

# DEPARTMENT OF TRANSPORT AND PUBLIC WORKS

## PREFERENTIAL PROCUREMENT IMPLEMENTATION PLAN



## 1. INTRODUCTION

- 1.1 The use of preferential procurement as an instrument to effect socio-economic change through the promotion of employment and business opportunities to marginalised sectors of the society is commonly used in both developed and developing countries. Some of the organs of the state in South Africa, particularly those involved in infrastructure delivery, integrate preferential procurement into their procurement of goods, services and works, through an innovative tool commonly known as Targeted Procurement (TP).
- 1.2 The Implementation Manual on the Use of Targeted Procurement to Implement an Affirmative Procurement Policy (APP) defines TP as: “a system of procurement which provides employment and business opportunities for marginalised individuals and communities, enables procurement to be used as an instrument of social policy in a fair, equitable, competitive, transparent and cost effective manner and permits social objectives to be quantified, measured, verified and audited. The implementation manual identifies TP as simply a means by which socio-economic deliverables are realised when procurement is used as an instrument of social policy.
- 1.3 The Departmental mission highlights terminology such as Socially Just, Development and Empowering which must be adopted in all our activities as a Department. Our core function as a Department is to provide a reliable and safe transport system as well as the provision of building infrastructure in the Western Cape province. Our mission therefore provides for the manner in which this core function is to be performed.
- 1.4 This Department spends annually in excess of R500m on the procurement of goods and services in order to fulfil our core function. It would not be wise to forfeit the opportunity we have to engage our previously marginalised communities in this procurement process as their engagement would facilitate for a socially just and developmental process.
- 1.5 The use of preferential procurement as an instrument to effect socio-economic change is one of the central strategies in the Reconstruction and Development Programme (RDP). These strategies were adopted by the Government of the Republic of South Africa (RSA) in the form of a White Paper (Government Gazette no 16085, 23 November 1994) as a social re-engineering policy aimed at redressing the legacy of apartheid. The concept of preferential procurement is also augmented in the Constitution of the Republic of South Africa (Act No. 108 of 1996). When an organ of state in the national, provincial or local sphere of government, or any other institution identified in national legislation, contracts for goods or services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost effective.
- 1.6 For a number of years government has adopted the term preference procurement as it was seen as a means to provide employment and business opportunities for previously disadvantaged individuals. Up to now this has not been successful as the efforts seems to be fragmented and had no real support mechanism in place to ensure sustainability of HDI-owned businesses. The latest developments in both the establishment of a legal framework and parameter guidelines wherein to operate enables us to now grasp the opportunity afforded onto us to truly live up to our mission statement.

- 1.7 The strategies contained in this implementation plan reflect an assessment of current needs and constraints relating to HDI in the procurement of goods and services. These strategies will be reviewed and adapted continuously in order to remain relevant and effective as the needs and constraints change.
- 1.8 The extent of the economic opportunities offered and secured by HDI's is best reflected in the statistics of contracts awarded via the official tender process for the period 1 August 2001 to 31 March 2002 (See Annexure A).
- 1.9 Attached is also the current year's budget pertaining to procurement together with minimum amounts earmarked for preferential procurement (See Annexure B).
- 1.10 The principles, objectives, definitions, point systems and processes will be continuously revised in line with changing realities and changing provincial and national policy directives.
- 1.11 The Department of Transport and Public Works service delivery responsibility covers a wide and diversified range of functions. We realise that the involvement of Historically Disadvantaged Individuals (HDI) in the building and roads industries differs considerably. In order to draw maximum benefit for HDI's in each of these particular spheres we have deemed it necessary to implement different strategies in respect of construction of buildings to that of maintenance and construction of roads.
- 1.12 The intended outcome of this Preferential Procurement Implementation Plan and thus our commitment to transformation through procurement processes is to achieve a demographically representative building and road construction and maintenance industries.

## 2. VISION AND MISSION STATEMENT

- 2.1 The Department of Transport and Public Works has set as it's vision statement :  
"The Best Provincial Transport System and Property Infrastructure for all". It is therefore important to emphasise the focus that all citizens will benefit from not only the systems in place, but also the means of providing such assistance.
- 2.2 The understanding of the vision and it's impact leads us immediately to an understanding of the mission statement which says, "To deliver an integrated, accessible, safe, reliable, affordable and sustainable transport system and quality property infrastructure provision through socially just, developmental and empowering processes, to improve the quality of life for all." The focus is therefore not just on what is going to be provided, but specifically the how we will be providing transport and infrastructure i.e. socially just, developmental, and empowering.
- 2.3 The Preferential Procurement Implementation Plan must therefore be seen against the background of the commitment by the Department to achieve a sustainable Transport System and Quality Property Infrastructure Provision through these practices. This will imply a clear commitment to the involvement of previously disadvantaged and marginalised sectors of our community in creating these systems and infrastructure.

