



PREFERENTIAL PROCUREMENT POLICY

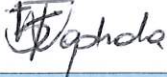


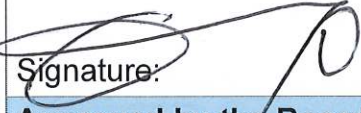

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1. INTRODUCTION

1.1 BACKGROUND

- 1.1.1. The Constitution of South Africa requires that, when SASSETA contracts for goods and services, it must do so using a "fair, equitable, transparent, competitive and cost effective" system in terms of section 217(1) of the Constitution of the Republic of South Africa, 1996 ("the Constitution").
- 1.1.2. SASSETA, as an Organs of State, is required in line with section 217(2) of the Constitution to implement procurement policies which provide for certain categories of preference in the allocation of contracts for goods or services, and the protection or advancement of persons disadvantaged by unfair discrimination.
- 1.1.3. The Preferential Procurement Point Framework Act ("PPPFA" provides for a preference points system in terms of which contracts for goods or services below a prescribed value be evaluated on the basis that 20 out of 100 possible points must be allocated to "specific goals" and 80 points allocated to price. For contracts above a prescribed value, 10 out of 100 possible points must be allocated to "specific goals", and 90 points allocated to price.
- 1.1.4. "Specific goals" in terms of the PPPFA include:
 - 1.1.4.1. contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination because of race, gender, or disability; and
 - 1.1.4.2. implementing the programmes of the Reconstruction and Development Programme as published in *Government Gazette* 16085 dated 23 November 1994, which must be clearly specified in any invitation to submit a tender.

1.1. PURPOSE

- 1.2.1 The purpose of this policy is to:
 - 1.2.1.1 Provide for a preferential procurement system in accordance with the PPPFA and the Preferential Procurement Regulations 2022;
 - 1.2.1.2 Provide for what constitutes an Acceptable Tender;
 - 1.2.1.3 Provide for categories of preference for awarding of contracts of goods or services by SASSETA;
 - 1.2.1.4 Set out mechanisms and guidelines for the determination of Specific Goals in the invitation to submit tenders; and
 - 1.2.1.5 Provide for the awarding of tenders.

1.2. DEFINITIONS AND ACRONYMS

1.3.1 Definitions appearing in the PPPFA, the Preferential Procurement Regulations, 2022, and the B-BBEE Act are similarly applicable in this Policy. In the case of any definitions in this Policy contradicting those in the above laws, the definitions in the above laws will take precedence.

Terminology	Definition
Acceptable Tender	Means any tender which, in all respects, complies with the specifications and conditions of tender as set out in the tender documents.
B-BBEE	Means Broad-Based Black Economic Empowerment as defined in the Broad-Based Black Economic Empowerment Act 53 of 2003
B-BBEE Act	Broad-Based Black Economic Empowerment Act 53 of 2003
Black People	Means Africans, Coloureds and Indians: (a) who are citizens of the Republic of South Africa by birth or decent; or (b) who became citizens of the Republic of South Africa by naturalisation – (i) before 27 April 1994; (ii) on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalisation prior to that date.
Consortium or Joint Venture	Means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract;
EME	Means an Exempted Micro Enterprise in terms of the codes of good practice on black economic empowerment issued in terms of section 9(1) of the B-BBEE Act – an entity with an annual turnover of R10 000 000.00 (ten million Rand) or less.
Functionality	Means the ability/ capability of a tenderer to provide goods or services in accordance with the specifications as set out in the tender documents
Historically Disadvantaged Persons	Means natural persons, who before the Constitution of the Republic of South Africa Act, 1993 (Act 200 of 1993) came into operation, were disadvantaged by unfair discrimination based on, <i>inter alia</i> , race, gender, disability, or religion.
Military Veteran	Has the definition as set out in the Military Veterans Act 18 of 2011, which means ‘any South African citizen who-- (a) rendered military service to any of the military organisations, statutory and non-statutory, which were involved on all sides of South Africa’s Liberation War from 1960 to 1994; (b) served in the Union Defence Force before 1961; or (c) became a member of the new South African National Defence Force after 1994, and has completed his or her military training and no longer performs military service, and has not been dishonourably discharged from that military organisation or force: Provided that this definition does not exclude any person referred to in paragraph (a), (b) or (c) who could not complete his or her military training due to an injury sustained during military training or a disease contracted or associated with military training’
Objective criteria	Means a condition, in addition to the Specific Goals defined above, of deviating from awarding a tender to the tenderer who scores the highest points. These criteria will be specified in the tender documents.
People with disabilities	Means persons who have a long-term or recurring physical or mental impairment, which substantially limits their prospects of entry into, or advancement in employment.
PPPFA	Preferential Procurement Point Framework Act 5 of 2000

