



**NCPT**  
NORTHERN CAPE PROVINCIAL TREASURY

# PPPFA REGULATIONS

## (PROVINCIAL TREASURY PRESENTATION)

# BACKGROUND

---



**NCPT**  
NORTHERN CAPE PROVINCIAL TREASURY

Government will set aside 30% of appropriate categories of state procurement for purchasing from SMME's, Co-operatives, Townships and rural enterprises.

# Policy objective of the Regulation to be implemented 1 April 2017



**NCPT**  
NORTHERN CAPE PROVINCIAL TREASURY

- Transformation and creation of a business environment conducive for all
  - Socio-economic transformation.
  - Promotion of small enterprises, co-operatives, rural and township enterprises and;
  - Promotion of local industrial development.

# Aligning the aims of PPPFA and B-BBEE



**NCPT**  
NORTHERN CAPE PROVINCIAL TREASURY

B-BBEE Act and codes of good practise classify SMME's as either EME's or QSE's.

**THE CONSTITUTION PROVIDES FOR EQUALITY BEFORE THE LAW, REDRESSING THE IMBALANCES OF THE PAST AND PREFERENTIAL TREATMENT OF PREVIOUSLY DISADVANTAGE PERSONS WHEN ORGANS OF STATE PROCURE GOODS AND SERVICES**

# WHAT IS NEW AND PROGRESSIVE IN THE UPDATED REGULATIONS APPLICABLE FROM 1 APRIL 2017



## 1. ADDITIONAL DEFENITIONS

- Designated group means –
  - a) black designated groups;
  - b) black people;
  - c) women;
  - d) people with disabilities; or
  - e) small enterprises
- “Military veteran” has the meaning assigned to it in section 1 of the Military's Veterans Act, 2011.
- “people with disabilities” has the meaning assigned to it in section 1 of the Employment Equity Act, 1988.



- “QSE” means a qualifying small business enterprise in terms of a code of good practise on black economic empowerment issued in terms of section 9 (1) of the B-BBEE Act.
- “Rural area” means –
  - a) a sparsely populated area in which people farm or depend on natural resources, including villages and small towns which 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.
- “township” means an urban living area that any time from the late 19<sup>th</sup> century until 27 April 1994, was reserved for black people, including areas developed for historically disadvantaged individuals past 27 April 1994.



**NCPT**  
NORTHERN CAPE PROVINCIAL TREASURY

## 2. WHAT WILL BE DIFFERENT?

1. Preference point system
2. Designated sector
3. Pre-qualification criteria
4. Objective criteria and sub-contracting

## 2.1 DETERMINE THE PREFERENCE POINT SYSTEM FOR BIDS



NCPT  
NORTHERN CAPE PROVINCIAL TREASURY

- NOTE 80/20 preference points for all procurements for a rand value equal or above R30 000-00 and up to R50 (million)
- 90/10 preference points for all procurements with a rand value above R50 million.
- Preference points for B-BBEE status level 3 has been decreased in both 80/20 and 90/10 scoring tables.



**NOTE:**

**80/20 preference points Level 3 B-BBEE contributor will only score 14 points it use to be 16. That is why the SBD/MBD 6.1 has changed a new one was issued for immediate implementation.**

**90/10 preference point Level 3 B-BBEE contributor will only score 6 points it use to be 8. That is why SBD/MBD 6.1 has changes a new one was issued for immediate implementation**



- Organ of state must determine and stipulate the preference point system applicable to a tender refer to regulation 6 and 7.
- If a bid is estimated between R45 – R55 million or,

**IF IT'S UNCLEAR WHICH PREFERENCE POINT SYSTEM WILL BE APPLICABLE, E.G. EITHER 80/20 OR 90/10 THE LOWEST ACCEPTABLE TENDER WILL BE USED TO DETERMINING THE APPLICABLE PREFERENCE POINT SYSTEM.**

- On SDB/MBD 6.1 we will indicate that either 80/20 or 90/10 point system will be used.



- Note further that the sub-contracting clause of 25% of the value of the contract to any other person not qualifying for at least the points the tenderer qualifies for, unless it's a EME that has the capability to execute the contract remains the same. Reference regulation 6 (5) and 7 (5).



**NCPT**  
NORTHERN CAPE PROVINCIAL TREASURY

---

## **TAKE NOTE OF:**

Regulation 6(9)(a) and 7(9)(a)

If the price offered by a tenderer scoring the highest points is not market related, the organ of state may not award the contract to the tenderer.

**THEN** the organ of state may-

(i) Negotiate a market related price with the tenderer scoring the highest points – if no agreement is reached the second and if necessary the third highest scoring tenderer can be negotiated with, if there is no success then the tender is cancelled.

**WHEN NEGOTIATING PRICE** the Accounting Officer must compile a committee to do the negotiations, minutes must be kept and after negotiations whether it is successful or not the matter is referred to the adjudication committee to revise it's recommendations to the Accounting Officer. (Reference regulation 6 (6)(b) and 7 (9)(b),

## 2.2 DESIGNATED SECTOR:

Refer to regulation 8 for local production and content.