### 3. GENERAL DEFINITIONS

The defined words and expressions commencing with capital letters, shall have the meanings hereby assigned to them unless such meanings are inconsistent with the context of a particular bidding document or contract:

- 3.1 **“Act”** means the Preferential Procurement Policy Framework Act, 2000 (Act No 5 of 2000)
- 3.2 **“Affirmable Business Enterprise (ABE)”** means a business which adheres to statutory labour practices, is a legal entity, registered with the South African Revenue Services and a continuing and Independent Enterprise for profit, providing a Commercially Useful Function and
- a) which is at least 51% Owned by one or more Previously Disadvantaged Individuals or in the case of a company, at least 51% of the shares are owned by one or more Previously Disadvantaged Individuals, and
  - b) whose management and daily business operations are under the control of the Previously Disadvantaged individuals who effectively own it.
- For specific projects the tender documents may specify an increase in this percentage to 67%.
- 3.3 **“Commercially useful function”** means the performance of real and actual work, or provision of services in the execution of any contractual obligation that the business has the skills and expertise to undertake and the responsibility of management and supervision.
- 3.4 **“Comparative price”** means the price after the factor of a non-firm price and all unconditional discounts that can be utilised have been taken into consideration.
- 3.5 **“Consortium or joint venture”** means an association of persons for the purpose of combining their expertise, property, capital, efforts, skills and knowledge in an activity for the execution of a contract.
- 3.6 **“Contract”** means the agreement that results from the acceptance of a bid by an organ of state.
- 3.7 **“Contract participation goals”** means the goals as stipulated in the Preferential Procurement Regulations 2001.
- 3.8 **“Control”** means the possession and exercise of legal authority and power to manage the assets, goodwill and daily operations of a business and the active and continuous exercise of appropriate managerial authority and power in determining the policies and directing the operations of the business.
- 3.9 **“Disability”** means, in respect of a person, a permanent impairment of a physical, intellectual, or sensory function, which results in restricted, or lack of, ability to perform an activity in the manner, or within the range, considered normal for a human being.

- 3.10 **Empowerment Impact Assessment**” is a quantitative and qualitative tool to evaluate the empowerment impact of specific projects and serves to inform the design and construction process as well as record actual impact with respect to HDI economic empowerment.
- 3.11 **“Equity Ownership”** means the percentage ownership that is directly involved in Management of the tendering entity.
- 3.12 **“Locally Based Business”** As defined in the specific contract conditions.
- 3.13 **“Historically Disadvantaged Individual (HDI)”** means a South African citizen-
- (1) who, due to the apartheid policy that had been in place, had no franchise in national elections prior to the introduction of the Constitution of the Republic of South Africa, 1983 (Act No 110 of 1983) or the Constitution of the Republic of South Africa, 1993, (Act No 2000 of 1993) (“the interim Constitution); and/or
  - (2) who is a female; and/or
  - (3) who has a disability
- Provided that a person who obtained South African citizenship on or after the coming to effect of the Interim Constitution, is deemed not to be a HDI;
- 3.14 **“Independent Enterprise”** is an enterprise which is free of any degree of direct Ownership, or Control, by any firm which engages in activities similar to those which the enterprise performs, or by any Executive Director of such a firm who is not a Historically Disadvantaged Individual.
- 3.15 **“Management”** means an activity inclusive of control and performed on a daily basis, by any person who is a principal executive officer of the company, by whatever name that person may be designated, and whether or not that person is a director.
- 3.16 **“Previously Disadvantaged Individual (PDI)”** means a South African citizen who, due to the apartheid policy that had been in place, had no franchise in national elections prior to the introduction of the Constitution of the Republic of South Africa, 1983 (Act No 110 of 1983) or the Constitution of the Republic of South Africa, 1993, (Act No 2000 of 1993) (“the interim Constitution); provided that a person who obtained South African citizenship on or after the coming to effect of the Interim Constitution, is deemed not to be a PDI;
- 3.17 **“Professional Staff”** is a member of staff who is registered with the appropriate professional statutory body.
- 3.18 **“Small and Micro Enterprises (SME’s)”** bears the same meaning assigned to this expression in the National Small Business Act, 1996 (Act No 102 of 1996).
- 3.19 **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.

- 3.20 **“Supervisory Site Staff”** is a member of the Contractor’s supervisory personnel comprising Site Agent, Site engineer(s), Chief surveyor and Head foremen directly employed on the site in the day-to-day management of construction.
- 3.21 **“Woman”** A person born a female and registered as such by the Department of Home Affairs.

#### 4. LEGAL FRAMEWORK

- 4.1 Section 217(2) of the Constitution provides for preferencing policies in the allocation of contracts, while section 217(3) requires the national legislature to provide for a framework within which such a procurement policy must operate.
- 4.2 The Preferential Procurement Policy Framework Act (Act 5 of 2000) (PPPFA), promulgated in February 2000 requires organs of State to determine their Preferential Procurement Policy and to implement it in a framework specified in the Act. Regulations to the PPPFA were published in August 2001 to provide for norms for the application of the framework provided for in the Act.
- 4.3 The Western Cape Provincial Tender Board then published the Western Cape Preferential Procurement Policy on 13 December 2001. In terms of the guidelines provided in the policy Departments were to develop their own Department Specific Preferential Procurement Application Programmes.