Terminology	Definition
Preference point system	Means a system of allocating points to tender based on Price and Specific Goals.
Price	Means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts.
QSE	Means a Qualifying Small Enterprise in terms of the codes of good practice on black economic empowerment issued in terms of section 9(1) of the B-BBEE Act — a company with a turnover between R10 million and R50 million.
Rural Area	A sparsely populated area in which people farm or depend on natural resources, including villages and small town that are dispersed through the area; or 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.
SASSETA	Safety and Security Sector Education and Training Authority
Specific Goals	Has the meaning set out in paragraph 1.1.4 of this Policy.
Sub-Contracting	Means the primary contractor's assigning or leasing or making out work to, or employing, another person to support such primary contractor in the execution of part of a project in terms of the contract.
Tender	Means a written offer in the form determined by SASSETA in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation.
Youth	Means persons between the ages of 14 and 35 as defined in the National Youth Development Agency Act 54 of 2008.

1.3. POLICY STATEMENT

1.4.1 This policy is applicable to all SASSETA procurement activities that require the use of preferential procurement measures, regardless of their nature or value. It applies to all SASSETA employees and officials and all suppliers that interact with SASSETA when procuring goods and services.

1.4. RELATED LEGISLATIVE AND REGULATORY PRESCRIPTS

1.5.1 This Policy must be read in conjunction with the following prescripts:

- 1.5.1.1 Constitution of the Republic of South Africa, 1996;
- 1.5.1.2 Preferential Procurement Policy Framework Act 5 of 2000; ,
- 1.5.1.3 Preferential Procurement Regulations, 2022;
- 1.5.1.4 Public Finance Management Act 1 of 1999; ,
- 1.5.1.5 Broad-Based Black Economic Empowerment Act 53 of 2003 ;
- 1.5.1.6 Regulations issued in terms of the Broad-Based Black Economic Empowerment Act 53 of 2003;
- 1.5.1.7 The SASSETA Supply Chain Management Policy and related standard operating procedures;
- 1.5.1.8 The National Treasury Regulations GN R225 in GG 27388 of 15 March 2005;
- 1.5.1.9 Applicable National Treasury Guidelines, Practice Notes, Instruction Notes and Circulars; and
- 1.5.1.10 Any other applicable SASSETA policies and procedures.

1.5. OBJECTIVES

- 1.6.1 Promote Broad-Based Black Economic Empowerment;
- 1.6.2 Provide for an enabling environment for, *inter alia*, ensuring participation of historically disadvantaged persons, small medium and micro enterprises, people with disabilities, women, youth, suppliers based in rural areas, black military veterans, and unemployed people — in procurement opportunities made by SASSETA.
- 1.6.3 Ensure the implementation of recognised best procurement practises through effective planning, strategic purchasing, and contract management.
- 1.6.4 Provide for a coherent, consistent and strategic system of preferential procurement in sourcing of service providers or suppliers.

1.6. FRAMEWORK FOR IMPLEMENTING THIS POLICY

1.7.1 **The evaluation of Acceptable Tenders in the procurement process:**

1.7.1.1 The approach in evaluating tenders for acceptability will be based on the following stages (considering the type of commodity being purchased):

1.7.1.1.1 **Tender Specifications:**

- a) Specifications must provide suppliers with a description of the services or goods required, allowing them to assess the quantities, qualities, and timelines in order for them to submit an informed bid. The tender specifications may describe the scope of work/s for the services or goods being purchased.

- b) Standards to be complied with when drafting specifications:
 - i. The specification should permit the acceptance of offers for goods which have similar characteristics, and which provide performance at least equivalent to those specified. The quality of goods/services required should, however, not be over specified to the extent that it excludes other potential bidders/suppliers from offering such a product.
 - ii. The nature and required technical and quality characteristics, of the goods or services to be procured, including, but not limited to, technical specifications, Functionality, plans, drawings, and designs must be appropriately defined in tender documents.
 - iii. The requirements of any applicable legislation e.g., the Construction Industry Development Board (CIDB) or State Information Technology Agency (SITA) must be taken into consideration.
- c) Specifications for each invitation to tender in procurement by way of bids are determined by SASSETA's Bid Specification Committee in consultation with end-user department, and must be approved by the Bid Adjudication Committee. Specifications for each invitation to tender in procurement by way of quotations are determined the end-user department, and must be approved by executive manager for that department.

