaluation is not based primarily on price; and
 - (d) bidders are required to propose solutions, methodologies, resources, or innovative approaches.

- (3) A procuring institution –
 - (a) must publicly advertise an invitation in the form of a RFP in the eTender Publications Portal for a minimum period of 21 days before closure, except in emergency procurement contemplated in regulation 21;
 - (b) may publicly advertise an RFP in any other media;
 - (c) may include an invitation or a requirement to attend a briefing session to clarify the specifications and the requirements for the bid;
 - (d) must include in the RFP the project background, specifications or scope of work, evaluation criteria and weightings, functionality and technical requirements, and, subject to regulation 11, a request for price.
- (4) A procuring institution may, in addition to publicly advertising an RFP in terms of subregulation (3), invite prospective suppliers that may meet the functionality and technical requirements to attend the briefing session referred to in subregulation (3)(c).
- (5) An invitation contemplated in subregulations 3(c) and (4) must include an invitation to the public, civil society and the media.

10. Two-envelope procedure

- (1) A procuring institution may adopt a two-envelope procedure in the RFB or RFP methods to ensure objective and technical merit-based selection in the procurement.
- (2) The procuring institution, in applying the two-envelope procedure must –
 - (a) require bidders to submit their proposals in two sealed envelopes in respect of –
 - (i) the evaluation criteria contained in the bid, other than price; and
 - (ii) price;
 - (b) evaluate the proposals contemplated in paragraph (a)(i); and
 - (c) shortlist those bidders that comply with the evaluation criteria contemplated in that paragraph; and
 - (d) open the envelopes containing the price proposals in respect of those shortlisted bidders for the purposes of evaluation and award of the bid.

11. Two-stage bidding procedure

- (1) The procuring institution may, if detailed technical solutions are required, use a two-stage bidding procedure for –
 - (a) projects requiring specialised expertise and knowledge;
 - (b) large scale infrastructure projects;
 - (c) expert consulting services or professional design services; or
 - (d) projects requiring innovation.
- (2) The procuring institution must in stage one –
 - (a) invite bidders to submit their functionality and technical proposals without a price proposal;
 - (b) evaluate the proposals based on the functional and technical criteria;
 - (c) refine the specifications if, in the process of the evaluation under paragraph (b), it is necessary to do so;
 - (d) invite bidders to submit final functionality and technical proposals based on the refined specifications; and
 - (e) shortlist bidders that meet the refined functional and technical requirements.
- (3) The procuring institution must in stage two –
 - (a) invite the shortlisted bidders to submit their proposals in accordance with the other bid evaluation criteria;
 - (b) evaluate the proposals in accordance with both –
 - (i) the functional and technical criteria; and
 - (ii) the other evaluation criteria;
 - (c) award the bid to the bidder with the highest points.

12. Competitive dialogue method

- (1) The competitive dialogue method is an augmented two-stage procedure that may be used on complex projects –
 - (a) if the project's specifications –

- (i) are not fully defined; or
 - (ii) require specialised expertise; and
 - (b) as an iterative process to determine the specifications of the project.
- (2) A procuring institution may shortlist prospective bidders for this purpose through a RFP procedure contemplated in subregulation (3).
- (3) The RFP must contain –
- (a) project background;
 - (b) a problem statement and description of the procuring institution's needs and objectives;
 - (c) a request for the bidder's –
 - (i) proposed solution or approach to meet those needs and objectives; and
 - (ii) capability and capacity to meet those needs and objectives;
 - (d) the evaluation criteria for the shortlisting of bidders;
 - (e) outline the competitive dialogue procedure, including the stages and timelines; and
 - (f) provide a framework for bidders to engage in dialogue.
- (4) The procuring institution must –
- (a) evaluate the proposals and shortlist the prospective bidders in accordance with the bid evaluation criteria;
 - (b) engage in dialogue with the shortlisted bidders –
 - (i) in accordance with the procedure and framework contained in the RFP;
 - (ii) to identify the solution and specifications that best meets the needs referred to in the RFP;
 - (iii) refines the specifications and, if necessary, the terms of the contract;
 - (c) invite final bids on the basis of the refined specifications and contractual terms; and
 - (d) evaluate those bids against the refined specifications and award the bid.

13. Competitive negotiation

- (1) The procuring institution may engage in competitive negotiation with bidders if –
 - (a) the requirements for complex projects are not fully defined or require innovative solutions;
 - (b) the project requires an advanced technological solution; or
 - (c) it is an emergency procurement.
- (2) The procuring institution must –
 - (a) initiate the competitive negotiation procedure by issuing a RFP;
 - (b) shortlist bidders based on predetermined evaluation criteria;
 - (c) engage in negotiations with shortlisted bidders to refine their proposals and achieve best value;
 - (d) evaluate proposals based on the evaluation criteria outlined in the RFP;
 - (e) document the process with reasons for the selection and award; and
 - (f) ensure that no material changes to the published requirements are allowed during negotiation.

Part 5

Direct procurement method

14. Direct procurement method

- (1) A procuring institution must procure directly from a supplier –
 - (a) if the supplier has exclusive intellectual property or licensing rights to provide the required goods or services;
 - (b) if there is only one supplier of the required goods and services because of its unique expertise or the specialised nature of its product;
 - (c) on grounds of national security; or
 - (d) if the required goods and services are provided by an international organisation in terms of an international or bilateral government agreement.

- (2) A procuring institution may use the direct procurement method –
 - (a) in emergency situations that cannot be accommodated using the RFQ, RFB or RFP methods;
 - (b) subject to subregulation (3), to extend or renew existing contracts if changing suppliers is impractical or costly.
- (3) In order to mitigate the dependency on a supplier, the procuring institution must –
 - (a) explore strategic procurement options that enable the sourcing of alternative suppliers;
 - (b) standardise goods and services to reduce interoperability issues and facilitate sourcing of alternative suppliers; and
 - (c) conduct a market analysis to determine whether there are other alternative suppliers and, if so, to assess whether it is appropriate to initiate a procurement process.
- (4) The accounting officer or accounting authority must approve the use of the direct procurement method and record the reasons.
- (5) A procuring institution must publish the details of, and the reasons for, the use of the direct procurement method on the institution's official website within 7 days of the award.
 - (a)

Part 6

Framework agreement method

15. Framework agreement method

- (1) A framework agreement is an agreement between a procuring institution and one or more suppliers under which the supplier enters into one or more contracts during a stipulated period –
 - (a) on fixed terms and conditions –
 - (i) without secondary competition between suppliers; and
 - (ii) in accordance with the call-off criteria stipulated in the agreement; or
 - (b) through secondary competition between suppliers using the RFQ procurement method.
- (2) The procuring institution may use the framework agreement method for recurrent procurement needs in respect of which the quantities or delivery schedules are uncertain.

- (3) The procuring institution must use either the RFB or RFP method to select the suppliers with whom it concludes a framework agreement.
- (4) A RFB must include, in addition to what is required in regulation 8(4)(c) –
 - (a) the terms and conditions of the framework agreement contemplated in subregulation (1)(a); and
 - (b) the call-off criteria.
- (5) A RFP must include, in addition to what is required in regulation 9(3)(d) –
 - (a) the terms and conditions of the framework agreement contemplated in subregulation (1)(b); and
 - (b) the use of the RFQ method to determine call-offs.
- (6) The procuring institution may use the pre-qualification procedure contemplated in regulation 20 to determine the suppliers with whom the institution concludes a framework agreement.

Part 7

Transversal term contracts

16. Transversal term contract for procurement by procuring institutions

[Section 63(1)(a)(x) of the Act]

- (1) The relevant treasury may conclude a transversal term contract for procurement by procuring institutions to –
 - (a) promote uniformity and standardisation in public procurement;
 - (b) achieve economies of scale;
 - (c) manage high volume recurring demand;
 - (d) offer opportunities for standardisation and cost optimisation;
 - (e) enhance procurement efficiency and reduce transaction costs;
 - (f) streamline procurement across organs of state.
- (2) A transversal term contract may be initiated by the relevant treasury on its own accord or at the request of a procuring institution.
- (3) The relevant treasury must –

- (a) invite procuring institutions to participate in a transversal term contract;
 - (b) require institutions that agree to participate to confirm their budget availability and their specific requirements; and
 - (c) invite those institutions to nominate officials to participate in the relevant treasury's bid committees;
 - (d) adopt a RFB or RFP method to determine the suppliers to be included in the transversal term contract.
- (4) The transversal term contract may provide for the procurement by procuring institutions of goods or services –
- (a) on fixed terms and conditions without secondary competition between suppliers and the call-off criteria is specified in the transversal term contract;
 - (b) through secondary competition between suppliers using the RFQ procurement method for call-offs.
- (5) The relevant treasury must –
- (a) publish its transversal term contract within 30 days of the award of the contract on its official website;
 - (b) audit the performance of its contract annually;
 - (c) submit its transversal term contract and the audit to the Public Procurement Office; and
 - (d) publish that audit on its official website.
- (6) The Public Procurement Office must –
- (a) maintain a central registry of all transversal term contracts; and
 - (b) table an annual report to Parliament on the status and performance of all transversal term contracts at the end of each financial year.
- (7) If a procuring institution is mandated by legislation to enter into transversal term contracts, it must comply with this regulation to the extent that it is not in conflict with that legislation.

Part 8
Other procurement procedures

17. Procuring from manufacturer

[section 63(1)(a)(vii) of the Act]

- (1) A procuring institution may procure goods from a manufacturer –
 - (a) if procurement results in lower total cost (taking into account lifecycle costs), quality assurance or longer warranties;
 - (b) if the manufacturer is a person in a category of persons that the institution has set-aside in terms of section 17(1)(a) of the Act;
 - (c) if the local manufacturers have been determined in terms of section 20(4) of the Act;
 - (d) if the manufacturer offers environmentally sustainable or innovative solutions that align with the institution's strategic objectives;
 - (e) on grounds of national security;
 - (f) in sole supplier conditions; or
 - (g) in an emergency, if competitive bidding is impractical.
- (2) A procuring institution may only procure goods from a manufacturer in terms of subregulation (1)(a), (b), (c) and (d) using a competitive procurement method contemplated in regulation 6(1)(a).

18. Unsolicited bids

- (1) A procuring institution may only consider an unsolicited proposal if –
 - (a) the product or service is innovative or presents a new and cost-effective method of service delivery; and
 - (b) the institution has conducted a comprehensive project feasibility study that establishes a clear business case.
- (2) If the unsolicited proposal does not meet the requirements referred to in subregulation (1), the procuring institution must notify the proponent of the unsolicited proposal.
- (3) If the unsolicited proposal meets the requirements referred to in subregulation (1), the procuring institution must –

- (a) publish an Expression of Interest to test the market for the existence of other suppliers capable of providing the product or service or alternative products or services; and
- (b) if there are other suppliers, use the RFP method referred in regulation 9; or
- (c) if there are no other suppliers, use the competitive negotiation method in regulation 13.

19. Electronic bidding

A procuring institution may only conduct an electronic bidding procedure through a platform developed by –

- (a) the institution in terms of section 29(1)(a) of the Act; or
- (b) the Public Procurement Office in terms of section 28 of the Act.

20. Pre-qualification procedure

- (1) A pre-qualification procedure is one to shortlist prospective bidders before adopting a procurement method by evaluating prospective suppliers based on pre-defined criteria which include financial stability, technical capabilities, relevant experience and compliance with legal and regulatory requirements.
- (2) A procuring institution may adopt a pre-qualification procedure in any of the following circumstances:
 - (a) procurement that is complex and of high value in respect of which there are a limited number of qualified bidders;
 - (b) procurement that requires highly technical, specialised or strict regulatory adherence in respect of which there are identifiable bidders with demonstrated technical and specialised competence;
 - (c) national security procurement; or
 - (d) there is a limited but identifiable supplier market with the required capabilities for the procurement.
- (3) There are two types of pre-qualification procedures:
 - (a) selection by the procuring institution on the basis of an analysis of the supplier base contemplated in subregulation (2);
 - (b) the publication of –
 - (i) an Expression of Interest; or

- (ii) an invitation on the eTender Publications Portal.
- (4) An Expression of Interest or invitation on the eTender Publications Portal must include –
 - (a) project background, scope of work, functionality and technical requirements;
 - (b) evaluation criteria contemplated in subregulation (1); and
 - (c) the procurement method to be used in respect of the pre-qualified prospective bidders.
 - (5) Notwithstanding regulations 27(2) and (3), security vetting for national security procurement may require that all potential suppliers are vetted as a condition of pre-qualification.
 - (6) The procuring institution must document the justification for the use of a pre-qualifying procedure contemplated in this regulation.

21. Emergency procurement

[Section 63(1)(a)(xi) of the Act]

- (1) The procuring institution must provide in its procurement policy for emergency planning, execution and administration in accordance with the emergency preparedness plan contemplated in regulation 4(5)(i).
- (2) The procuring institution must procure goods and services depending on the nature of the emergency using –
 - (a) the RFB procurement method with reduced timeframes for bidder response;
 - (b) the RFQ procurement method;
 - (c) emergency call-off orders through framework or transversal term agreements; or
 - (d) if paragraphs (a), (b) or (c) cannot be used, a direct procurement method.
- (3) A procuring institution must –
 - (a) record the deliberations, decisions, and reasons for procurement under this regulation;
 - (b) submit a post-emergency report to its accounting officer or accounting authority which includes –
 - (i) the circumstances giving rise to the emergency;
 - (ii) the methods of procurement used and the reasons for their use;
 - (iii) compliance with the institution's procurement policy and these Regulations;

- (iv) contractual compliance and performance; and
 - (v) recommendations to improve the institution's procurement policy and the effectiveness of its response to the emergency;
- (c) publish on its official website the post-emergency report within 30 days.

22. Donor or grant funded procurement

[section 63(1)(a)(vi) of the Act]

- (1) A procuring institution must in donor or grant funded procurement –
- (a) comply with any applicable international agreement and donor or grant conditions;
 - (b) embed any conditions, including supervision and payment protocols, in donor or grant agreements;
 - (c) promote an alignment with the Republic's transformation and developmental objectives by –
 - (i) engaging with donors to incorporate transformation and developmental clauses in its agreements;
 - (ii) prioritising local content and inclusive participation.