## 5. KEY PRINCIPLES AND OBJECTIVES

### 5.1 Key Principles

The implementation of a Preferential Procurement system which is fair, equitable, transparent, competitive and cost effective and in accordance with the Preferential Procurement Policy Framework Act, 2000 (Act No 5 of 2000).

All developments planned by the Department will comply with this Departmental Preferential Procurement Implementation Plan and be subjected to a rigorous process of monitoring, auditing and reporting.

The maximisation of HDI participation through:

- the appropriate design and sizing of procurement needs
- appropriate contract documentation
- appropriate structuring of the preferential point system
- effective and targeted advertising
- facilitation prior to the tender process starting
- training, mentoring, and support during contract implementation

### 5.2 Objectives

A participation target for HDI Ownership of at least 40% for all goods and services procured.

A participation target for Woman/Disabled of at least 20% within 5 years for all goods and services procured.

The increase in HDI Equity Ownership within each company.

The increased participation of HDI's in the management and control of companies.

The promotion of South African owned enterprises and products.

The promotion of export orientated production to create jobs.

The promotion of SME's.

The creation of new jobs or the intensification of labour absorption.

The promotion of enterprises located in the Western Cape Province.

The promotion of enterprises located in a specific municipal area for work to be done or services to be rendered in that municipal area.

The promotion of enterprises located in rural areas.

The empowerment of the work force by standardising the level of skill and knowledge of workers.

The development of human resources, including by assisting in tertiary and other advanced training programmes, in line with key indicators such as percentage of wages spent on education and training and improvement of management skills; and

The upliftment of communities through, but not limited to housing, transport, schools, Infrastructure donations, and charity organisations.

**6. PREFERENCE POINT SYSTEM PERTAINING TO THE  
PROCUREMENT OF GOODS AND SERVICES  
(EXCLUDING PROFESSIONAL SERVICES)**

**6.1 Price quotations: Contracts less than R30 000.00**

This type of market has a dramatic impact on small and medium type of enterprises. Most of the emerging Black businesses need these opportunities to ensure sustainability. Regulation 3.1 states that the 80/20 preference formula may be applied by organs of state for procurement with a value of less than R30 000.00. The following adjudication points will be implemented in respect of quotations obtained via the electronic purchasing system

The following points will be applicable:

(a) Points awarded for Financial Price

A maximum of 80 points is allocated to Financial Price on the following basis:

$$N_F = 80 \left[ 1 - \left( \frac{Q_S - Q_M}{Q_M} \right) \right]$$

$N_F$  = Number of Financial points awarded  
 $Q_S$  = Quotation amount (Including VAT)  
 $Q_M$  = Lowest quotation amount (Including VAT)

(b) Points awarded for PDI Equity Ownership

A maximum of 14 points is allocated for PDI Equity Ownership on the following basis:

$$N_E = 14 \times (\% \text{ Equity Ownership held by PDI's})$$

$N_E$  = Number of PDI Equity Ownership points awarded

(c) Points awarded for Woman and/or Disabled

A maximum of 6 points is allocated for woman and/or disabled Equity Ownership on the following basis

$$N_W = 6 \times (\% \text{ Equity Ownership held by woman and/or disabled})$$

$N_W$  = number of points awarded for woman and/or disabled Equity Ownership

## (d) Total Adjudication Points

The total number of adjudication points awarded will be:

$$N = N_F + N_E + N_W$$

The Department will normally award to the company obtaining the highest number of points, but will not bind itself to do so. Reasons for not accepting the offer with the highest points must be indicated for audit purposes.

## 6.2 Contracts/tenders between R30 000.00 and R500 000.00 in respect of purchases of standard items Stores & Equipment and non tariff gazetted consultants:

The following adjudication points will be applicable:

## (a) Points awarded for Financial Price

A maximum of 80 points is allocated to Financial Price on the following basis:

$$N_F = 80 \left[ 1 - \left( \frac{T_S - T_M}{T_M} \right) \right]$$

$N_F$  = Number of Financial points awarded

$T_S$  = Tender amount (Including VAT)

$T_M$  = Lowest tender amount (Including VAT)

## (b) Points awarded for PDI Equity Ownership

A maximum of 10 points is allocated for PDI Equity Ownership on the following basis:

$$N_E = 10 \times (\% \text{ Equity Ownership held by PDI's})$$

$N_E$  = Number of PDI Equity Ownership points awarded

Where the tenderer is a consortium or joint venture the percentage PDI equity ownership is calculated in relation to the relative value of the tender that will be executed by the PDI component of the consortium or joint venture.

## (c) Points awarded for Woman and/or Disabled

A maximum of 6 points is allocated for woman and/or disabled Equity Ownership on the following basis

$$N_W = 6 \times (\% \text{ Equity Ownership held by woman and/or disabled})$$

$N_W$  = number of points awarded for woman and/or disabled Equity Ownership

Where the tenderer is a consortium or joint venture the percentage Woman/Disabled equity ownership is calculated in relation to the relative value of the tender that will be executed by the Woman/Disabled component of the consortium or joint venture.