## 2.3 PRE-QUALIFICATION CRITERIA FOR PREFERENTIAL PROCUREMENT

- Regulation 4.
- This is one of the most progressive changes in the regulations.
- When departments, municipalities, entities compile their annual procurement and demand management plans **THEY MUST TAKE ECONOMIC TRANSFORMATION INTO ACCOUNT AND GIVE EFFECT TO IT.**

- **When applying pre-qualification criteria you advance certain designated groups.**

YOU ADVERTISE THE TENDER/PROCUREMENT WITH A SPECIFIC TENDERING CONDITION THAT ONLY ONE OR MORE OF THE FOLLOWING TENDERERS MAY RESPOND

- a) A tenderer having a stipulated minimum B-BBEE status level of contributor; **OR**
- b) A **EME** (turnover annually not exceeding R10 million)**or a QSE** (turnover annually between R10 million not exceeding R50 million)

**THEN WE SELECT SUB-CONTRACTING CRITERIA**

- c) A tenderer sub-contracting a minimum of 30% to ÷
- i. an EME or QSE which is at least 51% owned by black people;
  - ii. an EME or QSE which is at least 51% owned by black people who are youth;
  - iii. an EME or QSE which is at least 51% owned by black people who are woman;
  - iv. an EME or QSE which is at least 51% owned by black people with disabilities;
  - v. an EME or QSE which is 51% owned by black people living in rural or underdeveloped areas or townships;
  - vi. a co-operative which is at least 51% owned by black people;
  - vii. An EME or QSE which is at least 51% owned by black people who are military veterans;
  - viii. an EME or QSE.

A tender that fails to meet any pre-qualification criteria stipulated in the tender documents is an unacceptable tender.

## **HOW DO WE IMPLEMENT PRE-QUALIFICATION CRITERIA FOR PREFERENTIAL PROCUREMENT?**

### **STEP 1:**

First you can stipulate on the front page of your tender Pre-qualification criteria is applicable and only tenderers meeting the criteria's will be accepted.

### **THEN MAKE THE FIRST CHOICE BETWEEN**

Then you can stipulate a B-BBEE Level (Regulation 4(1)(a) i.e. 3 or 2 etc.

**or**

Only EME's will qualify. **NOTE** must be taken that in a case where EME's is the pre-qualification criteria the tenders estimate value **CANNOT EXCEED R10 million taxes included. WHY?** EME annual turnover is up to R10 million per annum as per B-BBEE codes of conduct.

**or**

Only QSE's will qualify. **NOTE** a QSE annual turnover is between R10-R50 million so the estimate should then be within this range.

### **STEP 2:**

➤ Sub-contracting

Using a combination for instance a QSE who sub-contracts a minimum of 30% of the tender to a EME which is at least 51% owned by black owned people who are youth.

## LETS LOOK AT AN EXAMPLE

On our procurement plan is a tender for the building of a clinic in Brandvlei near Calvinia.

We know that the unemployment under youth in this area is 80%

Our estimate value for the project is R22 million.

### Questions:

1. Who do we target as the main contractor? A **QSE** Why? Estimate is R22 million and a QSE annual turnover is between R10 – R50 million.

2. Due to the unemployment we want to bring our youth into the project . How? We put in a sub-contracting clause. Regulation (4)(1)(c) says a tenderer sub-contracting a **minimum** of 30% to (ii) an EME or QSE which is at least 51% owned by black people who are youth.

Cost estimate R22 million and 30% is  $\pm$  R6,6 million **BUT WE CAN SUB-CONTRACT MORE THAN THE MINIMUM OF 30%**

3. Now we do an analysis of how can be bring in a EME with 51% black youth.
  - a) Plaster work cost estimate  $\pm$  R8 million
  - b) Flooring cost estimate  $\pm$  R1 million
  - c) Roof cost estimate  $\pm$  R3 million
  - d) Paint work cost estimate  $\pm$  R500 000-00
  - e) Paving etc. cost estimate  $\pm$  R2 million
4. So what can be sub-contracted? All of the above but the total amount will be R14 500 000-00 and that will be more than bringing in one EME (turnover not to exceed R10 million per annum) and the total sub-contracting can amount to 66%,
5. Now we go to CSD and draw down lists of suppliers in and around Brandvlei or in Namakwa District who is registered as GB (General Builders) on CIDB Level 3 for instance and find only 1 company qualifying. So that company can do as an example i.t.o. CIDB L3 work up to R4 million.
6. So there is now room for bringing in CIDB L2 and L1 companies to do some other work. We then go back to CSD and download all L2 and L1 CIDB (GB) companies in Brandvlei/Namakwa District. Now we can determine how many can we accommodate on the project without compromise quality.

