

# Preferential Procurement Regulations, 2022 implementation guideline for specific Goals



**CITY OF CAPE TOWN  
ISIXEKO SASEKAPA  
STAD KAAPSTAD**

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# CHAPTER 1

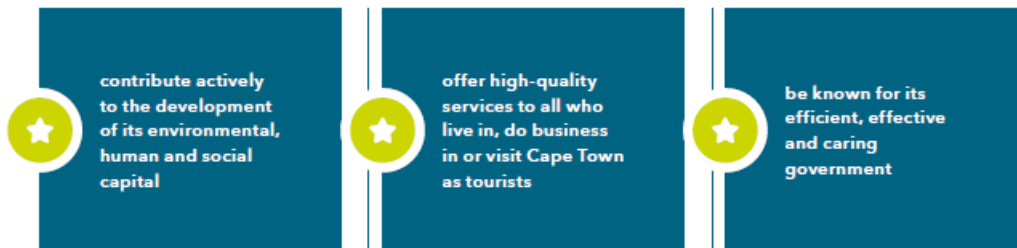
## OBJECTIVE

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The objective of the Preferential Procurement Regulations implementation guideline is contribute towards the vision of a **City of Hope** for all.



In striving to achieve this vision, the City's mission has been to:

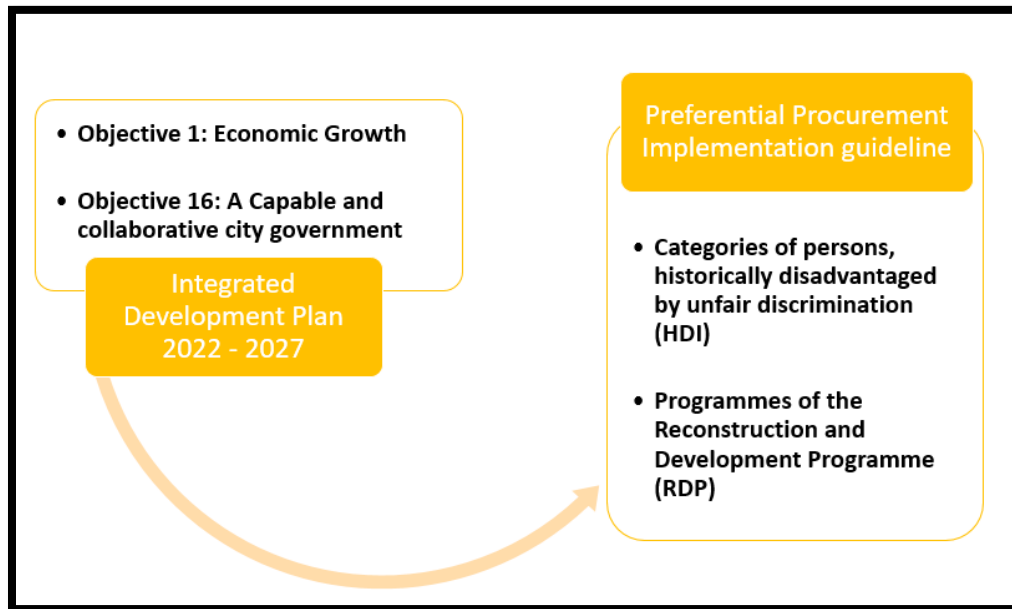


Spearheading this resolve has been a focus on infrastructure investment and maintenance to provide a sustainable drive for economic growth and development, greater economic freedom, and increased opportunities for investment and job creation.

The implementation guideline aims to **indirectly** contribute towards the objectives of the **2022-2027 Integrated Development Plan**, which addresses the following:

- **increased jobs and investments** opportunities;
- **inclusive** economic development and growth; and
- **ease** of doing business with the City.

All of these measures are designed to directly address **poverty** through job creation and **economic stimulation**, whilst ensuring a procurement system that is **fair, equitable, transparent, competitive and cost-effective**.



## THE SCM POLICY (2023) AND THIS PROCURMENT GUIDELINE SUPPORTS THE CITY'S STRATEGIC FOCUS AREAS (SFA)

**The opportunity city** SFA on creating an environment that stimulates sustainable economic growth, investment and job creation.