## (d) Points awarded for SME

$N_S = 2$  for SME  
 $N_S = 0$  for non-SME

## (e) Points awarded for Locally based business

$N_L = 2$  for locally based business  
 $N_L = 0$  for non-locally based

## (f) Total Adjudication Points

The total number of tender adjudication points awarded will be

$$N = N_F + N_E + N_W + N_S + N_L$$

The Department will normally award to the tenderer obtaining the highest number of points, but will not bind itself to do so.

### 6.3 **Contracts/Tenders in excess of R500 000.00: in respect of purchases of the standard items Stores & Equipment and non tariff gazetted consultants:**

The following adjudication points will be applicable

## (a) Points awarded for Financial Price

A maximum of 90 points is allocated to Financial Price on the following basis:

$$N_F = 90 \left[ 1 - \left( \frac{T_S - T_M}{T_M} \right) \right]$$

$N_F$  = Number of Financial points awarded  
 $T_S$  = Tender amount (Including VAT)  
 $T_M$  = Lowest tender amount (Including VAT)

## (b) Points awarded for PDI Equity Ownership

A maximum of 6 points is allocated for PDI Equity Ownership on the following basis:

$$N_E = 6 \times (\% \text{ Equity Ownership held by PDI's})$$

$N_E$  = Number of PDI Equity Ownership points awarded

Where the tenderer is a consortium or joint venture the percentage PDI equity ownership is calculated in relation to the relative value of the tender that will be executed by the PDI component of the consortium or joint venture.

## (c) Points awarded for Woman and/or Disabled

A maximum of 3 points is allocated for woman and/or disabled Equity Ownership on the following basis

$$N_W = 3 \times (\% \text{ Equity Ownership held by woman and/or disabled})$$

$N_W$  = number of points awarded for woman and/or disabled Equity Ownership

Where the tenderer is a consortium or joint venture the percentage Woman/Disabled equity ownership is calculated in relation to the relative value of the tender that will be executed by the Woman/Disabled component of the consortium or joint venture.

(d) Points awarded for locally based business

$N_L = 1$  for locally based business

$N_L = 0$  for non-locally based business

(e) Total Adjudication Points

The total number of tender adjudication points awarded will be

$$N = N_F + N_E + N_W + N_L$$

The Department will normally award to the tenderer obtaining the highest number of points, but will not bind itself do to so.

**6.4 Contracts below R500 000.00 awarded in the maintenance and construction of roads and buildings:**

The following adjudication points will be applicable:

(a) Points awarded for Financial Price

A maximum of 80 points is allocated to Financial Price on the following basis:

$$N_F = 80 \left[ 1 - \left( \frac{T_S - T_M}{T_M} \right) \right]$$

$N_F$  = Number of Financial points awarded

$T_S$  = Tender amount (Including VAT)

$T_M$  = Lowest tender amount (Including VAT)

(b) Points awarded for PDI Equity Ownership

A maximum of 12 points is allocated for PDI Equity Ownership on the following basis:

$$N_E = 12 \times (\% \text{ Equity Ownership held by PDI's})$$

$N_E$  = Number of PDI Equity Ownership points awarded

Where the tenderer is a consortium or joint venture the percentage PDI equity ownership is calculated in relation to the relative value of the tender that will be executed by the PDI component of the consortium or joint venture.

## (c) Points awarded for Woman and/or Disabled Equity Ownership

A maximum of 6 points is allocated for woman and/or disabled Equity Ownership on the following basis

$$N_W = 6 \times (\% \text{ Equity Ownership held by woman and/or disabled})$$

$N_W$  = number of points awarded for woman and/or disabled Equity Ownership

Where the tenderer is a consortium or joint venture the percentage Woman/Disabled equity ownership is calculated in relation to the relative value of the tender that will be executed by the Woman/Disabled component of the consortium or joint venture.

## (d) Points awarded for Locally Based Business:

$N_L = 2$  for Locally Based Business

$N_L = 0$  for non Locally Based Business

## (e) Total Adjudication points

The total number of tender adjudication points awarded will be

$$N = N_F + N_E + N_W + N_L$$

The Department will normally award to the tenderer obtaining the highest number of points, but will not bind itself do to so.

## 6.5 Contracts to the value of more than R500 000.00 for construction and maintenance of roads:

The following adjudication points will be applicable:

## (a) Points awarded for Financial Price

A maximum of 90 points is allocated to Financial Price on the following basis:

$$N_F = 90 \left[ 1 - \left( \frac{T_S - T_M}{T_M} \right) \right]$$

$N_F$  = Number of Financial points awarded

$T_S$  = Tender amount (Including VAT)

$T_M$  = Lowest tender amount (Including VAT)

Where the tenderer is a consortium or joint venture the percentage PDI equity ownership is calculated in relation to the relative value of the tender that will be executed by the PDI component of the consortium or joint venture.