7. These lists are then included in the tender document and our tender advertisements and front page will read as follows:

The tender contains pre-qualification criteria the main contractor must be a QSE with CIDB Level 5 (as an example) and a minimum of 66% of the tender must be sub-contracted to EME's which is at least 51% owned by black people who are youth. List of companies to be selected from for sub-contracting is appended and downloaded from CSD as specified in sub-contracting conditions of tender.

A condition of tender is to include your completed sub-contracts with those chosen companies from the list in your tender submission. Failure to do so will invalid your tender. You cannot sub-contract with any other supplier than those on the lists and the total sub-contracting percentage to be 66% of the amount of your total tender sum.

## 2.4 SUB-CONTRACTING AS A CONDITION OF TENDER FOR CONTRACTS ABOVE R30 MILLION IF FEASIBLE

- Regulation 9 must not be confused with regulation 4 for pre-qualification criteria for preferential procurement. **THERE IS A DIFFERENCE.**
- When doing your annual procurement plan all tenders with a estimate value of R30 million and above must be considered for sub-contracting if feasible.
- Tenders that has been identified for sub-contacting purposes must be advertised indicating that SUB-CONTRACTING is a condition of tender.
- Please do not be confused we use exactly the same criteria as pre-qualification criteria for sub-contracting.

- Sub-contracting tenders are advertised with specific tendering conditions that the successful tenderer must sub-contract a minimum of 30% of the value of the contract to any of the categories that we list in our tender document:
  - a) an EME or QSE;
  - b) an EME or QSE which is at least 51% owned by black people;
  - c) an EME or QSE which is at least 51% owned by black people who are youth;
  - d) an EME or QSE which is at least 51% owned by black people who are women;
  - e) an EME or QSE which is at least 51% owned by black people with disabilities;
  - f) an EME or QSE which is at least 51% owned by black people living in rural or underdeveloped areas or townships;
  - g) a co-operative which is at least 51% owned by black people;
  - h) an EME or QSE which is at least 51% owned by black people who are military veterans; or
  - i) more than one of the categories referred to in paragraphs (a) to (h).

To ensure tenders sub-contracting with the right suppliers the department, municipality or entity must draw the relevant category of suppliers lists from CSD and append it to the bid document. The tenderer can select its own supplier from the list/s and must include the sub-contracting agreement with their tender submission to qualify for evaluation.

## LETS LOOK AT A PRACTICAL EXAMPLE:

In our procurement plan we have a tender estimate at R50 million to build a paved road of 20 kilos in Galeshewe township.

It would be a ideal tender for sub-contracting.

**FIRST QUESTION** – Do we sub-contract to a EME? **NO** – Why not a EME annual turnover may not exceed R10 million. So it will be to a QSE who's annual turnover is between R10 – R50 million. 30% of this tender is R18 million,

**SECOND QUESTION** – Then we can look at other criteria's such as black people living in townships that will be very beneficial.

### 3. SUB-CONTRACTING AFTER AWARD OF TENDER

- A person awarded a contract may only enter into a sub-contracting arrangement with the approval if the organ of state. Please familiarise yourselves with Regulation 12.

4. **SCM PRACTITIONERS** must study the regulations and ensure SCM policies are updated.

5. Revised DEMAND AND PROCUREMENT PLANTS to be aligned with regulation 4 Pre-qualification criteria for preferential procurement and regulation 9 sub-contracting as a condition of tender.

Also revisit the 80/20 and 90/10 points per tender on procurement plans to be in line with the revised regulations.

Re-submit your procurement plans if necessary properly re-aligned.

6. TRAINING MUST BE PROVIDED TO ALL BID COMMITTEE MEMBERS, COUNCIL I.T.O. OVERSIGHT, ALL SCM PRACTITIONERS, WORK OFFICIALS, SUPPLIERS AND CONSULTANTS WHERE CONSTRUCTION RELATED WORK IS OUTSOURCES OR IMPLEMENTING AGAINST i.e. IDT,

- Its proposed that for each procurement/tender advertised with regulation 4 pre-qualification criteria or regulation 9 sub-contracting as a condition of tender an informal, non-compulsory information session is held to assist suppliers to understand the requirements.

## 7. OUR FOCUS FOR JUNE – JULY 2017

7.1 Roadshows to municipalities includes a formal discussion on the new regulations and to update SCM policy. Suppliers need to be informed during CSD registration.

7.2 Departments have to be engaged one-on-one to ensure they update their SCM policy. Provincial SCM will hold a supplier information session as follows:

Supplier training sessions:

**Fridays:** 4 Aug 17, 11 Aug 17, 18 Aug 17, 25 Aug 17, 1 Sept 17, 8 Sept 17.

**Venue:** Templar Building

Second Floor Boardroom (Internal Audit)

**Time:** 10h00 – 12h00

Departments to inform their suppliers of the dates and venue and time 10h00 – 12h00

7.3 Inter-governmental relations is important if a department delivers infrastructure projects, in municipalities it is preferable to use sub-contracting suppliers lists from the relevant municipality where infrastructure will be delivered.



**NCPT**  
NORTHERN CAPE PROVINCIAL TREASURY

---

# Thank You!