Part 9

Criteria for evaluation of bids

[section 24(1)(d) of the Act]

23. General requirements relating to evaluation criteria

- (1) The evaluation criteria –
- (a) applies to all procurement methods;
 - (b) must be –
 - (i) clearly stated in bid documents; and
 - (ii) applied consistently.
- (2) Bidders must be evaluated on their compliance with the evaluation criteria and no criterion may be applied that is not stated in the bid documents.

24. Evaluation criteria

- (1) Subject to subregulation (2), evaluation criteria –
 - (a) must include –
 - (i) cost-effectiveness, taking into account lifecycle costs, value for money, and affordability;
 - (ii) capability and capacity to deliver, taking into account organisational experience, resources, and performance record;
 - (iii) functionality and technical requirements, taking into account responsiveness to specifications, innovation, and operational performance;
 - (iv) criteria prescribed under sections 17(5), 18(6), 19(6) of the Act;
 - (v) any other qualification criteria included in any code of good practice issued in terms of section 9(1)(b) of the Broad-Based Black Economic Empowerment Act; and
 - (vi) local production and content criteria contemplated in section 20(8) of the Act; and
 - (b) may include criteria based on measures –
 - (i) pursuant to the institution's development objectives; or
 - (ii) contemplated in sections 21 and 22 of the Act.
- (2) The evaluation criteria, referred to in subregulation (1)(a)(i) to (iii), may not limit new entrants or emerging suppliers, unless the criteria are not feasible.

25. Weighting of criteria

- (1) A procuring institution must, in its bid documents, assign a weight to each evaluation criterion, subject to any minimum threshold that is prescribed in these Regulations.
- (2) The total score must be out of 100 points, which a procuring institution may allocate among the following evaluation criteria –
 - (a) capability and capacity to deliver;
 - (b) functionality and technical;
 - (c) preference; and
 - (d) price.

- (3) A 70% minimum threshold applies in respect of each of the evaluation criteria referred to in subregulation (2)(a) to (c).
- (4) An evaluation of the preference criteria under subregulation (2)(c) must –
 - (a) if sections 17, 18 and 19 of the Act apply, include a procuring institution's historic procurement spend with a qualifying enterprise under section 18(1)(a) of the Act for the purpose of determining whether that enterprise has the effect of limiting new entrants or emerging suppliers;
 - (b) if sections 17, 18 and 19 do not apply, include an evaluation in terms of sections 21, 22 and 23, if applicable.
- (5) A bidder that does not comply with mandatory empowerment provisions under sections 17, 18 and 19 of the Act must be disqualified.
- (6) A procuring institution must apply the bid evaluation matrix template in **ANNEXURE 1** to these Regulations in the evaluation of bids.

Part 10

Other matters to be provided in the procurement system

26. Bid validity period

[section 63(1)(a)(ix) of the Act]

- (1) A bid validity period –
 - (a) must be –
 - (i) determined to ensure the completion of the procurement process up to the award of the bid;
 - (ii) clearly stipulated in the bid documents; and
 - (b) must be longer than 21 days from the date of the bid submission deadline.
- (2) Subject to subregulations (4) and (5), a bid validity period ends –
 - (a) on the expiry of the period stipulated in the bid document; or
 - (b) if earlier, on the award of the bid.
- (3) A bidder is bound to the terms of its bid –
 - (a) until its expiry in terms of subregulation (1);

- (b) for any further period contemplated in subregulations (4) and (5); or
 - (c) if successful, until the conclusion of the contract.
- (4) If a bidder applies for the reconsideration of a bid under section 35(1) of the Act or a review under section 47(1) of the Act, that bidder is bound by the terms of its bid until the application is finalised.
 - (5) A procuring institution may, under good grounds, extend the bid validity period contemplated in subregulation (2)(a).
 - (6) If a procuring institution decides to extend a bid validity period in terms of subregulation (5), it must –
 - (a) permit bidders to consent to the extension and to submit revised written proposals on price together with any justification; and
 - (b) notify the bidders at least five days before the expiry of the bid validity period of –
 - (i) the period within which a bidder may consent in writing; and
 - (ii) the period of the extension, the extension of which must be longer than 14 days.
 - (7) A bid no longer qualifies for further consideration in the procurement process if the bidder fails –
 - (a) to consent to the extension contemplated in subregulation (6);
 - (b) to justify any revised price referred to in subregulation 6(a).

27. Security vetting of bidder before award of bid

[section 63(1)(a)(iii)(bb) of the Act]

- (1) A procuring institution must include the security vetting requirements in its bid documents.
- (2) The procuring institution must subject bidders who are shortlisted following bid evaluation to mandatory security vetting to verify a bidder's background, integrity and financial standing including –
 - (a) criminal background checks;
 - (b) verification of ownership and beneficial interest;
 - (c) financial due diligence; and
 - (d) legal and regulatory compliance.

- (3) The procuring institution may require additional security vetting of bidders for procurement–
 - (a) in national security;
 - (b) in strategic infrastructure; or
 - (c) designated as sensitive and strategic by the procuring institution’s accounting officer or accounting authority, or the Public Procurement Office.
- (4) The procuring institution may seek further clarification from a bidder regarding any concern arising from the vetting contemplated in subregulations (4) and (3).
- (5) The procuring institution must complete the vetting contemplated in subregulations (4) and (3) within 30 days, unless it extends the period on good grounds.
- (6) If a bidder fails or refuses to comply with security vetting requirements, it must be disqualified.
- (7) Information obtained during the security vetting process must be treated as confidential and used exclusively for procurement purposes in accordance with Protection of Personal Information Act, 2013 (Act No. 4 of 2013).

28. Notification of award

- (1) After notifying the successful bidder of the award, the procuring institution must notify all other bidders that they were not successful within 10 days of the award.
- (2) The notification to unsuccessful bidders contemplated in subregulation (1) must include the reasons why a bidder is not successful.
- (3) A procuring institution must hold a briefing session on any award in excess of R 50 million–
 - (a) to which the public, civil society and the media are publicly invited;
 - (b) the content of which may be guided by the Public Procurement Office.

29. Contract management

[Section 63(1)(b)(vi) of the Act]

- (1) The procuring institution must establish a contract management system that–
 - (a) monitors contract execution and compliance;
 - (b) tracks progress against deliverables and key milestones;

- (c) manages contract risks proactively;
 - (d) enforces accountability by suppliers and contract managers;
 - (e) ensures transparency and records management; and
 - (f) supports outcome-based performance evaluation.
- (2) A procuring institution must ensure that a contract with a supplier–
- (a) is in a standard form approved or endorsed by the Public Procurement Office, which form may be adapted or modified depending on circumstances or conditions;
 - (b) is in accordance with the terms of the award subject to any variation or amendment contemplated in subregulation (3)(a);
 - (c) includes clauses for the suspension of work, cancellation of the contract, penalties and debarment for non-compliance with the contractual obligations;
 - (d) is legally compliant.
- (3) Subject to subregulation (4), a variation or amendment of the scope of a contract may not exceed –
- (a) for infrastructure related goods and services above R100 000, 15% of the original contract value;
 - (b) for consultancy services above R30 000, 10% of the original contract value; and
 - (c) for all other goods and services, 20% of the original contract value.
- (4) An accounting officer or accounting authority may approve a variation or amendment of the scope of a contract in excess of the thresholds in subregulation (3) if there are good grounds for doing so.
- (5) A procuring institution must in its tracking of performance in terms of subregulation (1)(b) assess performance -
- (a) using quantitative and qualitative performance indicators;
 - (b) obtaining feedback from end-users or beneficiaries;
 - (c) on actual expenditure against planned expenditure.
- (6) A procuring institution must publish on its official website, excluding confidential information
-

- (a) the award and a copy of the contract on within 7 days of the conclusion of the contract; and
- (b) in the case of a variation or amendment contemplated in subregulations (3) or (4), a copy of the variation or amendment and reasons for doing so within 7 days of their conclusion.

Part 11

Use of another organ of state

30. Acquisition from another organ of state

[section 25(a) of the Act]

- (1) A procuring institution may acquire goods, services, infrastructure, or capital assets from another organ of state (referred to as a “supplying institution”) if the supplying institution –
 - (a) is mandated by law to exclusively provide the goods or services to other organs of state; or
 - (b) offers goods or services that fall within its statutory mandate which can be sourced from the open market.
- (2) In the case of subregulation (1)(b), a procuring institution –
 - (a) may either acquire the goods or services –
 - (i) from the supplying institution; or
 - (ii) source its procurement from the open market; and
 - (b) if it sources its procurement from the open market, must –
 - (i) justify its decision on grounds of cost effectiveness based on a value for money assessment;
 - (ii) publish the decision and assessment on the institution’s official website within 7 days of the decision; and
 - (iii) use an open competitive bidding method referred to in regulation 6(1)(a) to procure goods and services.

31. Contracting another organ of state to construct, repair or maintain infrastructure or capital assets

[section 25 (b) of the Act]

A procuring institution may contract another organ of state to construct, repair or maintain infrastructure or capital assets if –

- (a) that organ of state –
 - (i) has a statutory mandate to do so;
 - (ii) demonstrates the technical, financial, and managerial capacity to execute the project within the required timelines and standards; and
- (b) it is cost-effective and value for money.

32. Letting of assets to another organ of state

[Section 25 (c) of the Act]

A procuring institution may let assets to another organ of state if –

- (a) the asset is let at a market-related rental unless the relevant treasury approves otherwise;
- (b) any legal or contractual requirements are complied with; and
- (c) the letting is in the public interest or promotes the efficient use of state resources; or
- (d) the asset is underutilised or surplus to the institution's current needs, or specifically made available for shared use.

33. Transfer or disposal of assets to another organ of state

[section 25(d) of the Act]

- (1) A procuring institution may transfer assets to another organ of state without a competitive bidding process if the transfer –
 - (a) arises in terms of legislation or the reorganisation of functions as between organs of state; or
 - (b) promotes the efficient use of public assets; and

- (c) is approved by their respective accounting officers or accounting authorities.
- (2) Subject to the Public Finance Management Act or the Municipal Finance Management Act, a procuring institution may transfer –
 - (a) movable assets free of charge; and
 - (b) immovable assets at market-related value unless the relevant treasury determines otherwise.
- (3) A procuring institution may dispose of assets to another organ of state if –
 - (a) the assets are surplus to its needs;
 - (b) the disposal promotes the efficient use of public assets; and
 - (c) it is approved by the accounting officers or accounting authorities of both the institution and the organ of state.
- (4) A procuring institution may only dispose of assets at market-related value unless a relevant treasury determines otherwise.
- (5) The accounting officer or accounting authority of a procuring institution must, in approving the disposal of any assets –
 - (a) justify the disposal; and
 - (b) publish the approval on the institution's official website within 7 days of the approval.

Part 12

Bid committee system

34. Bid committee system

[section 27 of the Act]

- (1) The bid committee system contemplated in section 27(1) of the Act must provide for–
 - (a) a specification function in which the specifications and evaluation criteria for any procurement are determined;
 - (b) an evaluation function in which bids are evaluated and recommended in accordance with the specifications and evaluation criteria;
 - (c) an adjudication function in which recommended bids are considered and an award recommended;

- (d) a decision-making function in which an award is made; and
 - (e) subject to subregulation (4), a system that comprises one or more committees to perform the functions contemplated in paragraphs (a) to (c).
- (2) Subject to section 27(3) of the Act, the committees referred to in subregulation (1)(e) –
- (a) are composed of officials; and
 - (b) may include consultants or advisors who may participate in committee deliberations in an advisory capacity.
- (3) An official –
- (a) performing a specification function may not perform an adjudication function;
 - (b) performing an evaluation function may not perform an adjudication function;
 - (c) that makes the award may not be a member of any of the committees contemplated in subregulation (2) or perform any of the functions contemplated in subregulations (1)(a) to (c).
- (4) Despite subregulation (3), a procuring institution may permit one or more officials to perform the functions contemplated in subregulation (1) if-
- (a) that procurement falls under a threshold determined by the Minister in terms of section 24(2) of the Act; or
 - (b) the goods or services are procured directly from the supplier in accordance with regulation 14.
- (5) Subject to subregulations (2) and (3), an accounting officer or accounting authority may establish a bid committee system that suits its specific needs and the nature of procurement, including establishing –
- (a) a probity committee to audit complex high value procurement before decisions are made;
 - (b) *ad hoc* committees for specific procurement projects;
 - (c) standing committees for ongoing procurement activities;
 - (d) specialised committees for complex, high value or sensitive procurement.

- (6) The procuring institution must publish, on the institution's official website, the findings and recommendations of any probity audit contemplated in subregulation (5)(a) after the decision is made.
- (7) An accounting officer or accounting authority must conduct a regular review of its bid committee system to improve its effectiveness.

Part 13

Access to procurement processes and information

[sections 30 and 31 of the Act]

35. Establishment of central online portals and platforms

- (1) The Public Procurement Office –
 - (a) must establish –
 - (i) the single platform contemplated in, and in accordance with, section 28(2)(a) of the Act;
 - (ii) a central online portal for public access to information contemplated in section 31(2)(b)(ii) of the Act;
 - (iii) the prospective supplier database contemplated in section 24(6) of the Act; and
 - (b) may establish any other database contemplated in section 5(1)(i) of the Act that is easily accessible on a central online portal that is publicly available free of charge.
- (2) A procuring institution must collate and publish the information contemplated in section 31(2)(a) of the Act, excluding confidential information, on the single platform referred to in subregulation (1)(a)(i).

36. Publication of information on procurement processes

- (1) The measures contemplated in section 30 of the Act for access, scrutiny and monitoring of procurement processes by the public, civil society and the media include:
 - (a) access to information on –
 - (i) the single platform contemplated in regulation 35(1)(a)(i);
 - (ii) an central online portal contemplated in regulation 35(1)(a)(ii);

- (iii) the prospective supplier database contemplated in regulation 5;
 - (iv) any other database contemplated in regulation 35(1)(b);
 - (v) procuring institutions' official websites and the documents contemplated in section 32 of the Act on the National Treasury's website;
- (b) access to information published in terms of these Regulations;
 - (c) access to information granted in terms of subregulation (2);
 - (d) attendance at briefing sessions conducted by procuring institutions in terms of regulations 9(3)(c) and 28(3), and stakeholder consultations contemplated in regulation 49(1).
- (2) If the information sought is not publicly available on the portals, platforms or websites referred to in subregulation (1), access to information must be granted by the Public Procurement Office or procuring institution on request made under the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000).
- (3) The Public Procurement Office and procuring institutions must ensure that the following information published in terms of these Regulations do not disclose –
- (a) confidential information; and
 - (b) the names of officials performing evaluation or adjudication functions contemplated in regulation 34(1).
- (4) The information contemplated in subregulation (3) must be severed from the publicly accessible portals, platforms or websites.