## (b) Points awarded for PDI Equity Ownership

A maximum of 9 points is allocated for PDI Equity Ownership on the following basis:

$N_E = 9 \times (\% \text{ Equity Ownership held by PDI's})$

$N_E$  = Number of PDI Equity Ownership points awarded

Where the tenderer is a consortium or joint venture the percentage PDI equity ownership is calculated in relation to the relative value of the tender that will be executed by the PDI component of the consortium or joint venture.

(c) Points awarded for Woman and/or Disabled Equity Ownership

A maximum of 1 points is allocated for woman and/or disabled Equity Ownership on the following basis

$N_W = 1 \times (\% \text{ Equity Ownership held by woman and/or disabled})$

$N_W$  = number of points awarded for woman and/or disabled Equity Ownership

Where the tenderer is a consortium or joint venture the percentage Woman/Disabled equity ownership is calculated in relation to the relative value of the tender that will be executed by the Woman/Disabled component of the consortium or joint venture.

(d) Total Adjudication Points

The total number of tender adjudication points awarded will be

$N = N_F + N_E + N_W$

The Department will normally award to the tenderer obtaining the highest number of points, but will not bind itself to do so.

**6.6 Contracts to the value of more than R500 000.00 for the construction and maintenance of buildings:**

The following adjudication points will be applicable:

(a) Points awarded for Financial Price

A maximum of 90 points is allocated to Financial Price on the following basis:

$$N_F = 90 \left[ 1 - \left( \frac{T_S - T_M}{T_M} \right) \right]$$

$N_F$  = Number of Financial points awarded

$T_S$  = Tender amount (Including VAT)

$T_M$  = Lowest tender amount (Including VAT)

(b) Points awarded for PDI Equity Ownership

A maximum of 6 points is allocated for PDI Equity Ownership on the following basis:



$$N_E = 6 \times (\% \text{ Equity Ownership held by PDI's})$$

$N_E$  = Number of PDI Equity Ownership points awarded

Where the tenderer is a consortium or joint venture the percentage PDI equity ownership is calculated in relation to the relative value of the tender that will be executed by the PDI component of the consortium or joint venture.

(c) Points awarded for Woman and/or Disabled Equity Ownership

A maximum of 3 points is allocated for woman and/or disabled Equity Ownership on the following basis

$$N_W = 3 \times (\% \text{ Equity Ownership held by woman and/or disabled})$$

$N_W$  = number of points awarded for woman and/or disabled Equity Ownership

Where the tenderer is a consortium or joint venture the percentage Woman/Disabled equity ownership is calculated in relation to the relative value of the tender that will be executed by the Woman/Disabled component of the consortium or joint venture.

(d) Points awarded for Locally Based Business:

$N_L = 1$  Locally based business

$N_L = 0$  for non locally based business

(e) Total Adjudication Points

The total number of tender adjudication points awarded will be

$$N = N_F + N_E + N_W + N_L$$

The Department will normally award to the tenderer obtaining the highest number of points, but will not bind itself to do so.

## 7. PROCUREMENT PROCESS

### 7.1 Design, Specifications and contract documentation

- 7.1.1 Tender documentation to be as simple as possible and to be based on relevant characteristics and or performance requirements. Standardization of contract documentation between various authorities should be pursued.
- 7.1.2 Brand names to be avoided. South African manufactured products to be promoted.
- 7.1.3 Specifications shall be worded in such a way as to encourage the widest possible competition.
- 7.1.4 Design specifications and contract documentation will be such to maximise the impact on empowerment.
- 7.1.5 Prior to the finalisation of specifications all tenders above R500 000.00 must be subject to an EMPOWERMENT IMPACT ASSESSMENT.
- 7.1.6 Tender documents for technically complicated projects will be in the English language only.
- 7.1.7 Procurement of goods and services must be properly planned and a reliable estimate obtained to ensure that the correct preferences are applicable.
- 7.1.8 The need for and level of performance guarantees and retentions need to be set such that these do not place unnecessary obstructions in the achievement of set goals. The following will apply:

Contract Value	% Surety		% Retention	
	Transport	Public Works	Transport	Public Works
Less than R500 000	0	0	2.5	5
R500 000 – R1 000 000	2.5	2.5	0	5
R1 000 000 – R3 000 000	5	5	0	5
R3 000 000 – R5 000 000	5	6	2	5
More than R5 000 000	5	10	5	5

In the case of Transport Projects, the Deed of Surety will be returned on the issue of a Certificate of Completion except in the event of there being a Defects Liability Period, in which case the Deed of Surety will be replaced by new Deed of Surety or a bank guarantee for an amount equal to half the initial surety up to a maximum of R100 000-00 which is to remain valid for the Defects Liability Period. In the case of Public Works projects the full Deed of Surety is returned at first delivery.

For Transport related Contracts less than R500 000, where retention moneys are held, 50% of the retention money will be returned on the issue of a Certificate of Completion and the remainder at the end of the Defects Liability Period. Retention Money Guarantee executed

by a Bank in a form approved by this Department may be accepted in lieu of retention money.

For Public Works projects the retention money is reduced to 3% at first delivery. On completion of the final account or final delivery, whichever is first, the retention is reduced to 1%. The final 1% is returned when both the final account and final delivery have occurred.

