

SOL PLAATJE LOCAL MUNICIPALITY



PREFERENTIAL PROCUREMENT POLICY

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PREFERENTIAL PROCUREMENT POLICY (PPP) REVIEW AND ADOPTION PROCESS

PREFERENTIAL PROCUREMENT POLICY 2022/23				
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1. DEFINITIONS AND ACRONYMS

"Act"	means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000)
"B-BBEE"	means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act
"B-BBEE status level of contributor"	means the B-BBEE status of an entity in terms of a code of good practice on black economic empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act
"black designated groups"	has the meaning assigned to it in the codes of good practice issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act
"black people"	has the meaning assigned to it in section 1 of the Broad Based Black Economic Empowerment Act
"Broad-Based Black Economic Empowerment Act"	means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003)
"co-operative"	means a co-operative registered in terms of Section 7 of the Cooperatives Act, 2005 (Act No. 14 of 2005)
"Construction works"	Means a combination of goods and services arranged for the development, extension, installation, repair, maintenance, renewal, removal, renovation, alteration, dismantling or demolition of a fixed asset including building and engineering infrastructure;

<p>“Council”</p>	<p>Means the Council of the Sol Plaatje Local Municipality;</p>
<p>“designated group”</p>	<p>(a) black designated groups (b) black people (c) women (d) people with disabilities; or</p> <p>(e) small enterprises, as defined in section 1 of the National Small Enterprise Act, 1996 (Act No. 102 of 1996)</p> <p>(f) emerging enterprises which are enterprises, owned, managed and controlled by previously disadvantaged persons and which is overcoming business impediments arising from the legacy of apartheid</p>
<p>“designated sector”</p>	<p>means a sector, sub-sector or industry or product designated in terms of regulation 8(1)(a)</p>
<p>“EME”</p>	<p>means an exempted micro enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act</p>
<p>“functionality”</p>	<p>means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents</p>
<p>“highest acceptable tender”</p>	<p>means a tender that complies with all specifications and conditions of tender and that has the highest price compared to other tenders;</p>
<p>“lowest acceptable tender”</p>	<p>means a tender that complies with all specifications and conditions of tender and that has lowest price compared to other tenders;</p>

“Military veteran”	Means a military veteran in accordance with section 1 of the Military Veterans Act, 2011 (Act No. 18 of 2011)
“Municipality”	Means the Sol Plaatje Local Municipality
National Treasury”	Means National Treasury in accordance section 1 of the Municipal Finance Management Act, 2003 (Act No. 56 of 2003)
“people with disabilities”	has the meaning assigned to it in section 1 of the Employment Equity Act, 1998 (Act No. 55 of 1998)
“price”	means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts.
“Proof of B-BBEE status level of contributor	(a) the B-BBEE status level certificate issued by an authorised body or person (b) a sworn affidavit as prescribed by the B-BBEE Codes of Good Practice; or (c) any other requirement prescribed in terms of the Broad-Based Black Economic Empowerment Act
“QSE”	means a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act
“Rand value”	means the total estimated value of a contract in Rand, calculated at the time of the tender invitation
“rural area”	means- (a) a sparsely populated area in which people farm or a. depend on natural resources, including villages and small towns that are dispersed through the area; or

	(b) an area including a large settlement which depends on migratory labour and remittances and government social grants for survival, and may have a traditional land tenure system
“Specific goals”	means specific goals as contemplated in section 2(1)(d) of the Act which may include contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender and disability including the implementation of programmes of the Reconstruction and Development Programme as published in Government Gazette No. 16085 dated 23 November 1994;
“stipulated minimum threshold”	means the minimum threshold stipulated in terms of regulation 8(1)(b)
“tender”	means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;
“tender for income generating Contracts”	means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions.
“township”	means an urban living area that any time from the late 19th century until 27 April 1994, was reserved for black people, including areas developed for historically disadvantaged individuals post 27 April 1994