CHAPTER 3
INFRASTRUCTURE, CAPITAL ASSETS AND GOODS AND SERVICES RELATED TO
MAINTENANCE OF INFRASTRUCTURE OR CAPITAL ASSETS

Part 1

Definition and classification

37. Definitions and classification

In this Chapter, unless the context indicates otherwise –

“Budget Facility for Infrastructure” means the centralised gateway established by the National Treasury for high-level and high-risk infrastructure proposals requiring fiscal support;

“capital assets” are classified as –

- (a) “high-value assets” which exceed the capitalisation threshold determined by the procuring institution and are essential for service delivery;
- (b) “strategic assets” which are linked to national or provincial infrastructure priorities or strategic integrated projects; and
- (c) “assets which support routine service delivery and maintenance” of a capital asset;

“contract packaging” means works that have been grouped together under a single contract or package order;

“goods and services related to capital assets” include –

- (a) professional services for planning, design, construction, maintenance, and disposal of capital assets;
- (b) operational inputs such as energy, water, information and communication technology support, and facility management;
- (c) ancillary goods such as spare parts, tools, and consumables directly linked to asset performance;

“high-value and high-risk project” means a project that requires significant fiscal commitment and carries substantial technical, financial or operational risks for the procuring institution;

“Infrastructure Development Act” means Infrastructure Development Act, 2014 (Act No.23 of 2014);

“Infrastructure Development Regulations” means the Infrastructure Development Regulations, 2022 published under the Infrastructure Development Act;

“lifecycle” means the entire life span of the asset from planning and design, acquisition or construction, operation and maintenance and end of life decommissioning or disposal;

“major project” means a project that requires significant capital investment and is aligned with national priorities;

“portfolio level” means a high-level strategic and aggregated planning and management of multiple infrastructure projects within an institution or across institutions;

“procurement” for the purposes of this Chapter is limited to –

- (a) the acquisition of goods and services for construction, repair or maintenance of capital assets; and
- (b) the acquisition of infrastructure or capital assets;

“programme level” means the intermediate layer of programmatic decision making between portfolio level strategic planning and individual project level execution;

“project” includes –

- (a) an infrastructure project, which includes the acquisition of infrastructure or goods or services for construction, repair or maintenance of infrastructure;
- (b) a capital assets project, which includes the acquisition of capital assets or goods or services for maintenance of capital assets;

“project phases” are –

- (a) project inception and feasibility;
- (b) planning and design;
- (c) bidding and contracting;
- (d) construction or implementation;
- (e) operations and maintenance; and
- (f) closure and disposal phase;

“SIPS” means a strategic integrated project as defined in section 1 of the Infrastructure Development Act;

“turnkey procurement” means the appointment of a single contractor to design, construct, and fully equip an infrastructure asset, delivering it ready for operation.

Part 2

Portfolio, programme and project levels

38. Portfolio level procurement strategy

- (1) At a portfolio-level, a procuring institution must develop procurement strategies, as part of its strategic procurement plan contemplated in regulation 4, that –
 - (a) identify long term infrastructure needs aligned with national development goals as set out in the National Development Plan and any relevant sectoral strategy;
 - (b) integrate its infrastructure procurement plans with the national infrastructure plan contemplated in section 1 of the Infrastructure Development Act and collaborate with other procuring institutions on any coordinated infrastructure plans;
 - (c) create a unified procurement approach for multiple infrastructure projects;
 - (d) develop portfolio procurement plans over the medium-term expenditure framework documenting how projects will be selected, costed, sequenced and monitored across the infrastructure lifecycle;
 - (e) track progress and performance across the portfolio of infrastructural assets; and
 - (f) ensure that infrastructure investments align with asset lifecycle planning and maintenance strategies.

39. Programme level procurement planning and approval

- (1) At the programme level, infrastructure procurement of a procuring institution must support the coordinated delivery of related projects that –
 - (a) collectively achieve strategic outcomes determined at portfolio level;
 - (b) achieve the objectives of the institution that is ultimately responsible and accountable for the delivery of services requiring the infrastructure.
- (2) In order to achieve the strategic outcomes referred to in subregulation (1), a procuring institution must develop infrastructure procurement strategies that determine –
 - (a) project complexity and delivery model;
 - (b) contractual strategies including –

- (i) contract types: design by institution; design and build; construction management; management contractor; turnkey, and engineering, procurement and construction;
 - (ii) framework agreements, contract packaging, private-public partnership and blended finance contracts;
 - (c) lifecycle costing, including operations and maintenance;
 - (d) risks to be identified, mitigated and allocated contractually;
 - (e) any offtake agreements for the use of infrastructure or capital assets.
- (3) A procuring institution must develop operations and maintenance procurement strategies that –
- (a) align with asset management plans and lifecycle costing;
 - (b) forecast demand based on historical spend and performance data; and
 - (c) consolidate suppliers for efficiency and standardisation.

40. Infrastructure procurement plan

- (1) A procuring institution must ensure that its infrastructure procurement plan –
- (a) is in accordance with its strategic procurement plan contemplated in regulation 4;
 - (b) translates its institutional strategic and programmatic objectives into a coordinated set of procurement outcomes, ensuring that infrastructure investments are prioritised, resourced, and sequenced to maximise public value;
 - (c) is strategically integrated across all phases of the infrastructure lifecycle beginning at the portfolio and programme stages;
 - (d) is embedded within the full asset lifecycle, from strategic planning, acquisition, and implementation to operations and maintenance;
 - (e) promotes long-term value and sustainability by incorporating lifecycle costing into financial appraisals and decision-making processes at the planning stage of infrastructure procurement; and
 - (f) during project initiation, identifies its infrastructure procurement needs aligned with institutional strategic objectives, sectoral master plans, and national infrastructure priorities.

Part 3

Infrastructure and capital asset procurement phases

41. Gateway reviews for projects

- (1) A procuring institution must institute formal independent gateway reviews at key decision points in the lifecycle of a project.
- (2) For major projects and high-value and high-risk projects, the gateway review contemplated in subregulation (1) –
 - (a) must be conducted by an independent multi-disciplinary team with specialists in at least–
 - (i) engineering or architecture;
 - (ii) project management;
 - (iii) supply chain management or procurement;
 - (iv) law;
 - (v) finance or economics; and
 - (vi) environmental and social impact assessments;
 - (b) may include an official representing the Public Procurement Office or relevant provincial treasury.

42. Project inception and feasibility

- (1) During project inception, a procuring institution must engage in –
 - (a) a comprehensive needs analysis assessment to determine that a proposed project is technically, financially, economically, socially and environmentally feasible and locationally suitable; and
 - (b) an early stage technical analysis.
- (2) A procuring institution must –
 - (a) if the project is feasible, develop an early business case;
 - (b) subject that business case to a formal independent gateway review contemplated in regulation 41 which must include –
 - (i) the project description;

- (ii) its justification;
 - (iii) its objectives and outcomes;
 - (iv) the alternatives considered;
 - (v) a social and economic analysis;
 - (vi) the financials and budget; and
 - (vii) a risk assessment.
- (3) Before proceeding with the project, the independent gateway review contemplated in regulation 4141 must verify –
- (a) the project's alignment with the objectives of the Act and the procuring institution's strategic procurement plan;
 - (b) the procurement justification which includes evidence-based proof of need, market, risk and best value for money;
 - (c) the institution's procurement readiness which includes:
 - (i) an approved procurement plan;
 - (ii) approved funding or financing of the project;
 - (iii) that technical, legal and institutional arrangements are in place;
 - (iv) that conflicts of interest and audit trails have been verified; and
 - (v) the completeness and accuracy of project documents and outcomes.
- (4) This regulation applies to project plans submitted to the Presidential Infrastructure Coordination Commission contemplated in regulation 3(5) of Infrastructure Development Regulations in so far as it is not inconsistent with the SIDS Methodology contemplated in regulation 1 and required in regulations 7 and 8 of the Infrastructure Development Regulations.
- (5) After concluding the gateway review contemplated in subregulation (3), the procuring institution must –
- (a) in the case of high-value and high-risk projects, submit the early business case for appraisal and funding recommendation of Budget Facility for Infrastructure funded projects in line with relevant legislation;

- (b) in the case of major projects –
 - (i) determine whether the requirements in regulations 3 to 6 in the Infrastructure Development Regulations have been met; and
 - (ii) if so, refer an early business case, in accordance with regulation 7 of the Infrastructure Development Regulations, to the Presidential Infrastructure Coordinating Commission contemplated in section 3 of the Infrastructure Development Act.
- (6) The accounting officer or accounting authority of a procuring institution must –
 - (a) publish the gateway review excluding confidential information on the institution's official website within 7 days; and
 - (b) submit the review to the Public Procurement Office in cases of non-compliance or on request from the Office.

Part 4
Project phasing

43. Planning and design phase

- (1) A procuring institution must, at the planning and design phase of a project, appoint technical experts to –
 - (a) develop preliminary and detailed designs;
 - (b) conduct an environmental, geotechnical and structural assessment;
 - (c) prepare cost estimates; and
 - (d) prepare procurement documentation.
- (2) Procuring institutions may implement a supplier pre-qualification procedure in terms of regulation 20 to –
 - (a) test feasibility of specifications;
 - (b) identify capable suppliers; and
 - (c) refine the procurement documentation.

44. Bidding phase

- (1) A procuring institution must conduct an open competitive bidding method contemplated in regulation 6(1)(a) for infrastructure or capital asset-related contracts unless permitted under emergency, direct and unsolicited bid procurement methods under regulations 21, 14 and 18 respectively.
- (2) A procuring institution must –
 - (a) establish the bid committee system contemplated in regulation 34(1)(e); and
 - (b) appoint members of the committees with the relevant technical, financial, legal, and procurement expertise given the complexity and value of the project.
- (3) For major and high-value and high-risk projects, the independent gateway review team contemplated in regulation 41(2) must –
 - (a) review the bid specifications and evaluation criteria before a procurement method is initiated and may make recommendations to the committee performing the specification function;
 - (b) before an accounting officer or accounting authority makes an award –
 - (i) review the integrity of the bidding process and decisions made;
 - (ii) verify the expertise and integrity of the members of the bid committees; and
 - (iii) conduct a comprehensive due diligence on all shortlisted and recommended bidders.
- (4) If the review or verification referred to in subregulation (3)(b)(i) or (ii) identifies material irregularities, the accounting officer or accounting authority –
 - (a) may –
 - (i) on the recommendation of the gateway review, cancel the bidding process; or
 - (ii) refer the matter back to the relevant committees for reconsideration;
 - (b) must –
 - (i) remove and replace a member of a committee against whom allegations are made and refer back in terms of paragraph (a);
 - (ii) initiate disciplinary proceedings against the member referred to in paragraph (b);

- (iii) if the allegations against a member constitute an offence contemplated in section 26, report to the South African Police Service.
- (5) The due diligence of the bidders referred to in subregulation (3)(b)(iii) must include verification of –
- (a) their compliance with the bid specifications and evaluation criteria and the correctness of the bidder's supporting information;
 - (b) their financial standing, including audited financial statements, solvency ratios, and tax compliance status;
 - (c) their technical capability, including relevant experience, professional accreditations, and capacity to deliver the scope of work;
 - (d) their ethical track record, including declarations of past misconduct, restricted supplier status, debarment, and compliance with anti-corruption legislation; and
 - (e) the beneficial ownership, including identification of natural persons who ultimately own or control the bidding entity, in accordance with the Companies Act.
- (6) If the due diligence reveals material concerns regarding a bidder's capacity, integrity, or ownership structure, a procuring institution must –
- (a) notify the bidder of the findings and provide the bidder with an opportunity to respond;
 - (b) disqualify the bidder in accordance with regulation 27 or debar the bidder in accordance with section 15 of the Act;
 - (c) refer the matter to the South African Police Service in terms of section 26 of the Act if fraud, corruption, or misrepresentation is suspected.

45. Contracting phase

- (1) An infrastructure or capital asset contract between a procuring institution and a supplier must be subjected to a gateway review contemplated in regulation 41 to ensure that the contract–
- (a) complies with the terms of the award subject to any variation or amendment contemplated in regulation 29(3)(a); and
 - (b) is legally compliant.
- (2) Infrastructure or capital asset contracts must –

- (a) be in a standard form approved or endorsed by the Public Procurement Office which may be adapted or modified depending on circumstances or conditions;
 - (b) in addition to any other obligation or condition imposed by the Act and these Regulations, include an obligation on suppliers to –
 - (i) comply with the site security protocols and anti-corruption and anti-extortion clauses in the contract;
 - (ii) report any threats or incidents to the procuring institution;
 - (iii) cooperate with investigation and law enforcement;
 - (c) include clauses for the suspension of work, cancellation of the contract, financial penalties or forfeiture of performance bonds and debarment for non-compliance with the contractual obligations referred to in paragraph (b); and
 - (d) if subcontracting is a condition of the bid, include clauses contemplated in regulation 64(6).
- (3) If a procuring institution procures infrastructure from a foreign supplier, it must include a dispute settlement clause in its contract that adheres to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States.
- (4) The procuring institution must-
- (a) establish a contract management system contemplated in regulation 29(1);
 - (b) track performance of the contract in accordance with regulation 29(5); and
 - (c) publish the award, a copy of the contract, any variation or amendment in accordance with regulation 29(6).

46. Maintenance procurement strategy

- (1) The strategic procurement plan contemplated in regulation 4 must include measures –
- (a) to procure –
 - (i) suppliers for routine, preventive or reactive maintenance through long term service contracts or framework agreements referred to in regulation 15;
 - (ii) services for the management of facilities;
 - (iii) mechanical and energy services;

- (iv) information and communication technology support; and
- (b) for the disposal of assets.
- (2) Maintenance contracts must be performance-based with service level agreements linked to asset management plans and lifecycle forecasts.