## **7.2 Advertisement:**

- 7.2.1 All tenders must be advertised in the Government Tender Bulletin. Tenders exceeding R30 000 in respect of maintenance or construction projects relating to roads and buildings must be advertised in the affected local/community newspapers. Tenders response period must be for a minimum period of 28 calendar days. Where site inspection is compulsory in terms of the specifications, this must be stipulated in the advertisement. Advertisements shall state the date, time and location of closing of a particular tender.
- 7.2.2 Where it is evident that advertising in local newspapers is not targeting HDI's, additional advertising through notices in Community Centres, Libraries, Tender Advice Centres, etc. must be undertaken.
- 7.2.3 Advertisements to indicate the availability of assistance and to provide contact details of Empowerment Manager, Project Leader and document provider.

## **7.3 Facilitation / Mentoring**

- 7.3.1 Assistance with regard to the procurement and tendering process will be available through the Empowerment Manager.
- 7.3.2 Assistance during the project implementation phase will be available through the relevant project leader.
- 7.3.3 Through the Empowerment Manager constraints such as access to finance, suppliers etc will be facilitated. Together with Project Leader project specific strategies to reduce these constraints are to be developed.
- 7.3.4 When required tenders of unsuccessful tenderers will be evaluated by Project Leaders in liaison with Empowerment Manager, in order that such tenderers are informed of those areas where they need to improve on in order for them to be successful in future.

## **7.4 Opening of tenders**

- 7.4.1 Tender boxes shall be accessible to the public on a 24-hour basis.
- 7.4.2 Tenders must be opened as soon as possible after the closing date and time.
- 7.4.3 Tenders must be opened in public (in the presence of the tenderers), the names read out of those who tendered as well as the total price offered and preference points claimed.
- 7.4.4 Those present at the opening of tender must be informed that the tender is still subject to compliancy test as well as the verification of the preference points claimed.

7.4.5 Tenders received after the closing time and or date must be returned unopened, the tenderers be informed and not considered.

7.4.6 Tenders must be opened by at least two officials who in turn must

7.4.6.1 Initial on the document where the prices are stipulated

7.4.6.2 Initial where corrections/alterations were made by the tenderer.

7.4.6.3 Stipulate the date, time and place as well as the names of officials opening the tender.

## **7.5 Evaluation**

7.5.1 Procurement Manager to schedule offers from lowest to highest in terms of preferential points rating and then submit to requesting official.

7.5.2 Requesting official or project leader to evaluate tenders in terms of specifications.

7.5.3 Requesting Official or Project Leader to assess whether the Entity submitting the tender serves a Commercially Useful Function in the field of work specified in the tender

7.5.4 Requesting official or project leader motivates the acceptance of a particular tender.

7.5.5 Preference Procurement Policy only applicable on tenders who have met all conditions and or specifications.

7.5.6 During the evaluation process it must also be ascertained that documents:

7.5.6.1 Been properly signed

7.5.6.2 Completion of the documents be of such a nature that tender can be considered as being responsive

## **7.6 Communication with tenderers**

7.6.1 Tenderers shall not be requested to alter the substance / price or any material effect of their particular tender after the closing date and time.

7.6.2 Requests for clarification and the tenderer's response must be in writing.

7.6.3 Information regarding the evaluation, clarification and award of tenders shall not be disclose to any person not directly involve in the official process.

7.6.4 Letters of acceptance shall be posted per registered mail.

7.6.5 Letter to unsuccessful tenderers will indicate that should they wish to understand why they were unsuccessful, they should contact the Project Leader who will evaluate the tender by comparing it with the successful tender.

7.6.6 All tenders awarded will be published and placed on the departmental website.

## **7.7 Contract Monitoring**

7.7.1 During contract implementation it may be ascertained that the following tender requirements are complied with:

7.7.1.1 Original tax clearance certificate

7.7.1.2 Unemployment Insurance Act (1966) as amended (Deduction and payment of UIF Contributions)

7.7.1.3 Compensation for Occupation Injuries and Disease Act (1993) as amended. (Payment of premiums to Federated Employers Mutual)

7.7.1.4 The Income Tax Act (1966) as amended (Normal PAYE and site tax deductions)

7.7.1.5 Occupational Health and Safety Act (Act 85 of 1993) as amended

7.7.2 An entity awarded a contract as a result of HDI preference, may not subcontract more than 25% of the value of the contract including the procurement of any external resources to an entity who does not qualify for similar HDI preference.