“treasury”	has the meaning assigned to it in section 1 of the Municipal Finance Management Act, 2003 (Act No. 56 of 2003)
“youth”	has the meaning assigned to it in section 1 of the National Youth Development Agency Act, 2008 (Act No. 54 of 2008)
“Immovable Capital Assets”	Means any immoveable assets such as land, assets or building refer to as capital assets.
“Locality (Doorstep)”	means the local suppliers and/or service providers that reside within the Municipal area
“Proof of locality” means a –	(a) municipal account in the name of the tenderer not older than 90 days; (b) lease agreement where the tenderer is the lessee; or (c) an official letter from the bank confirming the registered business address of the tenderer;
“Municipality”	Means Sol Plaatje Municipality

2. PURPOSE

- (a) The Policy complies with the framework of the PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 and its purpose is to:
- i) Provide for categories of preference in awarding of bids;
 - ii) Provide for the advancement of persons or categories of persons disadvantaged by unfair discrimination; and
 - iii) Provide and clarify mechanisms on how the paragraphs 2(a)(i) and (ii) will be implemented.

3. SCOPE

- (a) The Constitution of the Republic of South Africa Act, 1996, (section 217) requires an organ of state to contract for goods or services in accordance with a procurement system which is fair, equitable, transparent, competitive, cost effective and to grant preferences within a framework prescribed by National Legislation.
- (b) Section 2 (a) of The Broad-based Black Economic Empowerment Act, No.53 of 2003, states that one of the goals of the Act is to promote economic transformation to enable meaningful participation of black people in the economy. This Policy gives rise to the National Legislation to advance section 217 of the Constitution.
- (c) This policy in its design, development, implementation, and review is guided and underpinned by the Preferential Procurement Policy Framework Act of 2000; and is consistent with the Municipality's strategic objectives, intent, values, code of conduct, and applicable legislation. Should any aspect of this policy be in conflict with the PPPFA Act, any regulations or other applicable legislations, the Constitution of the Republic of South Africa shall take precedence.

4. LEGISLATIVE FRAMEWORK

- The Constitution of the Republic of South Africa, 1996
- Broad Based Black Economic Empowerment Act (Act No. 53 of 2003).
- Preferential Procurement Policy Framework Act (Act of 2000).
- The Local Government Municipal Systems (Act No. 32 of 2000) as amended.
- The Local Government: Municipal Structures Act (Act No. 117 of 1996);
- Municipal Finance Management Act, MFMA (Act No. 56 of 2003).
- The Supply Chain Management Regulations (Gazette 25767, 5 December 2003)
- The Supply Chain Management Policy of the Sol Plaatje Municipality.

5. PROCUREMENT

5.1 Procurement Objectives

- (a) Promote Broad-Based Black Economic Empowerment (B-BBEE) - enterprises providing services and goods.
- (b) Promote local labour and /or promotion of enterprises located in the municipal area.
- (c) Promote Small Medium and Micro Enterprises (SMME's), Joint Ventures, Consortiums, and partnerships.
- (d) Implement recognised best procurement practises through effective planning, strategic purchasing, and contract management.

5.2 Application of Preference Point System

- (a) The Municipality shall, in the tender documents stipulate:
 - i) the preference point system applicable; and
 - ii) any specific goal as envisaged in section 2(1)(d) and (e) of the Preferential Procurement Act.

6. APPLICATION OF THE PREFERENTIAL POINT SYSTEM: ACQUISITION OF GOODS AND SERVICES

6.1 80/20 PREFERENCE POINT SYSTEM FOR ACQUISITION OF GOODS OR SERVICES FOR RAND VALUE EQUAL TO OR BELOW R50 MILLION.

- (a) The PPPFA provides for the 80/20 preference point system to apply to contracts equal to or below a prescribed amount. It therefore **does not allow for a minimum threshold** value to be prescribed.
- (b) The following formula must be used to calculate the points out of 80 for price in respect of an invitation for a tender with a Rand value **equal to or below** R50 million, inclusive of all applicable taxes:

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

- i. Where-
 - ii. P_s = Points scored for price of tender under consideration;
 - iii. P_t = Price of tender under consideration; and
 P_{min} = Price of lowest acceptable tender.
- (c) A maximum of 20 points may be awarded to a tenderer for the specific goal specified for the tender.
 - (d) The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.
 - (e) A tenderer must submit proof of locality in order to claiming point(s) for locality.
 - (f) A tenderer failing to submit proof of locality with his quotation/tender may not be disqualified, but will only score 0 points for locality.