1.7.1.1.2 **Conditions to tender:**

- a) The conditions to tender describes the process to be followed when evaluating the tenderer's ability to deliver the required goods or services, at the quality, quantity, time, and price.
- b) Conditions to tender for each invitation to tender in procurement by way of bids are determined by SASSETA's Bid Specification Committee in consultation with end-user department, and must be approved by the Bid Adjudication Committee. Conditions to tender for each invitation to tender in procurement by way of quotations are determined by the end-user department, and must be approved by executive manager for that department.
- c) The tender conditions may be considered in two categories as follows:

1.7.1.1.3 **Mandatory Requirements**

- a) These refer to compulsory requirements that must be met for any bid submission to be considered further in the evaluation process. These may comprise, but not limited to, the following:

- i. Attendance of compulsory briefing sessions,
- ii. Submission of specific administrative documents (such as the CSD reports, company registration documents, B-BBEE certificate and identity documents for directors, SARS compliance verification information etc).
- iii. Confirmation of accreditation with a Professional Regulatory Body (if applicable)
- iv. Mandatory requirements will be determined for each tender and specified in the tender documents.

1.7.1.1.4 Functionality Requirements

- a) SASSETA will state in the tender documents if the tenders in response to an invitation to 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 criterion 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 low that it may jeopardise the quality of the required goods or services; or high that it is unreasonably restrictive.
- e) Points scored for Functionality must be rounded off to the nearest two decimal places.
- f) The evaluation of tenders must be conducted in the following stages:
 - i. Firstly, assessment against conditions or requirements as stated in the tender documents; and
 - ii. Secondly, where Functionality is part of the procurement process, evaluation must be done in terms of Functionality and the minimum qualifying score referred to above. A tender must be declared unacceptable if it fails to meet the minimum threshold for Functionality as per the invitation to tender. Thereafter, only qualifying tenders may be evaluated in accordance with preferential procurement system described below.



- g) A tender that fails to comply with the conditions or requirements and/or to obtain the minimum qualifying score for functionality, where applicable, as indicated in the tender documents is not an Acceptable Tender and should not be evaluated further.

1.7.1.1.5 Preference Points System

- a) SASSETA will stipulate the following in the tender documents:
 - i. the applicable preference point system as either 80/20 or 90/10 subject to the National Treasury prescribed amount.
- b) The following preference point system is applicable to the procurement of all goods, services or works required by SASSETA:
 - i. The 80/20 preference point system shall be used for requirements with Rand value equal to or R50 million (All taxes included), and the 90/10 preference point system for tenders with Rand value above R50m (All taxes included).
- c) If it is unclear whether the 80/20 or 90/10 preference point system applies, SASSETA will, in the tender documents, stipulate in the case of:
 - i. an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system, or
 - ii. any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system

1.7.1.1.6 Preference Point System Formula for Calculations

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

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

Where:

P_s = Points scored for price of tender under consideration.

P_t = Price of tender under consideration; and

Pmin = Price of lowest acceptable tender.

A maximum of 20 points may be awarded to a tenderer for the Specific Goals specified in the tender documents.

The following formula must be used to calculate the points out of 90 for Price in respect of an invitation for a quotation/tender with a Rand value above R50 million, inclusive of all applicable taxes:

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

Where:

Ps = Points scored for price of tender under consideration.

Pt = Price of tender under consideration; and

Pmin = Price of lowest acceptable tender.

A maximum of 10 points may be awarded to a tenderer for the Specific Goals specified in the tender documents.

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

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

Where:

Ps = Points scored for price of tender under consideration.

Pt = Price of tender under consideration; and

Pmax = Price of highest acceptable tender.

A maximum of 20 points may be awarded to a tenderer for the Specific Goals specified in the tender documents.

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

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

Where:

Ps = Points scored for price of tender under consideration.

Pt = Price of tender under consideration; and

Pmax = Price of highest acceptable tender.

A maximum of 10 points may be awarded to a tenderer for the Specific Goals specified in the tender documents.

- c) In all of the above, the points scored for the Specific Goals must be added to the points scored for Price and the total must be rounded off to the nearest two decimal places.