7.7.3 Should it be discovered that an entity awarded a contract does not comply, i.e. a preference in terms of this policy has been obtained on a fraudulent basis, or any specified goals are not attained in the performance of the contract, the department will:

- (a) recover all costs, losses or damages it has incurred or suffered as a result of that entity's conduct, and/or
- (b) cancel the contract and claim damages which it has suffered as a result of having to make loss favourable arrangements due to such cancellation, and/or
- (c) impose a financial penalty more severe than the theoretical financial preference associated with the claim which was made in the tender, and/or
- (d) restrict the contractor, its shareholders and directors from obtaining business from any organ of state for a period not exceeding 10 years

## 8. PREFERENCE SYSTEM PERTAINING TO THE APPOINTMENT OF CONSULTANTS

There are two categories of Consultants, namely those Consultants (Engineers, Architects, Quantity Surveyors, Town Planners, Land Surveyors) whose fees are governed by predetermined gazetted tariffs and those Consultants (Management, Human Resource, Information Technology, etc) whose fees are that are not gazetted. The manner in which these two categories are appointed varies as described below

### 8.1 Key principles

- 8.1.1 Professional consultants are appointed on the basis of having specialised knowledge and capabilities to perform specific activities.
- 8.1.2 Professional consultants will be employed on a project basis, where the scope of work is clearly defined and controlled.
- 8.1.3 Appointment of professional consultants will be subjected to an HDI preferential point rating system.
- 8.1.4 As far as possible, taking into account the above, work will be distributed equitably between the various Consultants
- 8.1.5 Recognition will be given to regionally based firms closest to the project
- 8.1.6 All professional consultants will be required to be registered with recognised Professional Associations/Institutes

### 8.2 Preferential Points System

#### 8.2.1 Consultants with gazetted tariffs

Professional services governed by predetermined gazetted tariffs will be selected following a two stage evaluation process as follows:

Stage 1      Consultants on the database are ranked in terms of preferential procurement point system as follows:

(a) Points awarded for PDI Equity Ownership

A maximum of 6 points is allocated for PDI Equity Ownership on the following basis:

$$N_E = 6 \times (\% \text{ Equity Ownership held by PDI's})$$

$N_E$  = Number of PDI Equity Ownership points awarded

(b) Points awarded for Woman and/or Disabled Equity Ownership

A maximum of 2 points is allocated for woman and/or disabled Equity Ownership on the following basis

$$N_W = 2 \times (\% \text{ Equity Ownership held by woman and/or disabled})$$

$N_W$  = number of points awarded for woman and/or disabled Equity Ownership

(c) Points awarded for HDI Professional Staff on the following basis

A maximum of 4 points for HDI Professional Staff as follows:

$$N_S = 4 \times (\% \text{ of HDI Professional Staff in relation to total Professional Staff})$$

(d) Points awarded for the period last having received an appointment

(i) Transport related projects

A maximum of 8 points for period last appointed as follows:

$$N_P = 0,4 M_P$$

$N_P$  = number of points awarded for period last appointed

$M_P$  = months last appointed up to a maximum of 20

Note: Small appointments, i.e. value of fees in relation to size of company must be excluded from this calculation.

(ii) Public Works related projects

A maximum of 8 points for fees received/due on the basis of maximum Points for least fees per Registered Professional partner per Professional practice.

$$N_p = -8 \left[ \left[ \frac{\text{Fees Received + Fees due}}{\text{Number of Registered Professional Partners}} \right] - \left[ \frac{\text{Sum of fees received + fees due of all firms under consideration}}{\text{Number of Registered Professional Partners}} \right] \right] - 1$$

- (e)  $N_p = \frac{\text{The number of Points awarded for fees received} + \text{fees due}}{\text{Total Adjudication Points}}$

The total number of tender adjudication points awarded will be

$$N = N_E + N_W + N_S + N_P$$

- Stage 2 - Starting with Consultants with highest points a selection is made taking into account the following criteria
- Level of expertise / professional knowledge of project team /location of firm
  - Only those consultants who meet the required level of expertise / knowledge and are registered with a professional statutory body will be considered.
  - All efforts must be made to provide HDI companies who are perceived not to have the required skills, with the opportunity of obtaining those skills prior to being excluded through the formation of joint ventures, etc.
  - Submissions are to provide CV's of the team that will be directly involved with the specific project

### 8.2.2 Consultants without gazetted tariffs

Professional services not governed by predetermined gazetted tariffs will be procured through a tender/proposal call process and will be evaluated in two stages, as follows:

- Stage 1 - Registered with a professional statutory body.
- Level of expertise / professional knowledge of project team
  - Only if these two criteria are complied with satisfactorily will the proposal pass onto stage 2
- Stage 2 - See paragraphs 6.2. and 6.3 for adjudications points system.

### 8.2.3 Appointment Process

Project Leaders or a Designated person are to motivate the appointment of a Consultant following the above mentioned point allocation system

Line Function Director to review motivation and recommend appointment

Head of Branch to review recommendation and approve appointment

Copy of documentation to be forwarded to Empowerment Manager for recording and presentation to the Preferential Procurement Evaluation and Monitoring Committee.



## 9 ORGANISATIONAL PLAN

### 9.1 The Empowerment Managers function will be as follows:

The Empowerment Manager will fulfil the following functions:

- To drive the empowerment process in accordance with the Department's procurement implementation plan established in compliance with the Preferential Policy Framework.
- To evaluate projects using the Empowerment Impact Assessment tool.
- To review project progress and completion reports submitted by Project Leaders
- To monitor the ongoing achievements relative to the programme targets.
- To recommend any changes to the procurement process which may occur during the course of development.
- To report on a regular basis to the Departmental Tender Committee, Head of Department and Preferential Procurement Monitoring Committee
- Provide/co-ordinate the necessary facilitation, training, support and mentoring of HDI enterprises as required.