47. Risk management and contingency planning for infrastructure procurement

[section 63(7)(b) of the Act]

- (1) A procuring institution must establish and implement a comprehensive risk management framework for infrastructure procurement, ensuring the identification of risk at all phases of procurement.
- (2) The risk management framework must –
 - (a) include risk control measures in its procurement documentation, contracts and project governance structures; and
 - (b) specifically address the prevention, mitigation and elimination of corruption.
- (3) The risk management framework must be embedded in all lifecycle phases and must include–
 - (a) risk provisioning through the allocation of contingency budgets, time buffers, and contractual safeguards;
 - (b) risk identification through structured assessments of risk at each procurement gateway review and delivery stage;
 - (c) risk evaluation using qualitative and quantitative methods to assess probability, impact, and severity;
 - (d) risk mitigation through the implementation of control measures, contractual remedies, and institutional protocols; and
 - (e) risk monitoring through regular reporting, site inspections and performance audits.
- (4) A procuring institution must take measures to prevent or mitigate the following high-priority risks in infrastructure procurement:
 - (a) cost overruns and delays caused by poor planning, scope creep, and contractor underperformance;

- (b) quality compromise including non-compliance with technical standards, defective workmanship and materials substitution;
 - (c) environmental threats to biodiversity, pollution and non-compliance with environmental legislation;
 - (d) social disruption through the displacement of people, community unrest, and inadequate stakeholder engagement;
 - (e) corruption including bid rigging, collusion, coercion and extortion; and
 - (f) abuse of authority.
- (5) Before advertising a bid for infrastructure procurement, a procuring institution must prepare a project risk register and contingency plan, which must be–
- (a) reviewed under regulation 41;
 - (b) appended to the bid documents and contract schedules; and
 - (c) updated quarterly throughout the project lifecycle.
- (6) A supplier of infrastructure must –
- (a) develop and submit a supplier risk management plan;
 - (b) implement the risk mitigation measures specified in the contract; and
 - (c) report on emerging risks, incidents, prevention and mitigation actions in quarterly progress reports to the procuring institution.
- (7) A procuring institution must establish contingency measures for infrastructure procurement to provide –
- (a) financial provisioning for risk events and scope changes;
 - (b) alternative delivery strategies in case of supplier default or force majeure; and
 - (c) emergency response protocols for safety, environmental or heritage incidents.
- (8) If a supplier fails or refuses to comply with its risk management obligations, a procuring institution may –
- (a) suspend works if there is a serious risk to safety or security;
 - (b) cancel the contract on grounds of material breach of contract;

- (c) impose any contractual penalties or forfeiture of performance bonds;
 - (d) issue a debarment order in terms of section 15 of the Act.
- (9) The accounting officer or accounting authority of a procuring institution must ensure that –
- (a) risk registers are maintained and updated at each gateway review in terms of regulation 41; and
 - (b) risk reports are recorded.
- (10) A procuring institution must submit a report on a suspension or cancellation contemplated in subregulation (8) to the Public Procurement Office and to Infrastructure South Africa in respect of SIPS.

48. Prevention of organised crime and extortion

- (1) Procuring institutions must develop and implement targeted measures to prevent, detect, and respond to corruption or conspiracy to commit extortion, intimidation or corrupt, fraudulent, collusive, coercive or obstructive acts in infrastructure build.
- (2) Procuring institutions must incorporate in their project planning and contract management specific risk assessments for the offences contemplated in subregulation (1), which must –
 - (a) be conducted prior to site establishment;
 - (b) inform security planning and supplier obligations; and
 - (c) be updated quarterly or upon incident occurrence.
- (3) The targeted measures contemplated in subregulation (1) must include –
 - (a) a fraud prevention plan on the basis of the risk assessment contemplated in subregulation (2) which provides for whistleblower mechanisms, conflict of interest declarations and safeguards to prevent collusion;
 - (b) mechanisms for the identification, documentation and escalation of suspicious activities, threats, or patterns of intimidation affecting infrastructure projects which include –
 - (i) site-level incident reporting protocols;
 - (ii) anonymous whistleblower channels;
 - (iii) escalation pathways to law enforcement, the Public Procurement Office or relevant provincial treasuries.

- (4) A procuring institution must –
 - (a) report all incidents of the offences contemplated in subregulation (1) as soon as practically possible to the South African Police Service in terms of section 26;
 - (b) keep a consolidated list of all reports contemplated in paragraph (a); and
 - (c) submit the consolidated list to the Public Procurement Office in the manner, form and period determined by the Office.

49. Stakeholder consultation

- (1) A procuring institution must implement a structured process for stakeholder consultation throughout the lifecycle of infrastructure projects which must –
 - (a) be inclusive of affected communities and civil society for successful delivery and sustainability of the project;
 - (b) comply with any consultation requirements in any relevant land use, environmental or heritage legislation; and
 - (c) include mechanisms for –
 - (i) public notice of invitation for the public and civil society to participate and the media to attend;
 - (ii) holding community meetings and stakeholder workshops;
 - (iii) feedback of, and response to, material stakeholder concerns.
- (2) A procuring institution must ensure that stakeholder consultation outcomes are –
 - (a) taken into account in the project's feasibility study, procurement and implementation planning;
 - (b) documented and retained for audit, oversight and public access; and
 - (c) submitted to the Public Procurement Office and other relevant provincial treasuries if requested by the Office or treasury.

50. Environmental and heritage compliance

- (1) A procuring institution must, prior to advertising a bid –
 - (a) undertake, if required:

- (i) an environmental impact assessment under the National Environmental Management Act, 1998 (Act No. 107 of 1998);
 - (ii) a heritage impact assessment under the National Heritage Resources Act, 1999 (Act No. 25 of 1999);
- (b) obtain any required environmental authorisations; and
- (c) ensure that the project scope and site layout complies with municipal spatial development frameworks and land use schemes under the Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013).
- (2) Procuring institutions must ensure that bid documents include –
- (a) any environmental and heritage compliance obligations;
 - (b) a requirement for suppliers to provide environmental and heritage plans to give effect to the obligations contemplated in paragraph (a) and (c);
 - (c) obligation to mitigate measures and environmental management specifications;
 - (d) a requirement to maintain records of compliance, environmental incidents, mitigation measures and heritage preservation measures; and
 - (e) contractual penalties for non-compliance with environmental or heritage conditions.
- (3) Non-compliance with environmental or heritage obligations may result in –
- (a) suspension of works or site closure;
 - (b) cancellation of the contract;
 - (c) financial penalties or forfeiture of performance bonds;
 - (d) debarment.

CHAPTER 4
PROCUREMENT OF TRAVEL AND ACCOMMODATION, LEGAL SERVICES AND LEASES

Part 1

Travel and accommodation

51. Travel and accommodation procurement

- (1) Unless there is a transversal term contract contemplated in regulation 16 that binds a procuring institution, the institution must procure its travel and accommodation services by using –
 - (a) the RFP method contemplated in regulation 9 if only one supplier is to be appointed;
 - (b) the framework agreement method contemplated in regulation 15 if more than one supplier is to be appointed.
- (2) The contractual rates for travel and accommodation must be –
 - (a) based on actual cost;
 - (b) net and non-commissionable;
 - (c) exclusive of any third-party commission; and
 - (d) inclusive of any transactional or management fee.
- (3) In procuring travel and accommodation, a procuring institution must –
 - (a) comply with its travel policy which may include institutional travel approval and authorisation procedures, booking procedures, loyalty programmes and upgrades; and
 - (b) include in its service level contract provisions for refunds, unused services, insurance and emergency services.

Part 2

Legal services

52. Procurement of legal services

- (1) Subject to subregulation (2), a procuring institution must procure its legal services by using the RFQ, RFB, RFP or the framework agreement methods contemplated in regulations 7,8, 9 and 15, taking into account any code of good practice issued in terms of section 9(1)(b) of the Broad-Based Black Economic Empowerment Act.

- (2) Subregulation (1) does not apply to a procuring institution if –
 - (a) that institution’s legal service requires the State Attorney’s performance in any court in terms of section 3 of the State Attorney’s Act, 1957 (Act No. 56 of 1957); or
 - (b) it is bound by a transversal term contract contemplated in regulation 16.
- (3) If a framework agreement method is used-
 - (a) there must be separate panels for attorneys and advocates admitted and enrolled in terms of the Legal Practice Act, 2014 (Act No. 28 of 2014);
 - (b) those panels-
 - (i) must be based on seniority or experience; and
 - (ii) may be differentiated on the basis of areas of specialisation.
- (4) A procuring institution must provide in its procurement policy, procedures for the procurement of urgent legal services.

Part 3
Leases

53. Procurement of leases

- (1) Leases of immovable property may only be concluded by –
 - (a) an institution mandated by law to do so (“leasing institution”);
 - (b) an institution delegated, assigned or exempted in terms of a law contemplated in paragraph (a) (“exempted institution”).
- (2) Before entering into a lease or a written agreement contemplated in subregulation (3), a procuring institution must –
 - (a) assess its needs, which includes any demand for residential, commercial, industrial or agricultural property aligned with its service delivery;
 - (b) streamline and reduce excess leased space to meet those needs;
 - (c) assess the property portfolio of the State and its capacity to meet the needs contemplated in paragraph (a); and
 - (d) optimise the use of existing properties owned by the leasing institution or other organs of state before leasing from other owners of immovable property.

- (3) A procuring institution and a leasing institution must, for the purposes of procurement planning, contract management and accountability, enter into a written agreement in terms of which the responsibilities regarding the lease, including roles in needs assessment, specifications, compliance monitoring and user satisfaction are clearly delineated.
- (4) A leasing institution must, for the procurement of a lease –
- (a) subject to subregulation (7), invite owners registered under the register referred to in regulation 54(1)(a) to respond to a RFP; and
 - (b) include evaluation criteria –
 - (i) based on the utilisation ratio (cost per full-time equivalent accommodated) and not the rate per square metre;
 - (ii) lease duration and escalation terms;
 - (iii) procurement preference measures as provided for in this Act;
 - (iv) location-specific factors, and co-location needs; and
 - (v) standardisation of maintenance cost components.
- (5) An exempted institution must for the procurement of a lease –
- (a) subject to subregulation (7), use the RFP method contemplated in regulation 9; and
 - (b) include evaluation criteria contemplated in subregulation (4)(b).
- (6) A leasing institution must –
- (a) regularly assess the performance of all lease agreements;
 - (b) conduct audits on utilisation, maintenance costs, and compliance; and
 - (c) submit performance reports to the Public Procurement Office annually.
- (7) Subject to subregulations (8) and (9), the direct procurement method contemplated in regulation 14 may be justified if –
- (a) sole supplier conditions apply;
 - (b) it is a continuation, renewal, or expansion of an existing lease on equal or improved terms; or
 - (c) the existing lease is technically or economically inseparable.

- (8) The rental of a lease procured in terms of subregulation (7) must be assessed by a registered property assessor as market-related.
- (9) A lease procured in terms of subregulation (7) must –
 - (a) in the case of a lease contemplated in subregulation (1)(a), be approved by the accounting officers or accounting authorities of both institutions;
 - (b) in the case of a lease contemplated in subregulation (1)(b), be approved by the accounting officer or accounting authority of the exempted institution.
- (10) The institutions contemplated in subregulation (9) must record the reasons for using the direct procurement method contemplated in subregulation (7).

54. Registration and listing of properties

- (1) A leasing institution must –
 - (a) establish and maintain a register of pre-qualified properties specifying the minimum requirements for inclusion; and
 - (b) publish an Expression of Interest to invite owners of immovable property to register their properties.
- (2) No obligation to lease arises from registration under subregulation (1).
- (3) A leasing institution must publish a listing of state-owned properties available for letting.

CHAPTER 5

PREFERENTIAL PROCUREMENT

Part 1

Determination when preferential procurement not possible

55. Determination when not possible

- (1) If a procuring institution determines that it is not possible to procure in accordance with section 17, 18 or 19 of the Act, the institution must submit a report to the Public Procurement Office and the relevant provincial treasury.
- (2) The report contemplated in subregulation (1) must include –
 - (a) a description and estimated value of goods, services or an income-generating contract;
 - (b) any unbundled portion that was intended to be apportioned for set-asides;

- (c) the reasons why procurement is not possible;
 - (d) any measures taken to comply with other preference provisions.
- (3) If a bid is advertised and no responses were received from the identified category of persons for whom the bid is set-aside in terms of section 17(1), prequalified under section 18 or mandatory under section 19 of the Act, the report contemplated in subregulation (1) must include the following additional information:
- (a) the bid or project number;
 - (b) the impact of a limitation to a geographical area, if any, on responses to the bid;
 - (c) the procurement strategy applied;
 - (d) the procurement method used; and
 - (e) the complexity of the project.
- (4) A provincial treasury must consolidate the reports submitted by the relevant provincial procuring institutions in terms of subregulation (1) and submit the consolidated report to the Public Procurement Office in the manner, form and period required by that Office.
- (5) The Public Procurement Office must publish the annual consolidated national matrix of the reports submitted by procuring institutions and the provincial treasuries on its official website.

Part 2

Set-asides in terms of section 17 of the Act

56. Thresholds and conditions for set-asides

- (1) A procuring institution must in its procurement policy identify up to five categories of persons contemplated in section 17(3) of the Act ("identified category of persons") in accordance with –
- (a) its strategic mandate, objectives and programmes;
 - (b) the nature of the sector, industry, commodity or supply market; and
 - (c) availability of potential suppliers in the identified category of persons.
- (2) The thresholds and conditions contemplated in section 17(1)(a) of the Act for each identified category of persons are:

- (a) the estimated value of the contract or unbundled portion specifically apportioned for set-asides does not exceed R20 million; and
 - (b) there are at least three potential qualifying suppliers in each identified category of persons.
- (3) The procuring institution must set-aside a bid that falls within the threshold and on the condition contemplated in subregulation (2) for one or more identified category of persons.
 - (4) A procuring institution must specify a minimum contract value for set-asides in its procurement policy that does not exceed R30 000 and record its reasons.
 - (5) A procuring institution must set-aside the minimum percentage of its annual procurement budget in accordance with the targets in **ANNEXURE 2** in respect of the identified categories of persons.
 - (6) If no bids are received from the qualifying suppliers from the identified category of persons contemplated in subregulation (1), the procuring institution must cancel the bid and re-advertise it with no change to its specifications –
 - (a) for another identified category of persons;
 - (b) applying the pre-qualification criteria contemplated in section 18(1) of the Act; or
 - (c) with no preferential procurement if –
 - (i) all reasonable efforts have been made to attract bids from the identified category of persons; and
 - (ii) a report is submitted to the Public Procurement Office and the relevant provincial treasury, including the reason for the omission of preference measures in the re-advertised bid documents.