1.7.1.1.7 Specific Goals

- a) The preference points of 20 or 10, as the case may be, are allocated on the basis of Specific Goals as contemplated in section 2(1)(b) of the PPPFA.
- b) Tenders will be evaluated on the following Specific Goals premised on addressing the legacy of apartheid's historical injustices, with a consideration on the following categories (of historically disadvantaged people - HDP) using race, gender, youth, and people with disability.
- c) SASSETA may in a specific invitation to tender require allocation of points for Specific Goals (20/10) using one or a combination of the following categories, inclusive to or exclusive of what is stated in paragraph "(b)" above (in no order of preference):



- i. B-BBEE status level in terms of the B-BBEE Act and applicable Codes.
 - ii. Black People Ownership (100%).
 - iii. Black People owned (at least 51%).
 - iv. Black Women Ownership (at least 30%).
 - v. Black Youth Ownership (at least 30%).
 - vi. Black People with Disability (PwD) Ownership (at least 20%).
 - vii. Black people who are unemployed (31% and above).
 - viii. Black people who are Military Veterans (31% and above).
 - ix. The promotion of South African-owned enterprises
 - x. The promotion of EMEs and QSEs.
 - xi. The promotion of enterprises located in a specific province for work to be done or services to be rendered in that province.
 - xii. The promotion of enterprises located in a specific region for work to be done or services to be rendered in that region.
 - xiii. The promotion of enterprises located in Rural Areas.
 - xiv. The empowerment of the work force by standardising the level of skill and knowledge of workers.
 - xv. The upliftment of communities through, but not limited to, housing, transport, schools, infrastructure donations and charity organisations.
- d) The actual allocation of any Specific Goals contemplated in this Policy will be specified in the invitation to tender (tender documents) and must be measurable, quantifiable, and monitored for compliance.
- e) Determination of Specific Goals in respect of each invitation to tender be accompanied by a motivation in the relevant internal reports for the Specific Goal(s) chosen for that invitation.
- f) Specific Goals for each invitation to tender in procurement by way of bids are determined by SASSETA's Bid Specification Committee in consultation with end-user department, and must be approved by the Bid Adjudication Committee. Conditions to tender for each invitation to tender in procurement by way of quotations are determined by the end-user department, and must be approved by executive manager for that department.

1.7.1.1.8 Claiming Specific Goals points

- a) Tenderers will in the invitations to tender (tender documents) be required to submit verification documents in order to be able to claim points for Specific Goals, in the form of one or more the following:



- i. Valid Broad-Based Black Economic Empowerment (B-BBEE) certificate or affidavit;
 - ii. Valid Companies and Intellectual Property Commission (CIPC) Company registration documents;
 - iii. Certified copy of Identity document;
 - iv. CSD report;
 - v. Medical report; and/or
 - vi. Declaration letter signed by the tenderer.
- b) Each invitation to tender (tender documents) must detail the verification document(s) or proof required.
 - c) A tenderer who fails to submit verification documents or proof of the claimed Specific Goals will score zero (0) or not be allocated the claimed Specific Goals.
 - d) A tenderer who fails to submit the completed and signed the Declaration part of the tender documents may not be considered for Specific Points.
 - e) SASSETA may, before an appointment is made or at any time, require a Bidder to substantiate claims it has made with regard to the Specific Goals.
 - f) A Consortium or Joint Venture may, based on their percentage of the contract value managed, be entitled to claim Specific Goals as a legal entity, provided they entity submits their B-BBEE status certificate.
 - g) A Consortium or Joint Venture will qualify for points for their Specific Goals as an unincorporated entity, provided that the entity submits their consolidated B-BBEE as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate tender.

1.7.1.1.9 Criteria for breaking a 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 Goals.
- b) If functionality is part of the evaluation process and two or more tenderers score equal total points and equal Specific Goals, 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.

1.7.2 Awarding of tenders

- 1.7.2.1 The contract must be awarded to the tenderer who scores the highest points, unless Objective Criteria in addition to the Specific Goals justify the award to another tenderer.
- 1.7.2.2 Objective Criteria may include, but not limited to, considerations of sustainability, localisation, environmental issues, innovations, and any other matter considered critical in the appointment of tenderers.

1.7.2.3 Objective Criteria may not undermine laws of the Republic and may not be used to evaluate tenders where it is not clearly specified in the invitation to tender (tender documents).