**The well-run city** SFA on financial and operational sustainability, human resource development and organisational restructuring to ensure that the City responds to its customers' needs and can sustainably support its various initiatives, programmes and projects by delivering the right services as efficiently and effectively as possible.

**The inclusive city** SFA incorporated aspects of all three SFAs above to achieve true inclusivity and ensure that there is access to economic

opportunities, that citizens feel safe and cared for, and that communities are truly integrated.

This guideline also serves to ensure that procurement processes **comply** with the changes to the Preferential Procurement Regulations, 2022 under the Preferential Procurement Policy Framework Act, 2000 (PPPFA), and that such processes are conducted in a **simplified and controlled** manner and in line with all applicable prescripts including the SCM Policy 2023.

## CHAPTER 2

### ENABLING REGULATORY FRAMEWORK

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The City's SCM Policy seeks to facilitate the procurement of suitable quality products and services (and the selection of service providers) in a competitive, fair, transparent, equitable and cost-effective manner, which is consistent with applicable legislation.

In addition to the City's SCM Policy, the following legislation, informed the City's SCM Policy:

- The Constitution of the Republic of South Africa;
- The Local Government: Municipal Finance Management Act, 2003 (Act No.56 of 2003) & Municipal SCM Regulations (2005);
- and
- Preferential Procurement Policy Framework Act (2000) & Preferential Procurement Policy Regulations (2022).

Section 3(1) of the Preferential Procurement Regulations, 2022 issued on 4 November 2022, states that:

*An organ of state must, in the tender documents, stipulate*

*(a) the applicable preference point system as envisaged in regulations 4, 5, 6 or 7;*

*(b) the specific goal in the invitation to submit the tender for which a point may be awarded, and the number of points that will be awarded to each goal, and proof of the claim for such goal.*

## CHAPTER 3

### PRACTICAL CHALLENGES

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The City has achieved a **CLEAN AUDIT** outcome for the 2021/2022 financial year. During the preceding three financial years, the City obtained an Unqualified: With Findings opinion, mainly due to non-compliance with the Preferential Procurement Regulations (PPR).

The over idealised objectives of the PPR, 2022 creates an opportunity for **interpretation** and consequently a risk of a **difference of opinion** with different stakeholders. However one is mindful of the compliance audit to the SCM Regulations and the PPPF Regulations by the Auditor General of South Africa of, which not supported by clear objectives and an audit trail could result in **Irregular Expenditure on tenders and contracts**.

An **overly complex** process and **multiple** specific goals poses the following risks:

- **room for errors** during the bid specifications and evaluation phase;
- **extended** bid evaluation periods by making it too complex;
- **additional administrative burden and red tap to vendors** and;
- **delayed service delivery**
  - crucial basic services contracts not in place when required;
  - deviations and extensions due to contracts not awarded timeously;
  - underspending of capital budget due to delays in finalising/ awarding bid.

A **clear and simplified** approach, which creates **uniformity**, will provide the approximately eight hundred (800) bid committee members with a guide that is practical and free of subjective interpretation.

The implementation guide follows a **conservative approach** to mitigate against over idealised objectives and to **protect** the City from incurring irregular expenditure, with the aim to prevent a regression in the audit opinion.

The implementation guide further aims to **reduce “red tape”** and implement the requirements of the PPR, 2022 in the least disruptive way to the tender committee system possible.

## CHAPTER 4

### SETTING AND EVALUATING SPECIFIC GOALS

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Section 3 of the Preferential Procurement Regulations, 2022 requires that the tender documents must stipulate:

- (a) the applicable **preference point system** (90/10 or 80/20); and
- (b) the **specific goal** in the invitation to submit the tender for which a point may be awarded, and the number of points that will be awarded to each goal, and proof of the claim for such goal.

Section 2(1)(d) of the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000) states that the **specific goals** may include:

- i. contracting with persons, or categories of persons, **historically disadvantaged (HDI)** by unfair discrimination on the basis of **race, gender or disability**; and
- ii. implementing the programmes of the **Reconstruction and Development Programme (RDP)** as published in Government Gazette No. 16085 dated 23 November 1994;

The **RDP** (published in Government Gazette '94) is an ideology and in the form of a vision or statement of intent, rather than providing a concrete set of goals to incorporate in the preference point system. A goal that clearly stands out is the promotion of Micro and Small Enterprises, which the City adopted for implementation. The other ideological statement in the RDP are not clearly defined as dedicated goals which can be easily measured and that in itself lends leads to vague interpretations and the risk of incurring negative audit findings.

