PREFERENCE POINTS CLAIM

Preferential Procurement Regulation 2022

52. Specific goals

(a) Company which at least 51% is owned by Black People

(b) Company which is at least 51% is owned by women

(c) Company which at least 51% is owned by people with disabilities

(d) Company which 51% is owned by people living in rural underdeveloped areas

(e) Locality

Points to be allocated for specific goals and to promote economic development"

1. The following conditions will stipulate the specific goals as contemplated in section 2(1) (d) (ii) of the Preferential Procurement Policy Framework Act, be attained.
2. A maximum of 20 points (80/20) preference points system or 10 (90/10) preference points system will be allocated for specific goals. These goals are as follow‖
   a) Contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender or disability;
   b) the promotion of enterprise located in the local area (phased in approach to be applied for other RDP
3. O

Local area of Supplier	**Number of Points for Preference (50%)**		**Means of Verification**
p	**80/20**	**90/10**	
Within the area of Tswaing Local Municipality.	10	5	Company registration-physical address
Within the area of Ngaka Modiri Molema. District Municipality.	6	3	Company registration-physical address

aph 2 (b) above 50% of the (20/10) points will be allocated to promote this goal. Points will be allocated as follows:

Within the area of North West Province.	4	2	Company registration-physical address
Within the Republic of South Africa.	2	1	Company registration-physical address

4. Any specific goal for which a point may be awarded, must be clearly specified in the invitation to submit a tender
5. A tender failing to submit proof of required evidence to claim preference for other specified goals, which is in line section 2 (1) (d) (i) of the Act.

a) may only score in terms of the 80/90-point formula for price and;

b) Scores 0 points out of 10/5 of the relevant specific goals where the supplier or service provider did not stipulate the area where the business is operating and/ or locating.

6. The preference points scored by a tender must be added to the points scored for price
7. The points scored must be rounded off to the nearest two decimal places
8. The contract must be awarded to the tender scoring the highest points

Specific Goals	**Number of Points for Preference (80/20)**	**Number of Points for Preference (90/10)**	**Means of Verification**
Company which at least 51% is owned by Black People	10	5	CSD Report
Company which is at least 51% is owned by women	10	5	CSD Report

Company which at least 51% is owned by people with disabilities	10	5	Medical report indicating disability /CSD Report

Company which 51% is owned by people living in rural underdeveloped areas	10	5	CSD Report

Identification of preference point system

53. 1. Tswaing Local Municipality 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.

2. If it is unclear whether the 80/20 or 90/10 preference point system applies, Tswaing Local Municipality must, in the tender documents, stipulate in the case of—

a) 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

b) 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 applicabl e preference point system.

80/20 preference point system for acquisition of goods or services with Rand value equal to or below R50 million

1. 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:

$$Ps = 80 \left(1 - \left(\frac{Pt - P\,min}{P\,min}\right)\right)$$

Where-

Ps = Points scored for price of tender under consideration;

Pt = Price of tender under consideration; and

Pmin = Price of lowest acceptable tender.

2. A maximum of 20 points may be awarded to a tenderer for the specific goal specified for the tender. (The allocation of preference points for tenders above the quotation threshold to be decided and allocated per tender)

3. 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.

4. Subject to section 2(1)*(f)* of the Act, the contract must be awarded to the tenderer scoring the highest points.

90/10 preference point system for acquisition of goods or services with Rand value above R50 million

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

Where-

$$Ps = 90 \left(1 - \left(\frac{Pt - P\,min}{P\,min}\right)\right)$$

Ps = Points scored for price of tender under consideration;

Pt = Price of tender under consideration; and

Pmin = Price of lowest acceptable tender.

2. A maximum of 10 points may be awarded to a tenderer for the specific goal specified for the tender. (The allocation of preference points for tenders above the quotation threshold to be decided and allocated per tender)

3. 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.

4. Subject to section 2(1)*(f)* of the Act, the contract must be awarded to the tenderer scoring the highest points.

80/20 preference points system for tenders for income-generating contracts with Rand value equal to or below R50 million

1. 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,

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

Where-

Ps = Points scored for price of tender under consideration;

Pt = Price of tender under consideration; and

Pmax = Price of highest acceptable tender.