57. Ownership and eligibility requirements for set-asides

- (1) In terms of section 17(4)(a) of the Act, persons under section 17(3)(a) to (h) must be 100% owned by members of the relevant identified category of persons contemplated in regulation 56(1).
- (2) In terms of section 17(4)(b) of the Act, persons under section 17(3)(a) to (j) of the Act must be 100% owned by citizens of the Republic.
- (3) In terms of section 17(4)(c) of the Act –
 - (a) persons in subsection (3)(k) of that section must be 100% owned by black people;

(b) persons in subsection (3)(k), (l), or (m) of that section must be 100% owned by citizens of the Republic.

(4) Bids not meeting these ownership and eligibility requirements must be disqualified.

58. Set-asides for income-generating contracts

(1) Regulations 56 and 57 apply, with the necessary changes required by context, to income-generating contracts.

(2) A contract contemplated in subregulation (1) may be identified as a set-aside by a procuring institution if –

(a) the opportunity to contract is suitable and viable for an identified category of persons contemplated in regulation 56(1); and

(b) the leasing of the institution’s property is compliant with any legislative obligations.

(3) A procuring institution may adapt or modify its approach to the leasing of its property by –

(a) publishing an Expression of Interest instead of a request for a bid;

(b) considering an unsolicited proposal in accordance with regulation 18;

(c) inserting a mandatory transformation or development clause in the lease.

Part 3

Pre-qualification under section 18 of the Act

59. Pre-qualification criteria

(1) A procuring institution must in its procurement policy identify the categories of persons contemplated in section 18(1)(b) of the Act (“identified category of persons”) in accordance with –

(a) its strategic mandate, objectives and programmes;

(b) the nature of the sector, industry, commodity or supply market; and

(c) availability of potential suppliers in the identified category of persons.

(2) The thresholds and conditions contemplated in section 18(1) of the Act for each identified category of persons are:

- (a) the estimated value of a contract, or any unbundled portion of it for the purposes of that section, is between R20 million and R100 million, unless pre-qualification is not possible; and
 - (b) there are at least three potential qualifying suppliers in each identified category of persons.
- (3) A procuring institution must require that bids within the threshold range and condition referred to in subregulation (2) are advertised for pre-qualification under section 18(1)(a) or (b) of the Act, unless it is not possible to do so in terms of section 16(3) of the Act.
- (4) If no bids are received from the qualifying suppliers from the identified category of persons contemplated in subregulation (1), the procuring institution must cancel the bid and re-advertise it with no change to its specifications –
- (a) using other pre-qualification criteria;
 - (b) making subcontracting as a condition of the bid in terms of section 19; or
 - (c) with no preferential procurement if –
 - (i) all reasonable efforts have been made to attract bids from the identified category of persons; and
 - (ii) a report is submitted to the Public Procurement Office or the relevant provincial treasury, including the reason for the omission of preference measures in the re-advertised bid documents.
- (5) A procuring institution must annually review the criteria contemplated in subregulation (1) to ensure that-
- (a) overly restrictive criteria do not exclude capable suppliers;
 - (b) new methods and innovative solutions are not excluded.

60. Ownership and eligibility conditions under pre-qualification

- (1) In order to qualify in terms of section 18(1)(a) of the Act a bidder must –
- (a) demonstrate at least 40% of prior procurement was spent on enterprises that are at least 51% owned and managed by black persons;
 - (b) provide proof of having met that requirement as may be required by the procuring institution's procurement policy as set out in the bid documents.

- (2) In order to qualify in terms of section 18(1)(b) of the Act, a bidder must subcontract at least 30% of the estimated value of the contract to persons who are citizens of the Republic in the identified category of persons –
 - (a) that own 100% of an enterprise for the purposes of section 18(3)(b) of the Act; or
 - (b) the members of which make up 100% of the membership of a cooperative for the purposes of section 18(3)(c) of the Act.
- (3) A bidder must disclose the names of proposed subcontractors in their bid documents.
- (4) A supplier may only substitute a subcontractor –
 - (a) if the substitute meets eligibility requirements and other criteria stipulated in the bid documents; and
 - (b) if the procuring institution is notified of the substitution.

61. Application to income-generating contracts

- (1) Regulations 59 and 60 apply, with the necessary changes required by context, to income-generating contracts.
- (2) A procuring institution may in its income-generating contracts subcontract floor space or related services to enterprises and cooperatives contemplated in –
 - (a) section 18(1)(b) of the Act; and
 - (b) the identified categories of person contemplated in regulation 59(1).
- (3) A procuring institution may adapt or modify its approach to the leasing of its property by –
 - (a) publishing an Expression of Interest instead of a request for a bid;
 - (b) considering an unsolicited proposal in accordance with regulation 18;
 - (c) inserting a mandatory transformation or development clause in the lease.
- (4) If a procuring institution cannot apply any preference measures contemplated in this regulation, it must submit a report with reasons to the Public Procurement Office or the relevant provincial treasury.
- (5) For the purpose of this regulation, if the contract value cannot be quantified in monetary terms at the time of bid, the procuring institution must determine a reasonable estimate of value based on a market assessment or professional valuation.

Part 4**Subcontracting as condition of bid**

[section 19 of the Act]

62. Identification and thresholds

- (1) A procuring institution must include in its procurement policy –
 - (a) that the estimated value of a contract or any unbundled portion of it for the purposes of subcontracting under section 19 of the Act, is R100 million and above;
 - (b) that a bid may only be advertised with subcontracting as a condition of bid, if it has been determined that there are three or more potentially qualifying bidders within an identified category of persons to whom a bid may be subcontracted;
 - (c) require a feasibility assessment contemplated in regulation 63 before subcontracting is made a condition of bid;
 - (d) only permit subcontracting as a condition of bid if the assessment contemplated in paragraph (c) determines it feasible.
- (2) A procuring institution must, in its bid documents identify the categories of persons contemplated in section 19(2)(a) of the Act (“identified category of persons”) for subcontracting in terms of subsection (1)(a) in accordance with –
 - (i) its strategic mandate, objectives and programmes;
 - (ii) the nature of the sector, industry, commodity or supply market; and
 - (iii) availability of potential suppliers in the identified category of persons.
- (3) In any one bid, a procuring institution may identify up to three identified categories of persons from whom a bidder may select subcontractors.
- (4) If no bids are received that meet the subcontracting criteria, the procuring institution may cancel and readvertise the bid with no change to its specifications –
 - (a) identifying other categories of persons contemplated in section 19(2) of the Act to be included in the bid; or
 - (b) procuring in terms of section 18(1)(a); or
 - (c) with no preferential procurement if –

- (i) all reasonable efforts have been made to attract bids from the identified category of persons; and
- (ii) a report is submitted to the Public Procurement Office or the relevant provincial treasury, including the reason for the omission of preference measures in the re-advertised bid documents.

63. Feasibility assessment

- (1) For the purposes of regulation 62(1)(c), a procuring institution must determine if a bid in terms of this Part is feasible by conducting an assessment whether –
 - (a) the scope of work is suitable for subcontracting; and
 - (b) there are sufficient number of subcontractors in the identified categories of persons that are compliant with sector specific regulatory requirements.
- (2) This feasibility assessment must be recorded and published on the procuring institution's website.

64. Minimum subcontracting requirements

- (1) If subcontracting is a condition of bid, the procuring institution must require that at least 25% of the contract value is subcontracted to one or more of the enterprises or cooperatives in the identified categories of person contemplated in regulation 62(2).
- (2) If subcontracting is a condition of bid, the bid documents –
 - (a) must include –
 - (i) the subcontracting percentage required;
 - (ii) the identified categories of persons; and
 - (iii) any scope of work identified for subcontracting;
 - (b) may include any requirement for the transfer of skills.
- (3) In order to qualify in terms of section 19(2) of the Act, a bidder must contract with persons that are citizens of the Republic –
 - (a) that own 100% of the enterprises contemplated in paragraphs (a) to (g) of the section; or
 - (b) whose members make up 100% of the membership of the cooperatives contemplated in paragraphs (h) to (j) of the section.

- (4) A bidder must in its bid documents submit proof required in the bid documents of having met the ownership and eligibility criteria.
- (5) A supplier may only substitute a subcontractor if –
 - (a) the substitute meets eligibility requirements and other criteria stipulated in the bid documents; and
 - (b) the procuring institution is notified of the substitution.
- (6) If subcontracting is a condition of bid, a procuring institution must include, in its contract with the supplier, clauses that –
 - (a) prohibit the subcontractor from subcontracting any other person to execute its scope of work;
 - (b) require the supplier to take all reasonable steps to ensure compliance with the prohibition contemplated in paragraph (a);
 - (c) subject to a referral to expedited arbitration under paragraph (e), permit the institution to make a direct payment to the subcontractor-
 - (i) if the supplier defaults on its payment obligations to the subcontractor in terms of the contract between them; and
 - (ii) that payment may not exceed any money due and payable to the supplier;
 - (d) provide that the institution must deduct any direct payment made under paragraph (c) from the price agreed to with the supplier under the contract;
 - (e) provide for expedited arbitration under the Arbitration Act, 1965 (Act No. 42 of 1965) if the supplier disputes that it has defaulted on its payment obligations under the subcontract;
 - (f) the contract between the institution and the supplier does not create any contractual relationship between the institution and the subcontractor.

65. Identification and selection of subcontractors under this Part

- (1) Bidders must identify and select subcontractors within the identified categories of person that –
 - (a) meet the eligibility and ownership criteria in regulation 64(3);

- (b) are listed on the supplier database of prospective suppliers under section 24(6) of the Act; and
 - (c) are compliant with sector or industry-specific regulatory requirements.
- (2) A procuring institution must include a hyperlink or reference to the database contemplated in subregulation (1)(b) in its bid documents.
 - (3) Subject to subregulation (4), a procuring institution must require bidders to submit, in their bid documents, evidence of subcontractor selection which may include signed conditional subcontracting agreements with details of scope of work and payment terms.
 - (4) If, given the nature of the procurement, it is not feasible to select some or all of the subcontractors at the time of the closing of the bid, the bid document must include a condition that the contract with the supplier –
 - (a) requires the supplier to select subcontractors in accordance with the bid;
 - (b) includes provisions governing the manner in which –
 - (i) details of the proposed subcontractors are submitted to the institution for approval; and
 - (ii) the institution's approval is sought.

66. Application to income-generating contracts

- (1) If a procuring institution advertises a bid for an income-generating contract, the estimated value of which is R100 million or above, the regulations in this Part apply with the changes required by context.
- (2) If the monetary value of a contract is not quantifiable at the time of the bid, the institution must determine a reasonable estimate of value based on –
 - (a) a market assessment;
 - (b) independent professional valuation; or
 - (c) historical financial data.
- (3) Subcontracts under an income generating contract may include –
 - (a) the allocation of revenue-generating space to identified categories of persons;
 - (b) operational service rights reserved for targeted subcontractors; and

- (c) revenue-sharing or co-branding agreements with persons in the identified categories of persons.
- (4) The subcontracting percentage must –
- (a) relate to –
 - (i) the projected operational expenditure; or
 - (ii) the estimated revenue stream attributable to the contract; and
 - (b) be no less than 25% and no more than 50% of that expenditure or revenue stream.
- (5) Procuring institutions must –
- (a) monitor performance and compliance under the contracts contemplated in this regulation; and
 - (b) submit reports in the manner, form and period as required by the Public Procurement Office to that Office or relevant treasury.

Part 5

Measures in terms of sections 21 to 23 of the Act

67. Measures to advance sustainable development

- (1) A procuring institution may include in its procurement policy and strategic procurement plan measures to advance sustainable development that are consistent with nationally and internationally recognised principles and standards by –
- (a) prioritising environmental, social and economic sustainability in procurement strategy and decisions;
 - (b) evaluating the environmental and social risks and opportunities in procurement categories and supplier practices in its procurement strategies;
 - (c) requiring suppliers to meet sustainability standards as evaluation criteria in bids including –
 - (i) environmental certification;
 - (ii) waste prevention or mitigation;
 - (iii) the use of renewable resources;
 - (iv) carbon reduction and energy efficiency measures;

- (v) job creation and fair labour practices;
- (d) including sustainability obligations and performance indicators in contracts;
- (e) specifying procurement requirements that favour sustainable development goals.

68. Measures for beneficiation and innovation

A procuring institution must include in its strategic procurement plan and procurement policy measures to promote beneficiation and innovation by –

- (a) advancing local beneficiation rather than procuring imported goods;
- (b) requiring suppliers to use goods made or services provided by South African entities or citizens of the Republic;
- (c) encouraging procurement of innovative solutions by adopting procurement methods to allow suppliers to propose innovative solutions.

69. Measures to advance creation of jobs, intensification of labour absorption and development of small enterprises within particular geographical area

- (1) A procuring institution must include in its procurement policy measures to advance the creation of jobs, labour absorption and development of small enterprises within a particular geographic area by –
 - (a) setting targets in bid specifications for the employment of citizens of the Republic, including where appropriate, targets relating to the creation of jobs for citizens within specified geographical areas;
 - (b) requiring suppliers to demonstrate in their bids how the execution of the paragraph (a) is to be achieved;
 - (c) subcontracting a specified minimum percentage of the contract value to local small, medium and micro enterprises as a condition of contract.