In consultation with the Departmental Tender Committee and Head of Department, set goals and targets, monitor performance and offer advice and support.

### 9.2 Procurement Manager

The functions of the procurement manager will be as follows:

- To co-ordinate and manage the procurement process.
- To establish, collate and manage the procurement database.
- To carry out all the administrative tasks relating to the procurement process.
- Provide the Secretarial Service for the Departmental Tender Committee and Preferential Procurement Monitoring Committee.

### 9.3 Project Leader

The Project Leader will fulfil the following functions:

- Prepare specifications and tender documentation
- Evaluate tenders received and make recommendations

- Assist contractors during project implementation in association with Empowerment Manager
- Monitor contracts and submit progress and completion report

#### **9.4 Departmental Tender Committee**

The committee's function will be as follows:

- (a) Determine policy regarding the procurement of goods and services
- (b) Recommend the acceptance of tenders with highest points and to specification in excess of R1m.
- (c) Recommend the acceptance of tenders to specifications, where tenders with higher points are passed over in excess of R500 000.
- (d) Recommend the approval of employing limited tendering in terms of KST 36 regulation 10.1.1 where the value exceeds R150 000, except in cases of emergency, where the relevant delegatee will grant approval. See Accounting Officer's framework for procedures to be followed.
- (e) Mediate disputes between Sub-Departmental Tender Committees and delegatee.
- (f) Disputes between the delegatee and the Central Departmental Tender Committee must be referred to the Accounting Officer.
- (g) Members must prior to the commencement of the committee's proceedings sign a declaration of interest declaring any interests whatsoever they in their own capacity or any relative or friend have or might have in any tender which is under consideration.
- (h) Quorum is chairperson / vice-chairperson plus 3 members present
- (i) Conduct formal meetings
- (j) Keep minutes with record of decisions taken
- (k) Decisions will be based on a majority vote. Where an equal vote exists the Chairperson will cast a deciding vote.
- (l) Ensure adherence by all committees to the implementation of the Departmental Preferential Procurement Implementation Plan.
- (m) Co-opt members, where necessary.
- (n) Recommends the cancellation after awarding, withdrawal after closing time, transfer and cession of contracts, where the value exceeds R1m.
- (o) The actual acceptance of a tender vests with the relevant delegatee in the relevant Branch. Where the branch does not have the required ranks, these cases must be referred to the Head of Department.

(p) Forward copies of minutes to Preferential Procurement Evaluation Committee.

Composition of the Departmental Tender Committee:

- A Chairperson with the rank of Chief Director or higher
- A Secretary – Deputy Director: Procurement Administration: Branch Corporate Affairs
- The Empowerment Manager
- One member from each Branch

## **9.5 Branch Tender Committees**

### **9.5.1 Transport Tender Committee**

The Transport Tender Committee will consider tenders for Transport Infrastructure, Public transport, and Community Based Public Works Programme (transport projects)

### **9.5.2 Public Works Tender Committee**

The Public Works Tender Committee will consider tenders for Public Works, Property Management, Corporate Affairs and Community Based Public Works Programme (public works and property management projects)

9.5.3 The composition of these two Branch Tender Committees is the same as the Departmental Tender Committee except that only the relevant Branch is represented and not all Branches.

The Branch Tender Committees will execute the following functions:

- (a) Recommend the acceptance of tenders:  
Highest points and to specifications – up to R1m  
Tenders to specifications where tenders with higher points are passed over – up to R500 000
- (b) Conduct formal meetings
- (c) Keep minutes with records of decisions taken.
- (d) Decisions will be based on a majority vote. Where an equal vote exists the chairperson will cast a deciding vote.
- (e) Members must prior to the commencement of the committee's proceedings sign a declaration of interest declaring any interests whatsoever they in their own capacity or any relative or friend have or might have in any tender which is under consideration.
- (f) Quorum is chairperson / vice-chairperson plus 3 members present.

- (g) Appoint a vice chairperson at the first meeting
- (h) Co-opt members where necessary.
- (i) Recommends the cancellation after awarding, withdrawal after closing time, transfer and cession of contracts, where the value is less than R1m.
- (j) Forward copies of minutes to the Departmental Tender Committee on a monthly basis.

## **9.6 Preferential Procurement Evaluation and Monitoring Committee**

The Preferential Procurement Monitoring Committee consists of four members elected by the Minister of Transport, Public Works and Property Management and are accountable to the Minister.

The functions of this committee include the following:

- To evaluate the achievements of the Department with respect to Preferential Procurement and recommend changes, if required.
- Monitor the awarding of Tenders and the appointment of Consultants
- Assess the needs and constraints related to preferential procurement and recommend changes to the Preferential Procurement Implementation Plan
- Undertake independent audits to ensure that what is stated in contract documents is implemented and correct
- Receive representations from affected parties who have identified misrepresentation or have a complaint