1.7.3 Subcontracting after award of tender

1.7.3.1 A tenderer awarded a contract may only enter into a subcontracting agreement with the approval of SASSETA.

1.7.3.2 A tenderer awarded a contract may not subcontract more than 25% of the value of the contract to any other enterprise that does not at least have equal Specific Goals than the tenderer concerned.

1.7.4 Cancellation of tender

1.7.4.1 SASSETA may, before the award of a tender, cancel the tender invitation if:

1.7.4.1.1 Due to changed circumstances, there is no longer a need for the goods or services specified in the invitation;

1.7.4.1.2 Funds are no longer available to cover the envisaged expenditure

1.7.4.1.3 No acceptable tender is received; and/or

1.7.4.1.4 There is a material irregularity in the tender process.

1.7.4.2 The decision to cancel the tender invitation must be published in the same manner in which the original tender invitation was advertised.

1.7.5 Remedies

1.7.5.1 If SASSETA is of the view that a tenderer submitted false information regarding a Specific Goal, it must:

1.7.5.1.1 inform the tenderer; and

1.7.5.1.2 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.

1.7.5.1.3 After considering the representations referred to in paragraph 1.7.5.1.2, SASSETA 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.

1.7.6 Declarations

1.7.6.1 A tender must, in the manner stipulated in the invitation to tender (tender documents), declare that:

- 1.7.6.1.1 the information provided is true and correct;
- 1.7.6.1.2 the signatory to the tender document is duly authorised; and
- 1.7.6.1.3 documentary proof regarding any tendering issue will, when required, be submitted to the satisfaction of SASSETA.

1.7. PROTECTION OF INFORMATION

1.8.1 SASSETA will promote the protection of personal information during this process by ensuring that the information collected is specific, explicitly defined and for lawful purposes in accordance with the provisions of the Protection of Personal Information Act 4 of 2013.

1.8.2 If during the course of implementing this Policy, information becomes available that is personal in nature, such information shall be kept confidential and only be used for the purposes for which it is intended.

1.8. ACCOUNTABILITY AND RESPONSIBILITY

1.9.1 To support the full achievement of this Policy objectives, the accountability of this policy remains with the CEO.

1.9.2 The responsibility for the implementation of this Policy remains with Head of Department or delegated to officials as detailed below:

Role	Responsibility
CFO	To ensure that all prescripts per this Policy and the accompanying standard operating procedures are adhered to and any deviations are recorded and reported after obtaining the right approvals.
SCM Manager	To supervise the implementation of this Policy and the accompanying standard operating procedures and reporting thereof.
	To execute the implementation of this Policy and standard operating procedures.



1.9. NON-COMPLIANCE

- 1.10.1 Non-compliance with this Policy or any applicable regulatory requirement through any deliberate or negligent act or omission, including allowing any staff, either expressly or impliedly, not to comply with this Policy or any applicable regulatory requirement, will be considered serious and will be dealt with in terms of the SASSETA's disciplinary policies and procedures.
- 1.10.2 Where non-compliance amounts to an offence, it will be referred to the relevant law enforcement authorities.
- 1.10.3 Any employee or official of SASSETA who becomes aware of non-compliance with this Policy must report same through the internal channels provided by SASSETA.

1.10. EFFECTIVE DATE

- 1.11.1 The effective date of the Preferential Procurement Policy is on the date of approval by the Board or the relevant delegatee.

1.11. DEVIATION FROM THE POLICY

- 1.12.1 Any deviation(s) from this Policy is subject to the sole discretion and approval of the Chief Executive Officer within his/her delegation of authority.
- 1.12.2 All deviation(s) requests shall be in writing, fully motivated with supporting documentation and addressed to the Chief Executive Officer for his/her approval.
- 1.12.3 All deviation(s) must be reported to the Board.

1.12. DISTRIBUTION OF THIS POLICY

- 1.13.1 This Policy will be communicated and distributed to all SASSETA staff via e-mail. The Policy comes into effect on the approval date by the Board or relevant delegatee regardless on which date the e-mail communication was.

1.13. PRECEDENCE

- 1.14.1 Any approved revised version of this Policy shall supersede any previous version.
- 1.14.2 The contents of the PPPFA and accompanying regulations and any other mandatory legal or regulatory requirement take precedence over this Policy in case of any inconsistency.
- 1.14.3 The contents of this Policy shall take precedence over any other policies of SASSETA only insofar as the requirements of PPPFA and accompanying regulations are concerned.