6.2 90/10 PREFERENCE POINT SYSTEM FOR ACQUISITION OF GOODS OR SERVICES WITH RAND VALUE ABOVE R50 MILLION.

- (a) The following formula must be used to calculate the points out of 90 for price in respect of a tender with a Rand value above R50 million, inclusive of all applicable taxes:

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

- i) Where-
 - ii) P_s = Points scored for price of tender under consideration;
 - iii) P_t = Price of tender under consideration; and
 P_{min} = Price of lowest acceptable tender.
- (b) A maximum of 10 points may be awarded to a tenderer for the specific goal specified for the tender.
- (c) The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.

7. APPLICATION OF THE PREFERENTIAL POINT SYSTEM: FOR TENDERS TO GENERATE INCOME OR DISPOSE OR LEASE ASSETS

7.1 80/20 AND 90/10 PREFERENCE POINT SYSTEM FOR TENDERS TO GENERATE INCOME OR TO DISPOSE OF OR TO LEASE ASSETS

- (a) Essentially, this provision allows for the formula for the 80/20 and 90/10 preference point system to be applied in reverse. For example, in the 80/20 preference point system, the formula would be applied as follows:

$$Ps = 80 \left(1 + \frac{Pt - Pmax}{Pmax} \right)$$

Where-

Ps = Points scored for price of tender under consideration;

Pt = Price of tender under consideration; and

Pmax = Price of highest acceptable tender.

$$Ps = 90 \left(1 + \frac{Pt - Pmax}{Pmax} \right)$$

Where-

Ps = Points scored for price of tender under consideration;

Pt = Price of tender under consideration; and

Pmax = Price of highest acceptable tender.

- (b) A maximum of 20 and 10 points may be awarded to a tenderer for the specific goal specified for the tender.
- (c) The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.

(d) Documents required for claiming of specific goal points on income or sale or lease of property/land are the following;

- i) Municipal account or lease agreement or letter from the tribal authority.
- ii) Official South African Identity will be used to established whether the individual falls below of the age of 35 and can be classified as youth.
- iii) Official South African Identity will be used to established whether the gender in line with specific goal.
- iv) Medical certificate will be used to determine the status in line with disability of individual.
- v) Force number, Identity number and full names or a letter from Department of Military veterans.

(e) Specific goal for **Youth**: Income generating project

80/20 equal to or below R50 million 90/10 above R50 million		
Youth – Black		
Age of participant	80/20	90/10
Above 35 of age	4	2
35 and below of age	10	5
Locality	10	5
Total Points	20	10

(f) Specific goal for **Women**: Income generating project

80/20 equal to or below R50 million 90/10 above R50 million		
Women		
Gender of participant	80/20	90/10
Other	4	2
Women	10	5
Locality	10	5
Total Points	20	10

(g) Specific goal for **Disability**: Income generating project

80/20 equal to or below R50 million 90/10 above R50 million		
Disability		
Disability of participant	80/20	90/10
None	4	2
Disability	10	5
Locality	10	5
Total Points	20	10

(h) Specific goal for **Military Veteran**: Income generating project

80/20 equal to or below R50 million 90/10 above R50 million		
Veteran		
Certificate of Veteran status	80/20	90/10
Non-Veteran	4	2
Veteran	10	5
Locality	10	5
Total Points	20	10

8. RDP Goals

Over and above the awarding of preference points in favour of HDIs, the following activities may be regarded as a contribution towards achieving the goals of the RDP (published in Government Gazette No. 16085 dated 23 November 1994):

- (a) The promotion of South African owned enterprises;
- (b) The promotion of export orientated production to create jobs;
- (c) The promotion of SMMEs;
- (d) The creation of new jobs or the intensification of labour absorption;

- (e) The promotion of enterprises located in a specific province for work to be done or services to be rendered in that province;
- (f) The promotion of enterprises located in a specific region for work to be done or services to be rendered in that region;
- (g) The promotion of enterprises located in a specific municipal area for work to be done or services to be rendered;
- (h) The promotion of enterprises located in rural areas;
- (i) The empowerment of the work force by standardizing the level of skill and knowledge of workers;
- (j) The upliftment of communities through, but not limited to, housing, transport, schools, infrastructure donations, and charity organizations.
- (k) The Municipality may also use other RDP goals identified in the Government Gazette No. 16085 dated 23 November 1994;

9. THE BASKET OF PREFERENCE GOALS

The basket of preference goals as contained in the relevant legislation are listed hereunder and the Municipality is at liberty to apply specific goals in any combination format depending on their preference targets. The Municipality must include in their policy specific goals as part of their tendering conditions.