70. Preference measures as conditions of contract

- (1) A procuring institution must, in accordance with its bid specification in respect of preference contemplated in sections 17 to 22 of the Act, stipulate conditions in respect of the preference obligations defined in the contract that –
 - (a) set performance targets and milestones in respect of those obligations;
 - (b) require suppliers to report periodically on meeting those targets and milestones;

- (c) provide for the tracking and monitoring of the performance of those obligations;
- (d) provide for verifying and auditing the performance of those obligations;
- (e) impose any of the following penalties if those obligations are not met:
 - (i) financial penalties;
 - (ii) retention of payments;
 - (iii) forfeiture of performance bonds contemplated in subregulation (2) and (3);
 - (iv) suspension of the contract;
 - (v) cancellation of the contract;
 - (vi) debarment in terms of section 15 of the Act.
- (2) A procuring institution may require the supplier to furnish a separate preference performance bond equivalent to a percentage of the contract value to secure compliance with the preference measures imposed in terms of this regulation.
- (3) The performance bond referred to in subregulation (2) may allocate specific weightings to different preference measures, and the procuring institution may claim against the bond an amount proportionate to the supplier's failure to meet any such measure.

CHAPTER 6

PUBLIC PROCUREMENT OFFICE, PROVINCIAL TREASURIES AND PROCURING INSTITUTIONS

Part 1

Interventions by Public Procurement Office or provincial treasury

[Sections 5(1)(h) and 6(1)(b) of the Act]

71. Interventions

- (1) If the Public Procurement Office or a relevant provincial treasury identifies a material breach of the Act by a procuring institution or receives a report from a person alleging a material breach, the Office or treasury must –
 - (a) document the breach and the specific provision of the Act breached;
 - (b) notify the institution of the breach;

- (c) require the institution to respond within 14 days;
 - (d) investigate the breach if not satisfied with the response;
 - (e) submit a report to the relevant accounting officer or accounting authority of the institution within 60 days of the response including, if necessary, any remedial action which may include –
 - (i) taking steps to stop or prevent a breach;
 - (ii) directing that appropriate action be taken against the official responsible for the breach;
 - (f) assist the institution to implement the remedial action; and
 - (g) if the institution refuses or fails to implement the remedial action, report the breach and the refusal or failure to the relevant executive authority and may report the breach to –
 - (i) the Auditor-General of South Africa; and
 - (ii) the South African Police Service, if it is an offence in terms of section 60(1) and (2).
- (2) The Public Procurement Office or a provincial treasury must on receipt of a report contemplated in subregulation (1) –
- (a) acknowledge receipt within 7 days;
 - (b) submit the report contemplated in subregulation (1)(e) to the person who reported the breach within 7 days of the report; and
 - (c) inform that person of the procuring institution's –
 - (i) implementation of the remedial action; or
 - (ii) refusal or failure to implement the action, steps taken in subregulation (1)(g).

72. Consolidated report of interventions

- (1) Each provincial treasury must –
 - (a) submit a consolidated report in accordance with the requirements in subregulation (2)(a) to (c) to the Public Procurement Office a month after the end of the financial year; and
 - (b) publish the report on its official website and submit it to the relevant provincial legislature.

- (2) The Public Procurement Office must prepare a consolidated report three months after the end of each financial year, which must include –
 - (a) the nature of the interventions and the remedial actions required in terms of regulation 71;
 - (b) the implementation or any refusal or failure to implement;
 - (c) an analysis of systemic material breaches of the Act and any measures to mitigate those breaches.
- (3) The Public Procurement Office must publish the consolidated report contemplated in subregulation (1) on its official website and submit it to Parliament.

Part 2
Procuring institutions

73. Competency requirements for officials involved in procurement

[Sections 63(1)(a)(ii) of the Act]

- (1) The Public Procurement Office –
 - (a) must determine the competency requirements for officials involved in procurement;
 - (b) must develop compulsory courses as competency requirements for members of bid committees; and
 - (c) may develop such other compulsory courses as competency requirements for officials involved in procurement.
- (2) The compulsory competency courses contemplated in subregulations (1)(b) and (c) must ensure that officials involved in procurement possess a sufficient understanding of –
 - (a) the procurement legal framework;
 - (b) ethical and compliant procurement practices; and
 - (c) their functional responsibilities within the procurement process.
- (3) The accounting officer or accounting authority of a procuring institution must ensure that –
 - (a) officials involved in procurement meet the competency requirements determined in subregulation (1)(a) before performing a procurement function;

- (b) records of successful completion of the compulsory courses contemplated in subregulations (1)(b) and (c) are maintained and made available for audit and disclosure.
- (4) An accounting officer or accounting authority must ensure that officials who participate in procurement obtain the requisite knowledge, skills and technical expertise, and competencies through training and capacity building to ensure –
- (a) goods and services that are essential to the institution's mandate and operations are procured;
- (b) that there is effective –
- (i) procurement planning including needs assessment and budgeting;
 - (ii) contract management including contract negotiation, monitoring and evaluation;
 - (iii) management of supplier relationships and performance;
 - (iv) risk management;
 - (v) asset and disposal management;
 - (vi) use of technology, procurement tools, and external expertise to support complex procurements; and
- (c) effective and efficient decision-making.
- (5) If a procuring institution does not have an official that has the requisite knowledge, skills or technical expertise, it may-
- (a) request any other procuring institution to provide -
- (i) an official with the requisite competency to perform a bid committee function; or
 - (ii) in any other capacity, a suitably qualified official to assist it or perform any function for it; or
- (b) contract any other suitably qualified person to assist it.
- (6) A procuring institution must submit a report containing the reasons and details for relying on subregulation (5) to the Public Procurement Office or the relevant provincial treasury.

- (7) The Public Procurement Office must develop, maintain and publish a Procurement Technical Competency Dictionary, which –
- (a) sets and defines the competency requirements for each procurement-related role;
 - (b) sets and defines the standards, qualifications, and functional requirements for procurement jobs; and
 - (c) guides recruitment, performance management, career development, and training in procuring institutions.

74. Reporting by procuring institutions

[Section 8(1)(d) of the Act]

Unless otherwise required, when a procuring institution is required to provide information or report to the Public Procurement Office or a relevant provincial treasury under these Regulations, it must do so in a manner, form and period required by that Office.

75. Correction of actions and omissions

[Section 8(2) of the Act]

- (1) If a procuring institution intends to correct any action or omission in terms of section 8(2) of the Act, which materially and adversely affects a person's or entity's rights or legitimate expectations, it must comply with section 3 of the Promotion of Administrative Justice Act before making that decision.
- (2) An accounting officer or accounting authority must keep copies of all documents relating to the correction referred to in subregulation (1) and publish the decision and reasons on the procuring institution's official website.

CHAPTER 7

PROCUREMENT INTEGRITY AND DEBARMENT

Part 1

Codes of conduct

[Section 9(1) of the Act]

76. Codes of conduct

- (1) Accounting officers, members of accounting authorities, officials involved in procurement and members of bid committees must, in addition to any other codes of conduct governing

their employment or their fiduciary responsibilities, sign the declaration in, and adhere to, the Code of Conduct in **ANNEXURE 3**.

- (2) Any person involved in procurement (other than those referred to in subregulations (1) and (3)) must sign the declaration in, and adhere to, the Code of Conduct in **ANNEXURE 4** before participating in any procurement activity.
- (3) Bidders and suppliers must sign the declaration in, and adhere to, the Code of Conduct in **ANNEXURE 5** in order to bid or contract with a procuring institution.
- (4) A procuring institution must ensure that –
 - (a) all bid documents include **ANNEXURE 5**; and
 - (b) all bids include the signed declaration contemplated in subregulation (3).

77. Contravention of code of conduct

[Section 9(2) of the Act]

- (1) Subject to subregulation (3), if an official is alleged to have contravened the Code of Conduct in **ANNEXURE 3**, the accounting officer or accounting authority a procuring institution must –
 - (a) remove that official from participating in the procurement and institute disciplinary action against that official; and
 - (b) if the official is found guilty of the contravention –
 - (i) but not dismissed, determine what steps, if any, ought to be taken in respect of that official's continued participation in procurement; or
 - (ii) if dismissed, submit a report to the Public Procurement Office, which must add the name of the official on the register contemplated in subregulation (5).
- (2) If the official referred to in subregulation (1) is employed by another organ of state, the accounting officer or accounting authority of the procuring institution must refer the contravention to the accounting officer or accounting authority of that organ of state for the institution of disciplinary proceedings and, if the official is found guilty, that officer or authority must make the determination or submit the report contemplated in subregulation (1)(b).
- (3) If the allegations of contravention are made in respect of an accounting officer or member of an accounting authority, the allegations must be referred to the relevant executive authority to institute disciplinary proceedings against that officer or member.

- (4) If a person contravenes the Code of Conduct in **ANNEXURE 4**, the accounting officer or accounting authority of the procuring institution must –
 - (a) inform the person of the contravention;
 - (b) require a response within 10 days;
 - (c) terminate their appointment if they have materially contravened the code; and
 - (d) submit a report in respect of paragraph (c) to the Public Procurement Office, which must add the name of the person or entity on the register contemplated in subregulation (5).
- (5) The Public Procurement Office must –
 - (a) establish and maintain a register of persons referred to in subregulations (1)(b)(ii) and (2), read with subregulations (1)(b)(ii) and (4)(c); and
 - (b) publish that register on its official website.
- (6) If an accounting officer is dismissed or the appointment of a member of accounting authority is terminated for the contravention of the code of conduct in **ANNEXURE 3**, the relevant executive authority must report the dismissal or termination to the Public Procurement Office, which must add the name to the register contemplated in subregulation (5).
- (7) Any contravention of the Code of Conduct in **ANNEXURE 5** by bidders or suppliers may constitute grounds for debarment.
- (8) The Public Procurement Office must keep records of all reports submitted to it in terms of this regulation, which records must be published on its official website.

78. Investigation of corruption, improper conduct or failure to comply

[Sections 54(1) and 63(1)(b)(vii) of the Act]

- (1) An accounting officer or accounting authority must publish the outcome of any investigation conducted in terms of section 26(1)(c) of the Act on its official website in the form and manner determined by the Public Procurement Office.
- (2) If the allegations contemplated in section 26(1)(c) of the Act are made against an accounting officer or a member of an accounting authority –
 - (a) a complainant may refer the allegations to the Public Procurement Office; or
 - (b) if the allegations are made to the officer or authority themselves, they must refer the allegations to the Public Procurement Office.

- (3) If allegations are referred to the Public Procurement Office in terms of subregulation (1), the Office must –
- (a) investigate the allegations;
 - (b) report to the relevant executive authority on the outcome of the investigation;
 - (c) inform the complainant of the outcome of the investigation and the steps taken; and
 - (d) publish that report on its official website.

Part 2

Due diligence and declarations of interest

79. Declaration of interest

[Section 11 of the Act]

- (1) The declaration of interest referred to in section 11(2)(a) of the Act must include –
- (a) the name of the bidder or applicant for registration on the prospective supplier database referred to regulation 5;
 - (b) the registration number or the identity number of the bidder or applicant;
 - (c) in respect of the bidder or applicant, the names and identity numbers of –
 - (i) directors;
 - (ii) members;
 - (iii) partners;
 - (iv) shareholders of unlisted companies;
 - (v) trustees; and
 - (vi) beneficial owners that have more than the threshold ownership determined in terms of section 56(7)(aA) of the Companies Act;
 - (d) confirmation that the bidder or applicant is not automatically excluded in terms of section 13 of the Act;
 - (e) details of any immediate family member of a person automatically excluded in terms of section 13 of the Act; and

- (f) whether the bidder or applicant was employed by any procuring institution in the past 24 months.

80. Procedure to identify automatically excluded persons, their immediate family members and related persons

[Sections 11(1)(a) and 31(2)(a)(v) of the Act]

- (1) A procuring institution must, as part of the bid documents, include a list of categories of persons automatically excluded from submitting a bid in terms of section 13 of the Act.
- (2) A procuring institution must require bidders to declare whether –
- (a) they fall within any of the categories referred to in subregulation (1);
- (b) they are –
- (i) an immediate family member of a person automatically excluded from bidding in terms of section 13 of the Act; or
- (ii) a related person contemplated in section 11(3) of the Act who has, or intends to acquire, a direct or indirect personal interest in the procurement matter;
- (c) they are aware of any related person contemplated in section 2(1)(a) to (c) read with subsection (2) of the Companies Act is submitting a bid in the same procurement process and, if so, provide –
- (i) the person's name, identity and details;
- (ii) the nature of their relationship with the person.
- (3) The procuring institution must verify, against available data sources and databases, if a bidder is –
- (a) a person automatically excluded from submitting a bid in terms of section 13 of the Act;
- (b) an immediate family member of a person contemplated in section 11(1)(a) of the Act; or
- (c) a related person contemplated in section 11(3).
- (4) If after verification contemplated in subregulation (3), a procuring institution determines that –
- (a) the bidder is a person contemplated in section 13 of the Act, the institution must disqualify the bid;

- (b) the bidder has failed to declare the person contemplated in subregulation (3)(b), the institution must disqualify the bid;
 - (c) the bidder is a related person contemplated in section 11(3) of the Act, the officials and members referred to in that subsection may not be present or participate in the deliberations or decision-making process relating to the bid.
- (5) The accounting officer or accounting authority must within 30 days of awarding a bid, publish on its official website all bids in excess of R5 000 awarded to an immediate family member of a person automatically excluded from submitting a bid contemplated in section 11(1)(a) of the Act or a related person contemplated in subsection (3) of that section.