**HDI** however, is clearly defined and contains only three considerations, namely race, gender and disability.

## **IDENTIFICATION OF PREFERENCE POINT SYSTEM**

90 points (bids above R50 mil) or 80 points (bids equal or below R50 mil) must be allocated for **price**. 10 points (bids above R50 mil) or 20 points (bids equal or below R50 mil) points must be allocated for **specific goals** i.e. preference.

### **Acquisition of goods/services or income generating contracts with a Rand value equal or below R200 000 (Including VAT) through the Request for Quotation (RFQ) mechanism**

Due to the significant volumes and very quick turnaround times required for ensuring negative operational impacts are minimised and well as a simplified process required for small and micro enterprises, a fixed formula will be utilised as per the table below for request for quotations and/ or deviations where application.

The following specific goals should be considered during the planning phase of each quotation process. The goals adopted in the below R200 000 space focusses on enabling a procurement process that is clear and simplified and able to respond to voluminous number of requests, whilst still achieving the vision of the PPPFA.

**Table A1**

#	Specific goals allocated points	Preference Points (80/20) <i>Equal/ below R50 mil</i>
	<i>Persons, or categories of persons, historically disadvantaged- (HDI) by unfair discrimination on the basis of</i>	
1	<b>Gender are women (ownership)*</b> <i>More than 50% women ownership = 10 points Less than 50% women ownership = 5 points 0% women ownership = 0 points</i>	10
	<i>Reconstruction and Development Programme (RDP) as published in Government Gazette</i>	
2	<b>Promotion of Micro and Small Enterprises</b> <i>Micro with a turnover up to R20million and Small with a turnover up to R80 million as per National Small Enterprise Act, 1996 (Act No.102 of 1996  SME partnership, sub-contracting, joint venture or consortiums</i>	10
	<b>Total points</b>	<b>20</b>

\*Ownership: main tendering entity

**Acquisition of goods/services or income generating contracts with a Rand value above R200 000 (Including VAT)**

HDI goals grants preference on the basis of race, gender and disability. The RDP goals as gazetted in 1994 are based on ideology, with the exception of the promotion of Micro and Small Enterprises, which has been adopted due to the linkage with the City's IDP and the measurable nature of the goals

The following specific goals should be considered during the planning phase of each tender process. **The following serves as options, goals and point values may be refined based on relevant market/ industry.**

**Table B1: Awards UP TO R100 mil (VAT Inclusive)**

#	Specific goals allocated points	Preference Points (80/20) <i>Equal/ below R50 mil</i>	Preference Points (90/10) <i>Above R50 mil</i>
	<i>Persons, or categories of persons, historically disadvantaged- (HDI) by unfair discrimination on the basis of</i>		
1	<b>Gender are women (ownership)*</b> <i>More than 50% women ownership = 5/ 2.5 points Equal or Less than 50% women ownership = 2.5/ 1.25 points 0% women ownership = 0 points</i>	5	2.5
2	<b>Race are black persons (ownership)*</b> <i>More than 50% black ownership = 5/ 2.5 points Equal or Less than 50% black ownership = 2.5/ 1.25 points 0% black ownership = 0 points</i>	5	2.5
3	<b>Disability are disabled persons (ownership)*</b> <i>WHO disability guideline 1-100% ownership = 5/ 2.5 points 0% ownership = 0 points</i>	5	2.5
	<i>Reconstruction and Development Programme (RDP) as published in Government Gazette</i>		
4	<b>Promotion of Micro and Small Enterprises</b> <i>Micro with a turnover up to R20million and Small with a turnover up to R80 million as per National Small Enterprise Act, 1996 (Act No.102 of 1996  SME partnership, sub-contracting, joint venture or consortiums</i>	5	2.5
	<b>Total points</b>	<b>20</b>	<b>10</b>