- (a) The Bid Specification Committee shall set appropriate local economic development targets in terms of specific goals or targeted procurement objectives which must form part of the invitation to tender, set as criteria within bid, where appropriate, for the following target groups:
- (b) Tender(s) received need to be evaluated firstly on the basis of price point system. Once the highest points scorer has been ascertained only then the targeted specific goal will be applied.
- (c) Targeted specific goal will be applied, where feasible, on a tender-by-tender basis.

9.1 LOCALITY

The table below show how points will be allocated in terms of locality

- (a) Offices within the jurisdiction of the Sol Plaatje Municipality;
- (b) Offices within the jurisdiction of Francis Baard District;
- (c) Offices within the Northern Cape Province
- (d) Offices within the Republic of South Africa

Table: Locality

No#	Criteria	80/20 Points allocation	90/10 Points allocation
1.	Offices within the jurisdiction of SPM	10	5
2.	Offices within the jurisdiction of Francis Baard District	7	3.5
3.	Offices within the Northern Cape Province	5	2.5
4.	Offices within the Republic of South Africa	3	1.5

9.2 Specific Goal 1: Ownership as specific goal

A maximum of 20 points (80/20 preference points system) or 10 (90/10 preference points system), may be allocated. Bidder may score specific goal points based on company ownership.

If Municipality applies ownership as specific goal, the Municipality must advertise the tender with such a specific goal in order for a tenderer to claim 20 / 10 points for specific goals.

- The maximum of 10 points will be allocated for ownership and another 10 points will be allocated for locality for 80/20.
- The maximum of 5 points will be allocated for ownership and another 5 points will be allocated for locality for 90/10.

80/20 equal to or below R50 million 90/10 above R50 million		
Ownership - Black		
%	80/20	90/10
Ownership		
<51%	4	2
>51% <100%	6	3
100%	10	5
Locality	10	5
Total Points	20	10

9.3 Specific Goal 2: Gender as specific goal

- The maximum of 10 points will be allocated for black women and another 10 points will be allocated for locality for 80/20.
- The maximum of 5 points will be allocated for Black women and another 5 points will be allocated for locality for 90/10.

80/20 equal to or below R50 million		
90/10 above R50 million		
Gender – Black women		
% Ownership	80/20	90/10
<51%	4	2
>51% <100%	6	3
100%	10	5
Locality	10	5
Total Points	20	10

9.4 Specific Goal 3: Youth as specific goal

- The maximum of 10 points will be allocated for youth and another 10 points will be allocated for locality for 80/20.
- The maximum of 5 points will be allocated for youth and another 5 points will be allocated for locality for 90/10.

80/20 equal to or below R50 million		
90/10 above R50 million		
Youth – Black		
% Ownership	80/20	90/10
<51%	4	2
>51% <100%	6	3
100%	10	5
Locality	10	5
Total Points	20	10

9.5 Specific Goal 4: Disability as specific goal

- The maximum of 10 points will be allocated for disability and another 10 points will be allocated for locality for 80/20.
- The maximum of 5 points will be allocated for disability and another 5 points will be allocated for locality for 90/10.

80/20 equal to or below R50 million		
90/10 above R50 million		
Disability		
% Ownership	80/20	90/10
<51%	4	2
>51% <100%	6	3
100%	10	5
Locality	10	5
Total Points	20	10

- The bidders are required to submit the following documents in order to claim points for specific goals.
- A tenderer failing to submit proof of with his or her quotation/tender may not be disqualified but will only score 0 points for the specific goal.
 - i) Central Supplier Database (CSD) report and/or Companies and Intellectual Property Commission (CIPC)
 - ii) BBBEE Certificate or sworn affidavit.
 - iii) Municipal Account or Lease agreement for locality.
 - iv) Medical Certificate is required where specific goal for disability is applicable.