Part 3

Directions inconsistent with Act

81. Reporting directions inconsistent with Act

[Section 14 of the Act]

- (1) For the purposes of this regulation, “the affected person” and “the person with authority” means the persons contemplated in section 14(1) of the Act.
- (2) An affected person who receives a direction from a person with authority and who believes that direction to be inconsistent with the Act must, within 30 days of the direction or the expiry of the period contemplated in section 14(2)(c) of the Act, inform the Public Procurement Office or relevant provincial treasury of the direction, the objection and the reason for the objection and include –
 - (a) the details of the affected person and the procuring institution;
 - (b) the details of the person with authority giving the direction alleged to be inconsistent with the Act;
 - (c) the details of the direction being objected to, and, if in writing, a copy;
 - (d) a copy of the objection;
 - (e) reasons for the objection;
 - (f) documentary or other evidence supporting the objection;
 - (g) any submission made in terms of section 14(2)(b) of the Act and any outcome;
 - (h) any information submitted to a line manager in terms of paragraph (c) of that section and any outcome; and

- (i) whether a report has been made in terms of section 14(2)(d) of the Act and, if so, a copy of that report.
- (3) The Public Procurement Office or relevant provincial treasury must ensure that matters referred to it by an affected person are dealt with appropriately and confidentially.
- (4) If the affected person has not made a report in terms of section 14(2)(d) of the Act, or the line manager fails to initiate an investigation in terms of section 14(2)(c) of the Act, the Public Procurement Office or the relevant provincial treasury must conduct a preliminary assessment to –
- (a) verify the validity and completeness of the information;
 - (b) notify the affected person of the initiation of an investigation and its expected timelines;
 - (c) give the person with authority an opportunity to respond to the allegations and provide the reasons for the direction;
 - (d) determine whether the allegation be further investigated; and
 - (e) inform the affected person of its determination to refer the matter for further investigation or, if not, the reasons for not doing so.
- (5) If a further investigation is determined in terms of subregulation (4)(e), the Public Procurement Office or relevant provincial treasury may exercise the powers contemplated in sections 54, 55 and 56 of the Act.
- (6) The Public Procurement Office or relevant provincial treasury must –
- (a) complete its investigation within 30 days of receiving the information contemplated in subregulation (1) unless there are good reasons to extend that period by another 30 days;
 - (b) upon completing the investigation, issue a report with the findings of the investigation, issue an instruction, direction or referral contemplated in section 54(2) of the Act or make recommendations for corrective action, disciplinary measures, or further legal action, if any; and
 - (c) notify the affected person and the person with authority of the outcome of the investigation.
- (7) The Public Procurement Office or the relevant provincial treasury must –
- (a) monitor –

- (i) compliance with instructions, directions or referrals contemplated in subregulation (6)(b); and
 - (ii) the implementation of recommendations for corrective action, disciplinary measures or legal action;
- (b) publish on their respective official websites reports of their implementation of this regulation subject to non-disclosure of confidential information in the form, manner and period determined by the Office.

Part 4
Debarment

82. Debarment register

[Section 15(6) of the Act]

- (1) For the purpose of this regulation, “the affected person” means a person referred to in section 15(1) of the Act.
- (2) The Public Procurement Office must include the following information in the register contemplated in section 15(6) of the Act:
 - (a) the names, identification numbers, registration details, addresses and contact details of the affected persons that have been notified of the decision to debar in terms of section 15 (4)(b) of the Act;
 - (b) the period of debarment contained in the decision.
- (3) The Public Procurement Office must amend the register if –
 - (a) the period of debarment is reduced in terms of section 15(5)(a) of the Act; or
 - (b) a different period is substituted in an order by the Tribunal under section 51(2)(b) of the Act.
- (4) The Public Procurement Office must remove a person from the register –
 - (a) if the procurement order is revoked under section 15(5)(b) of the Act or set aside by the Tribunal under section 51(2)(c) of the Act; or
 - (b) at the expiry of the period of debarment.

83. Period of debarment

[Section 15(3) and (9) of the Act]

- (1) A procuring institution, in issuing a debarment order in terms of section 15(3) of the Act, must not exceed the periods set out below from the date that it appears in the register referred to in regulation 82 in respect of the following matters contained in that subsection:
 - (a) paragraphs (a), (b), (e) or (h) – five years; and
 - (b) paragraphs (c), (d), (f) and (g) – ten years.
- (2) The procuring institution may, in respect of the periods referred to in subregulation (1) –
 - (a) reduce the period on good grounds; or
 - (b) revoke the period in terms of section 15(5)(b) of the Act.
- (3) A procuring institution must publish the decision taken in terms of subregulation (2) with reasons on the institution's official website within 7 days.

CHAPTER 8 GENERAL

84. Retention of procurement data

[Section 63(1)(b)(v) of the Act]

- (1) The procuring institution must –
 - (a) use the ICT infrastructure to retain and store data;
 - (b) vet officials responsible for retaining procurement data to ensure that information security is not compromised;
 - (c) retain all the procurement data in a safe manner;
 - (d) publish the procurement data required by the Act and these Regulations on its official website;
 - (e) allow access to any other procurement data to –
 - (i) the Public Procurement Officer; and
 - (ii) any other person with the approval of the accounting officer or accounting authority, or in terms of an order of court;
 - (f) institute disciplinary action against any official for intentional tampering with or unauthorised destruction of procurement data;

- (g) establish a policy for digital archiving, backup systems, and physical record keeping of procurement data;
 - (h) retain the procurement data for at least five years before archiving the data in accordance with the National Archives and Records Service of South Africa Act, 1996 (Act No. 43 of 1996).
- (2) A procuring institution may remove the published procurement data from its official website three years after –
- (a) the date of the award in respect of the unsuccessful bidders; or
 - (b) the date of the conclusion of the contract in respect of the successful bidders.
- (3) The Public Procurement Office must –
- (a) implement digital security for electronic records through the use of encryption, secure servers and access controls, regular backups, and disaster recovery plans;
 - (b) apply digital data encryption and restrict access controls to ensure the integrity and confidentiality of procurement records;
 - (c) make procurement data available for the minimum period of three years before archiving; and
 - (d) determine data protection standards.

85. Information and communications technology

[Section 63(1)(a)(iv) of the Act]

- (1) Before the establishment of the information and communications technology-based procurement system referred to in section 28 of the Act, a procuring institution –
- (a) must use the e-tender portal of National Treasury and the institution's information and communications technology systems to give effect to their obligations under the Act and these Regulations;
 - (b) must, to the extent possible –
 - (i) adopt ISO 27001-compliant framework;
 - (ii) include redundancy measures such as automated backup to two geographically distant data centres;

- (iii) ensure that artificial intelligence decision systems are ethically reviewed and tested for bias; and
 - (iv) ensure that the use of blockchain for supply chain validation or contract execution aligns with any relevant regulatory framework;
 - (c) may, subject to paragraph (d) –
 - (i) integrate its system with other software applications, including national financial, procurement and audit systems;
 - (ii) allow real-time access to procurement status for authorised persons;
 - (iii) support audit trails with timestamped logs;
 - (iv) provide for procurement information to be auto-published to the e-tender portal of National Treasury;
 - (v) notify suppliers in real-time by email or SMS notifications of updates;
 - (vi) ensure that electronic submissions are encrypted and timestamped;
 - (d) must, before upgrading its system in terms of paragraph (b), or implementing any new system, obtain approval from the Public Procurement Office to –
 - (i) prevent duplication of effort;
 - (ii) assist in streamlining the institution's requirements; and
 - (iii) aligning the system with the information and communication technology-based procurement system contemplated in section 28(1).
- (2) A procuring institution's information and communication technology-based platform must support –
 - (a) mobile device access;
 - (b) text-to-speech capability; and
 - (c) at least three official languages.
- (3) The Public Procurement Office must –
 - (a) conduct annual compliance audits of the information and communication technology-based procurement systems of procuring institutions; and
 - (b) submit the audit report to the Minister within three months.

86. Complaints

[Section 63(1)(a)(xiii) of the Act]

- (1) Any member of the public may lodge a complaint in respect of any procurement conducted by a procuring institution.
- (2) The complaint must be –
 - (a) directed to the Public Procurement Office or the relevant provincial treasury;
 - (b) lodged within 30 days of the complainant becoming aware (or reasonably expected to have become aware) of the basis of the complaint; and
 - (c) submitted in writing and include –
 - (i) complainant information and any motivated request for anonymity;
 - (ii) a clear description of the procurement activity;
 - (iii) a detailed description of the complaint with supporting evidence, if available; and
 - (iv) any requested remedy.
- (3) The Public Procurement Office or the relevant provincial treasury must each create and maintain a register of all complaints received and steps taken.
- (4) The register must, at a minimum, include –
 - (a) the complaint number;
 - (b) date received;
 - (c) full name and identity number of the complainant;
 - (d) name of official tasked with investigating the complaint; and
 - (e) details of the complaint.
- (5) The Public Procurement Office or the relevant provincial treasury must acknowledge receipt within 5 working days.
- (6) A preliminary assessment must be conducted within 10 days of receipt of the complaint to determine whether –
 - (a) the complaint falls within the scope of the Act; and
 - (b) there is *prima facie* evidence to support further investigation;

- (c) the investigation must be dealt with by the procuring institution in terms of section 26(1)(c) of the Act or the Public Procurement Office in terms of section 54(1) of the Act.
- (7) If the Public Procurement Office determines that the procuring institution must conduct the investigation, it must inform the accounting officer or accounting authority of the complaint and submit any supporting evidence and require the officer or authority to investigate and report within a specified period.
- (8) If the complaint falls outside the scope of the Act, the complainant must be informed accordingly.
- (9) The Public Procurement Office must publish a summarised report on the Office's official website detailing –
 - (a) the number of complaints received;
 - (b) the number and nature of complaints referred for investigation; and
 - (c) the number and nature of substantiated complaints and the remedial steps taken.

87. Complaints dealt with by procuring institution

- (1) If the Public Procurement Office or the relevant provincial treasury refers a complaint or a member of the public lodges a complaint to a procuring institution, the accounting officer or accounting authority must –
 - (a) log the complaint in a complaints register referred to in subregulation (2);
 - (b) investigate the allegations against the official or role player in terms of section 26(1)(c) of the Act and, if necessary –
 - (i) take steps against that official or role player; and
 - (ii) report any conduct that may constitute a criminal offence to the South African Police Service.
 - (c) inform the complainant of the outcome of the investigation and any steps taken.
 - (d) report to the Public Procurement Office or the relevant treasury on the complaint, the outcome of the investigation and any steps taken.

- (2) The Public Procurement Office must investigate a complaint in terms of section 54(1) of the Act, if –
 - (a) the institution fails to investigate the complaint referred to it by the Office in terms of subregulation (1);
 - (b) the relevant provincial treasury that referred the complaint in terms of that subregulation, requests the Office to do so.
- (3) If the Public Procurement Office is not satisfied with the report referred to in subregulation (1)(d), it may –
 - (a) refer the complaint back to the procuring institution for further investigation; or
 - (b) undertake the investigation itself in terms of section 54(1) of the Act.
- (4) The procuring institution must publish a report, excluding confidential information, on the institution's official website within 7 days of the finalisation of the investigation –
 - (a) detailing the details of the complaint, other than the name of the complainant if a request is made for anonymity;
 - (b) whether the investigation has been referred back for further investigation or undertaken by the Public Procurement Office itself in terms of subregulation (3) and the reasons for the failure to complete the investigation within the stipulated period; and
 - (c) the outcome of the investigation and any steps taken.
- (5) If the outcome results in the dismissal of an official, the name of that official must be recorded on the register contemplated in regulation 77(5).

88. Complaints handled by Public Procurement Office

- (1) If the Public Procurement Office determines that, in terms of regulation 87(2), it must conduct the investigation, it must –
 - (a) do so in terms of section 54(1) of the Act unless it is an alleged commission of an offence, in which case it must be referred to the relevant law enforcement body in terms of subsection (2) of that section;
 - (b) conclude the investigation and finalise the report within 60 days of receipt of the complaint.
- (2) The Public Procurement Office must publish a report on the Office's official website within 7 days of the finalisation of the investigation –

- (a) detailing the details of the complaint, other than the name of the complainant if a request is made for anonymity;
 - (b) the outcome of the investigation and any steps taken;
- (3) The Public Procurement Office must consolidate all the reports made in terms of this regulation and regulations 86 and 87 annually and publish the consolidated report on the Office's official website.

89. Transitional arrangements

Transitional arrangements relating to competency requirements for officials involved in procurement, review of the Act in terms of section 68 of the Act, and public-private partnerships are contained in **Annexure 6**.

FOR PUBLIC CONSULTATION i/o s63(3) OF ACT

ANNEXURE 1
BID EVALUATION MATRIX

Procurement Reference No.: _____

Bid Description: _____

Bidder Name: _____

1	Eligibility criteria	Description	Meets criteria? (Yes/No)			
1.1	<p>Mandatory criteria</p> <p>Baseline criteria that must be satisfied before any further consideration <i>(Eligibility criteria act as a filter to exclude those who do not meet essential prerequisites. – procuring institutions will develop these for each bid depending on the following:</i></p>		Yes			
1.2	<p>Sector-based eligibility criteria, e.g. sector specific professional licences, OHS Act certification</p>					
1.3	<p>Industry standards eligibility (e.g. ISO 9001, Membership in a professional body or industry association.)</p>					

1.4.	Preferential Procurement Criteria (Sections 17, 18 and 19)					
1.5	A bidder who does not meet any of the criteria stipulated above, is to be considered non-responsive, and must be disqualified from further evaluation under 2 below. Does the bidder qualify to proceed for further evaluation?				Yes	No
2	Evaluation Category	Description	Max Score	Minimum Threshold	Bidder Score	Qualifies? (Yes/No)
2.1	Functionality / Technical Merit	Compliance with specifications, design, quality, sustainability of solution	A score to be determined in terms of regulation 25(2)	70% of that score		
2.2	Cost-effectiveness	Value for money over contract lifecycle, pricing clarity, risk transfer	A score to be determined in terms of regulation 25(2)	None		
2.3	Measures contemplated in sections 21-23 of the Act ¹	Sustainable development Beneficiation and innovation Creation of jobs Labour absorption Development of small enterprises Preference as a condition of contract	A score to be determined in terms of regulation 25(2)	70% of that score		
2.4	Innovation	Alignment with strategic objectives, demonstrating a	A score to be determined in	None		

¹ Any evaluation and scoring under this category is dependent upon the procuring institution having provided for these measures under section 21, 22 and 23 of the Act.

		clearly new, creative, or significantly improved approach that has strong potential to improve outcomes and deliver measurable improvements (e.g., cost savings, efficiency, service quality, sustainability, inclusivity)	terms of regulation 25(2)			
2.5	Capability / Capacity to Deliver	Organisational experience, team qualifications, previous performance, project plan	A score to be determined in terms of regulation 25(2)	70% of that score		
2.6	<p>A bidder who does not meet the minimum threshold for categories 2.1, 2.3 and 2.5 is to be considered non-responsive, irrespective of the total score achieved, and must be disqualified.</p> <p>Is the bidder responsive?</p>				Yes	No
2.7	TOTAL SCORE					100