\*Ownership: main tendering entity

**Table B2: Awards ABOVE R100 mil (VAT Inclusive)**

#	Specific goals allocated points	Preference Points (90/10) Above R50 mil
	<i>Persons, or categories of persons, historically disadvantaged- (HDI) by unfair discrimination on the basis of</i>	
1	<b>Gender are women (ownership)*</b> More than 50% women ownership = 2 points Equal or Less than 50% women ownership = 1 points 0% women ownership = 0 points	2
2	<b>Race are black persons (ownership)*</b> More than 50% black ownership = 2 points Equal or Less than 50% black ownership = 1 points 0% black ownership = 0 points	2
3	<b>Disability are disabled persons (ownership)*</b> WHO disability guideline Yes = 2 points No = 0 points	2
	<i>Reconstruction and Development Programme (RDP) as published in Government Gazette</i>	
4	<b>Promotion of Micro and Small Enterprises</b>  Micro with a turnover up to R20million and Small with a turnover up to R80 million as per National Small Enterprise Act, 1996 (Act No.102 of 1996)  SME partnership, sub-contracting, joint venture or consortiums	4
	<b>Total points</b>	<b>10</b>

\*Ownership: main tendering entity

The City regards the above activities as a contribution towards achieving the goals of the HDI and RDP, and as such grant preference points in the adjudication of tenders.

## CHAPTER 5

### ACCEPTABLE EVIDENCE FROM BIDDERS CLAIMING POINTS FOR SPECIAL GOALS

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In order to confirm/verify the specific goals claimed by a bidder, the following documentation will be deemed acceptable and must be submitted with the RFQ/tender document or upon request by the City:

Specific Goals	Evidence	Additional guidance
<b>Gender</b>	Company Registration Certification	Issued by the Companies and Intellectual Property Commission, indicating the % shareholding of all owners
	Identification Documentation	
	CSD report	
<b>Disability</b>	Proof of disability	Medical certificate/ SARS disability registration
	Company Registration Certification	Issued by the Companies and Intellectual Property Commission, indicating the % shareholding of all owners.
	Identification Documentation	
<b>Race</b>	Proof of B-BBEE certificate;	<i>Indicating the % black ownership:</i> - SANAS approved certificate or Commissioned affidavit
	Company Registration Certification	<i>Issued by the Companies and Intellectual Property Commission, indicating the % shareholding of all owners.</i>
	Identification Documentation.	
	CSD report	
<b>MSE – Micro and Small Enterprises</b>	Proof of B-BBEE status level of contributor;	- Specifically in line with the respective Sector Codes which the company operates, - SANAS Approved certificate or Commissioned affidavit
	South African owned enterprises;	Certificate of incorporation or Commissioned affidavit
	Financial Statement to determine annual turnover	

## CHAPTER 6

### ROLES AND RESPONSIBILITIES

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Responsible Person(s)	Responsibility
<b>Bid Evaluation Committee</b>	To evaluate the tender in accordance with the HDI/Specific Goals outlined in the tender document advertised.
<b>Bid Specification Committee</b>	<ul style="list-style-type: none"><li>• Prepare tender document on the latest template on the City web.</li><li>• The BSC to determine which HDI or Specific Goal will be best suited for that specific tender based on market research, analysis or historical data in the disposal of the City.</li></ul>
<b>Line Director</b>	To approve the specification and tender document to be advertised.
<b>SCM officials</b>	Assist, Guide, Advise and direct Line Departments regarding due process.

## DOCUMENT DEFINITION

<b>Version</b>	1								
<b>Date</b>	01/03/2023								
<b>Summary</b>	Operating framework to govern the implementation of the Preferential Procurement Regulations, 2022, thereby ensuring a common understanding amongst all internal role players.								
<b>Signature</b>	<table><tr><td>_____</td><td>_____</td></tr><tr><td><b>DIRECTOR: SCM</b></td><td><b>DATE</b></td></tr><tr><td>_____</td><td>_____</td></tr><tr><td><b>EXECUTIVE DIRECTOR: FINANCE</b></td><td><b>DATE</b></td></tr></table>	_____	_____	<b>DIRECTOR: SCM</b>	<b>DATE</b>	_____	_____	<b>EXECUTIVE DIRECTOR: FINANCE</b>	<b>DATE</b>
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<b>EXECUTIVE DIRECTOR: FINANCE</b>	<b>DATE</b>								
<b>Effective date</b>	01/03/2023.....								
<b>Next revision date</b>	01/06/2023.....								

## AMENDMENT HISTORY

No	Amendment reference	Effective date	Chapter	Paragraph	Short description
0	Created and Approved Document	01/02/2023			