9.6 **Specific Goal for Formal Written Price Quotation (FWPQ) below R30 000**

FWPQ for procurement above R2000.00 (VAT included) but not exceeding R30,000 (VAT included) may be procured by inviting FWPQ (through an email) from at least 3 (three) prospective service providers. All quotations invited must be recorded and approved by the Manager Acquisition, or his/her delegate and the specific goals shall be applied. All quotations will be subjected to 80/20 points calculations. The 80 points will be for price, 20 points will be for specific goals.

The following specific goals and points are applicable:

Locality	Women	Youth	Total
10	5	5	20

10. **TENDERS TO BE EVALUATED ON FUNCTIONALITY**

- (a) The Sol Plaatje Municipality must state in the tender documents if the tender will be evaluated on functionality.
- (b) The evaluation criteria for measuring functionality must be objective.
- (c) The tender documents must specify-
 - i) the evaluation criteria for measuring functionality;
 - ii) the points for each criteria and, if any, each sub-criterion; and
 - iii) the minimum qualifying score for functionality.
- (d) The minimum qualifying score for functionality for a tender to be considered further:
 - i) must be determined separately for each tender; and
 - ii) may not be so:
 - iii) low that it may jeopardise the quality of the required goods or services; or
 - iv) high that it is unreasonably restrictive.
- (e) Points scored for functionality must be rounded off to the nearest two decimal places.
- (f) A tender that fails to obtain the minimum qualifying score for functionality as indicated in the tender documents is not an acceptable tender.

Each tender that obtained the minimum qualifying score for functionality must be evaluated further in terms of price and the specific goals and any objective criteria envisaged in the policy.

11. CRITERIA FOR BREAKING DEADLOCK IN SCORING

- (a) If two or more tenderers score an equal total number of points, the contract must be awarded to the tenderer that scored the highest points for Specific goal.
- (b) If functionality is part of the evaluation process and two or more tenderers score equal total points and equal preference points for specific goal, the contract must be awarded to the tenderer that scored the highest points for functionality.
- (c) If two or more tenderers score equal total points in all respects, the award must be decided by the drawing of lots.

12. AWARD OF CONTRACTS TO TENDERERS NOT SCORING HIGHEST POINTS

- (a) A contract may be awarded to a tenderer that did not score the highest points only in accordance with section 2(1)(f) of the Preferential Procurement Policy Framework Act, 2000 (Act No 5 of 2000)
- (b) If the Sol Plaatje Municipality intends to apply objective criteria in terms of section 2(1) (f) of the Act, the Sol Plaatje Municipality must stipulate the objective criteria in the tender documents.

13. DECLARATIONS

- (a) A tender must, in the manner stipulated in the document, declare that-
 - i) the information provided is true and correct;
 - ii) the signatory to the tender document is duly authorised; and
 - iii) documentary proof regarding any tendering issue will, when required, be submitted to the satisfaction of the municipality.

14. CANCELLATION OF TENDER

- (a) The Municipality may, before the award of a tender, cancel a tender invitation if:
 - i) due to changed circumstances, there is no longer a need for the goods or services specified in the invitation.

- ii) funds are no longer available to cover the total envisaged expenditure;
 - iii) no acceptable tender is received; or
 - iv) there is a material irregularity in the tender process.
- (b) The decision to cancel a tender invitation must be published in the same manner in which the original tender invitation was advertised.

15. REMEDIES

15.1 If the Municipality is of the view that a tenderer submitted false information regarding a specific goal, it must—

- (a) inform the tenderer; accordingly, and
- (b) give the tenderer an opportunity to make representations within 14 days as to why the tender may not be disqualified or, if the tender has already been awarded to the tenderer, the contract should not be terminated in whole or in part.

15.2 After considering the representations referred to (15.1) (b), the Accounting Officer may, if it concludes that such information is false—

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

16. REVIEW OF THE POLICY

- (a) This policy will be reviewed in line with any changes in the legislative environment including legislative changes, regulations and policy directives issued by National Treasury.
- (b) The Municipal Manager must submit any proposed changes to this policy to Council as part of the annual review of budget related policies.