FOR PUBLIC CONSULTATION UNDER SECTION 36(3) OF ACT

ANNEXURE 2
MINIMUM SET ASIDE THRESHOLDS

Section 17(3) Ref	Category of Persons	Minimum Set-Aside Target (% of annual procurement budget)
(a)	Black people	30%
(b)	Black women	15%
(c)	Women	18%
(d)	Black people with disabilities	3%
(e)	People with disabilities	4%
(f)	Military veterans	2%
(g)	Persons in (a)–(f) within a geographical area	12%
(h)(i)	Small enterprises owned by black people	18%
(h)(ii)	Small enterprises owned by black women	12%
(h)(iii)	Small enterprises owned by women	14%
(h)(iv)	Small enterprises owned by black people with disabilities	2%
(h)(v)	Small enterprises owned by people with disabilities	2.5%
(h)(vi)	Small enterprises owned by military veterans	2%
(h)(vii)	Small enterprises owned by black youth	4%
(h)(viii)	Small enterprises owned by youth	4%
(h)(ix)	Persons in (i)–(viii) within a geographical area	6%
(i)	Small enterprises within a geographical area	9%
(j)	Small enterprises	30%
(k)	Co-operatives which consist of black people	6%
(l)	Co-operatives	6%
(m)	Co-operatives in (k) or (l) within a geographical area	5%

Summary Justification Notes per Category

The following notes outline the basis for the proposed minimum set-aside targets, as derived from the sector codes and generic B-BBEE framework:

- (1) Black people (30%): Anchored in all codes, particularly the Forestry, ICT, and Legal sector codes, and the Generic Code's priority for procurement from 51% black-owned entities.
- (2) Black women (15%): Sector codes (ICT, Property, Tourism, Legal) commonly target 10–20% of ownership, procurement, and development spend.
- (3) Women (18%): Broader gender inclusion as a constitutional imperative; elevated slightly above black women to support additional inclusion.
- (4) People with disabilities (3–4%): Forestry, MAC, ICT, and AgriBEE codes explicitly include this demographic; 2–4% is a commonly used range.
- (5) Military veterans (2%): Defence code emphasises enterprise development and supply chain inclusion.
- (6) Small enterprises (18–30%): All codes encourage supplier development from EMEs/QSEs; Generic Code awards recognition up to 30%.
- (7) Youth and black youth (4%): Supported in Legal, ICT, Tourism, MAC sector codes.
- (8) Co-operatives (6%): AgriBEE and Forestry sector codes prescribe support for agricultural and rural co-ops.
- (9) Geographic area-based categories (6–12%): Property, Tourism, and Legal Codes highlight regional and rural empowerment.

ANNEXURE 3
CODE OF CONDUCT FOR ACCOUNTING OFFICERS, OFFICIALS, MEMBERS OF
ACCOUNTING AUTHORITIES AND MEMBERS OF BID COMMITTEES

1. Application of code

An official involved in procurement is subject to this Code of Conduct and is required to comply with it.

2. Adherence to Constitution, other laws and international obligations

An official involved in procurement must –

- (1) abide by the Constitution of the Republic of South Africa, 1996 and the Public Procurement Act, 2024 (Act No. 28 of 2024) (“the Act) and act lawfully when executing any duties in procurement;
- (2) ensure that procurement is fair, equitable, transparent, competitive and cost-effective;
- (3) promote the efficient, economic and effective use of resources in procurement;
- (4) ensure that all information is managed and maintained in terms of the Act, the Protection of Personal Information Act, 2013 (Act No. 4 of 2013) and other relevant laws; and
- (5) ensure adherence to international obligations to which the Republic of South Africa is a party.

3. Conduct

An official involved in procurement must –

- (1) conduct themselves with the highest standards of integrity and ethics in all procurement activities;
- (2) not seek, accept, or receive, directly or indirectly, any gratification as defined in section 1 of the Prevention and Combatting of Corrupt Activities Act, 2004 (Act No. 12 of 2004) that may influence or be perceived to influence their decisions or actions;
- (3) if improperly encouraged, persuaded, threatened, induced, coerced or intimidated (“inducement”) by any party to perform any act or participate in any decision in terms of the Act –
 - (a) report the inducement immediately –
 - (i) in the case of an accounting officer or member of an accounting authority, to the Public Procurement Office;
 - (ii) in the case of any other official, to the accounting officer or accounting authority and the Public Procurement Office;

- (b) refuse to submit to the inducement;
- (4) not use their position or any confidential, proprietary or sensitive information to improperly –
 - (a) benefit themselves or others; or
 - (b) cause prejudice to others;
- (5) immediately disclose any real, perceived or potential conflict of interest and recuse themselves from the procurement process; and
- (6) not engage with a bidder or supplier on any procurement matter outside of official procurement processes.

4. Performance of official duties

An official involved in procurement must –

- (a) act loyally in the interest of the procuring institution;
- (b) exercise responsibilities fairly, impartially and independently of any interference;
- (c) not interfere with or exert undue influence on any person involved in procurement;
- (d) discharge their duties professionally, competently and efficiently;
- (e) be honest and accountable when dealing with public funds and State property;
- (f) act in good faith and with care and diligence that a reasonable person would exercise;
- (g) not disclose official information, including pending decisions, unless permitted by law or authorised to do so.

DECLARATION

I, (*insert full name of official*), employed as (*insert full designation*) in my capacity as (*insert role in procurement*) as an official of the..... (*insert name of institution*) confirm that I understand my responsibilities under the Public Procurement Act, 2024 (Act No. 28 of 2024) and consider this Code of Conduct to be binding on me. I understand that any failure to comply may result in the institution of disciplinary or criminal proceedings against me.

Signed at:

Date:

Signature:

Full Name:

Designation:

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ANNEXURE 4
CODE OF CONDUCT FOR OTHER PERSONS INVOLVED IN PROCUREMENT

1. Application of the code

This Code of Conduct applies to a person involved in procurement (other than an official, bidder, supplier or member of the Tribunal).

2. Adherence to the Constitution, other laws and international obligations

A person involved in procurement must –

- (a) abide by the Constitution of the Republic of South Africa, 1996 and the Public Procurement Act, 2024 (Act No. 28 of 2024) (“the Act”) and act lawfully in executing any duties in procurement;
- (b) ensure that procurement is fair, equitable, transparent, competitive and cost-effective;
- (c) promote the efficient, economic and effective use of resources in procurement;
- (d) ensure that all information is managed and maintained in terms of the Act, the Protection of Personal Information Act, 2013 (Act No. 4 of 2013) and other relevant laws; and
- (e) ensure adherence to international obligations to which the Republic of South Africa is a party.

3. Ethical conduct

A person involved in procurement must –

- (a) conduct themselves with the highest standards of integrity and ethics in all procurement activities;
- (b) not engage in any corrupt activity, including offering, promising, giving, receiving, or soliciting any gratification as defined in the Prevention and Combatting of Corrupt Activities Act, 2004 (Act No. 12 of 2004);
- (c) if improperly encouraged, persuaded, threatened, induced, coerced or intimidated (“inducement”) by any party to perform any act or participate in any decision in terms of the Act –
 - (a) report the inducement immediately –
 - (i) in the case of an accounting officer or member of an accounting authority, to the Public Procurement Office;
 - (ii) in the case of any other official, to the accounting officer or accounting authority and the Public Procurement Office;

- (b) refuse to submit to the inducement;
- (d) ensure that information obtained or disclosed in the course of the procurement, including sensitive, confidential and proprietary information, is protected;
- (e) not use their position or any confidential, proprietary or sensitive information to improperly –
 - (a) benefit themselves or others; or
 - (b) cause prejudice to others;
- (f) immediately disclose any real, perceived or potential conflict of interest and recuse themselves from the procurement process; and
- (g) not engage with a bidder or supplier on any procurement matter outside of official procurement processes.

4. Performance of duties

A person involved in procurement must –

- (a) act in the interest of the procuring institution;
- (b) exercise responsibilities fairly, impartially and independently of any interference;
- (c) not interfere with or exert undue influence on any person involved in procurement;
- (d) discharge their duties professionally, competently and efficiently;
- (e) be honest and accountable when dealing with public funds and State property;
- (f) act in good faith and with care and diligence that a reasonable person would exercise;
- (g) not disclose official information, including pending decisions, unless permitted by law or authorised to do so.

DECLARATION

I, (insert full name of official), employed as(insert full designation) in my capacity as(insert role in procurement) of the..... (insert name of institution) confirm that I understand my responsibilities under the Public Procurement Act, 2024 (Act No. 28 of 2024) and consider this Code of Conduct to be binding on me. I understand that any failure to comply may result in the institution of disciplinary or criminal proceedings against me.

Signed at:

Date:

Signature:

Full Name:

Designation:

FOR PUBLIC CONSULTATION ito s63(3) OF ACT

ANNEXURE 5
CODE OF CONDUCT FOR BIDDERS, SUPPLIERS OR OTHER PERSON INVOLVED IN
PROCUREMENT

1. Application of code

A bidder or supplier is subject to this Code of Conduct and is required to comply with this Code.

2. Legal compliance

A bidder or supplier must –

- (a) comply with all applicable laws, including the Public Procurement Act, 2024 (Act No. 28 of 2024) (“the Act”) and the Constitution of the Republic of South Africa, 1996; and
- (b) abide by the principles of fairness, equity, transparency, competitiveness, and cost-effectiveness as required by section 217 of the Constitution.

3. Professional and ethical conduct

A bidder or supplier must –

- (a) abide by and endeavour to be familiar with relevant legislation and procurement prescripts, and this Code of Conduct;
- (b) adhere to the highest standards of quality and best practices in the delivery of goods and services;
- (c) immediately disclose any conflict of interest or potential conflict of interest that may arise prior to, during or after the award of any bid;
- (d) conduct themselves in a manner that reflects the highest standards of integrity, honesty, and ethics in all interactions with a procuring institution;
- (e) comply with all applicable laws relating to human rights, labour relations, employment, immigration, anti-corruption and the environment;
- (f) provide a safe and healthy work environment for employees and ensure compliance with all statutory health and safety legislation;
- (g) ensure that they comply with all tax laws.

4. Protection and disclosure of information

A bidder or supplier must –

- (a) ensure that any information obtained in the course of rendering services or goods to the State is not shared without authority from the procuring institution;

- (b) not use privileged or other information obtained to gain an unfair advantage for themselves or any other person;
- (c) maintain all records required under any legal and contractual obligations;
- (d) cooperate and comply with any reasonable request by the procuring institution to allow access to relevant information held by the bidder or supplier.

5. Criminal conduct

A bidder or supplier must –

- (a) not engage in any corrupt activity, including offering, promising, giving, receiving, or soliciting any gratification as defined in section 1 of the Prevention and Combatting of Corrupt Activities Act, 2004 (Act No. 12 of 2004);
- (b) not engage in any fraudulent practice intended to misrepresent information or facts to obtain a benefit under the Act;
- (c) not encourage, persuade, threaten, induce, coerce or intimidate any person or official to perform any act or make any decision in terms of the Act;
- (d) not engage in, or influence others to engage in, any collusive practice to achieve an improper outcome;
- (e) not engage in any anti-competitive practice that may restrict or prohibit competition in the market and in procurement;
- (f) not be involved in supporting, financing or promoting any illegal activity;
- (g) ensure that funds obtained from a procuring institution are not used to engage in money-laundering activities; and
- (h) immediately report any suspected unethical behaviour, corrupt, fraudulent, collusive, anti-competitive or coercive practices related to the procurement process.

DECLARATION

I, (*insert name*), identity number.....
 representing..... (*insert the name of organisation*) confirm that I understand my responsibilities under the Public Procurement Act, 2024 (Act No. 28 of 2024) and consider this Code of Conduct to be binding on me. I understand that any non-compliance with this code will be addressed in accordance with the Act and may result in disqualification, debarment, criminal or legal action in terms of the Act.

Signed at:

Date:

Signature:

Full Name:

Designation:

Company name:

FOR PUBLIC CONSULTATION ito s63(3) OF ACT

ANNEXURE 6
TRANSITIONAL ARRANGEMENTS

1. Central online portal for public access to information

Until the Public Procurement Office has established a central online portal for public access to information referred to in regulation 35(1)(a)(ii), a procuring institution must publish the information contemplated in section 31(2)(a) of the Act on its website or any easily accessible online portal that is publicly available free of charge and in a format in accordance with section 31(2)(b)(ii).

2. Competency requirements for officials involved in procurement

Until such time as the compulsory procurement competency course referred to in regulation 73(1)(a) is developed and conducted –

- (a) a member of an adjudication committee is not disqualified from participating in the adjudication of bids, provided that the accounting officer or accounting authority of a procuring institution is satisfied that the member has acquired sufficient procurement knowledge and skills to undertake that function responsibly; and
- (b) the Public Procurement Office must, within 12 months of the commencement of these Regulations, publish transitional guidelines to assist institutions in applying this regulation and phasing in the accredited procurement competency courses, having due regard to the uneven competencies of officials in procuring institutions.

3. Review of the Act

- (1) For purposes of reporting on and assessing compliance with the Act or reviewing the implementation, appropriateness and effectiveness of the Act, the accounting officer or accounting authority of a procuring institution must submit a report to the Public Procurement Office in the manner, form and date required by the Office.
- (2) An accounting officer or accounting authority of a procuring institution must introduce measures to monitor and evaluate the implementation of the provisions of the Act for reporting to the Public Procurement Office as contemplated in subregulation (1).
- (3) The Public Procurement Office must on the basis of the reports referred to in subregulation (1) and its monitoring and overseeing the implementation of the Act in terms of section 5(1)(g) of the Act report to the Minister for the purposes of section 68 of the Act –
 - (a) on the implementation of the Act and any need for amendments; and
 - (b) three months prior to the date set in section 68(1)(a).

4. Public-private partnerships

Regulation 16 of Treasury Regulations, 2005 issued under section 76 of Public Finance Management Act and the Municipal Public Private Partnership Regulations, 2005 made under section 168 of the Municipal Finance Management Act apply to the procurement of public-private partnerships until replaced by regulations published under the Act.

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