2. A maximum of 20 points may be awarded to a tenderer for the specific goal specified for the tender. (The allocation of preference points for tenders above the quotation threshold to be decided and allocated per tender)

3. 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.

4. Subject to section 2(1)*(f)* of the Act, the contract must be awarded to the tenderer scoring the highest points.

90/10 preference point system for tenders for income-generating contracts with Rand value above R50 million

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

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

Where:

Ps = Points scored for price of tender under consideration;

Pt = Price of tender under consideration; and

Pmax= Price of highest acceptable tender.

2. A maximum of 10 points may be awarded to a tenderer for the specific goal specified for the tender. (The allocation of preference points for tenders above the quotation threshold to be decided and allocated per tender)

3. 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.

4. Subject to section 2(1) *(f)* of the Act, the contract must be awarded to the tenderer scoring the highest points.

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Subcontracting as a condition of tender for procurement above R30 million (regulation 9)

1. The regulation states that if feasible to contract above R 30 million, an organ of state must apply subcontracting to advance designated groups.

2. The term ―feasible‖ is used in recognition of the fact that it may not always be possible to subcontract in all tenders due to the nature of some tenders. (For instance it may not be possible to sub-contract one piece of machinery that is above R 30 million).

3. Tswaing Local Municipality will identify procurement opportunities for designated groups where compulsory sub-contracting must be applied to all contracts/ projects above R30 million.

4. The responsibility to determine whether it is feasible or not rests with Tswaing Local Municipality. Tswaing Local Municipality must ensure participation of EMEs and QSEs in contracts or projects and not just dismiss this provision on the basis that it is not feasible without providing facts and objective analysis to substantiate their decision.

5. Notwithstanding the minimum 30% compulsory sub-contracting provision, Tswaing Local Municipality may identify procurement opportunities for participation of designated groups in contracts or projects below R30 million.

6. Tenders must be advertised with a condition that tenderers who fail to comply with this requirement would be disqualified.

7. The Central Supplier Database (CSD) has been upgraded to allow bidders/ contractors/ suppliers access to CSD for identification of potential subcontractors from the pool of EMEs or QSEs to advance designated groups.

8. In the case of construction and built environment sectors, nothing prevents bidders/ contractors/ suppliers to select sub-contractors from the CIDB database who are registered on the CSD for the purposes of compliance with the minimum 30% compulsory sub-contracting provisions.

9. Tenderers or contractors must submit proof of subcontracting arrangement between the main tenderer and the subcontractor. Proof of subcontracting arrangement may include a subcontracting agreement between main tenderer and the subcontractor.

10. The responsibility for inclusion of compulsory subcontracting clause in the tender rests with Tswaing Local Municipality.

11. The responsibility to sub-contract with competent and capable subcontractors rests with the main contractor/ supplier in conjunction with Tswaing Local Municipality.

12. The contract will be concluded between the main contractor and Tswaing Local Municipality, therefore, the main contractor and not the subcontractor would be held liable for performance in terms of its contractual obligations.

13. Main contractors/ suppliers are discouraged from subcontracting with their subsidiary companies as this may be interpreted as subcontracting with themselves and / or using their subsidiaries for fronting. Where primary contractor subcontracts with a subsidiary this must be declared in tender documents.

14. Tenders that do not meet subcontracting requirements are considered as being not acceptable tenders and must be disqualified and may not be considered for further evaluation or award.

Criteria for breaking deadlock in scoring

55. 1. 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.

2. If two or more tenderers score equal total points in all respects, the award must be decided by the drawing of lots. Which must be conducted by the Bid Evaluation Committee.

Remedies

56. 1. If Tswaing Local 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.

2. After considering the representations referred to in sub regulation (1)*(b)*, Tswaing Local Municipality may, if it concludes that such information is false—

a) disqualify the tenderer or terminate the contract in whole or in part; and

if applicable, claim damages from the tenderer.