



MALUTI-A-PHOFUNG LOCAL MUNICIPALITY

Final Preferential Procurement Policy 2023/2024

Issued in terms of sections 152(1)(c) and 217 of the Constitution read with section 2 of the Preferential Procurement Policy Framework Act 5 of 2000 and Preferential Procurement regulations 2022

Adopted by Council on the: 23 June 2023

The policy will take effect from 01 July 2023

DOCUMENT DEFINITION

Version	1
Date	
Summary	This document is the Preferential Procurement Policy applicable to Maluti A Phofung Local Municipality
Signature	Date: _____
	MUNICIPAL MANAGER
Approved by the Council	Date: _____
	Resolution
Effective date
Next revision date

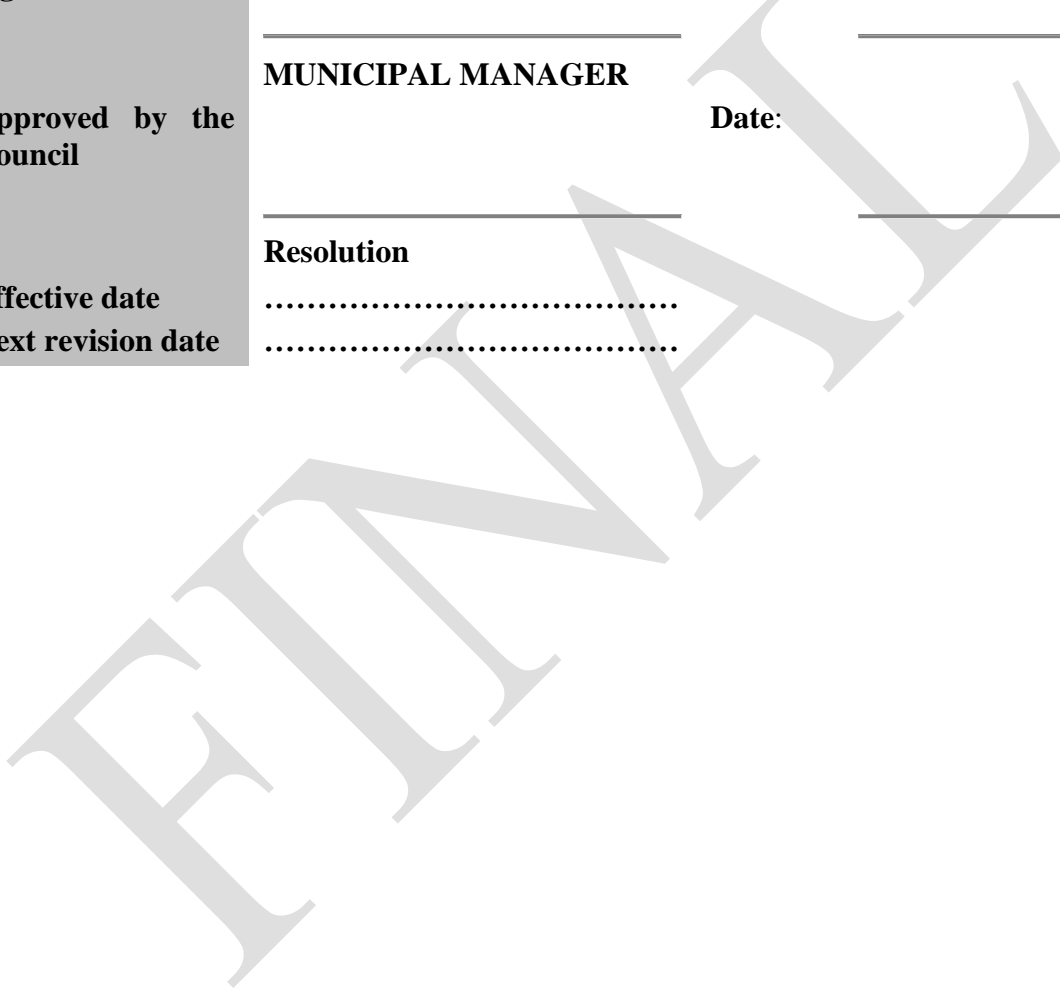


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1. DEFINITIONS

“highest acceptable tender” means a tender that complies with all specifications and conditions of tender and that has the highest price compared to other tenders.

“lowest acceptable tender” means a tender that complies with all specifications and conditions of tender and that has lowest price compared to other tenders.

“price” means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts.

“Rand value” means the total estimated value of a contract in Rand, calculated at the time of the tender invitation.

“specific goals” means specific goals as contemplated in section 2(1)(d) of the Act which may include contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender and disability including the implementation of programmes of the Reconstruction and Development Programme as published in *Government Gazette* No. 16085 dated 23 November 1994.

“tender” means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation.

“tender for income-generating contracts” means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions.

“the Act” means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

“B-BBEE status level of contributor” means the B-BBEE status of an entity in terms of a code of good practice on black economic empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act.

2. INTRODUCTION

1.1 The preferential procurement framework act of 2000, section 2(1) prescribes that each organ of state must determine its own preferential procurement policy, within a framework upon which the institution will specify how the preferential points will be allocated when awarding bids and how it intends to use procurement as one of its enablers for economic development.

3. PURPOSE AND OBJECTIVES

This policy is aimed at assisting Maluti A Phofung Local Municipality's program of redressing the historical imbalances by applying the preferential points system, through the following,

- Contracting persons or category of persons, historically disadvantaged by unfair discrimination based on race, gender or disability.
- Promotion of South African owned enterprise.
- The promotion of export-oriented production to create jobs.
- The promotion of SMMEs.
- The creation of new jobs or the intensification of labour absorption.
- The promotion of enterprises located in a specific province for work to be done or services to be rendered in that province.
- The promotion of enterprises located in a specific region for work to be done or services to be rendered in that region.
- 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 skills and knowledge of workers.

4. APPLICATION

1.2 This policy is applicable to all request for quotations and bids which Maluti A Phofung Local Municipality will apply preference points when making the final award.

1.3 **This Policy must be read and applied jointly with Maluti A Phofung Municipality's SCM Policy and the PPPFA prescripts amended from time-to-time**

5. IDENTIFICATION OF PREFERENCE POINTS SYSTEM

1.4 The Municipality will, in the tender documents, stipulate —

- a. the preference point system applicable; and
- b. any specific goal as envisaged in section 2(1)(d) and (e) of the Preferential Procurement Act.

5.2 If it is unclear whether the 80/20 or 90/10 preference point system applies—

- 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 applicable preference point system.

5.3 **A tenderer failing to submit proof of required evidence to claim preferences for other specified**

goals, which is in line with section 2 (1) (d) (ii) of the Act.

- (i) may only score in terms of the 80/90-point formula for price; and
- (ii) **scores 0 points out of 20 or 10 of the relevant specific goals where the supplier or service provider did not stipulate**

6. 80/20 PREFERENCE POINT SYSTEM FOR ACQUISITION OF GOODS OR SERVICES WITH RAND VALUE EQUAL TO OR BELOW R50 MILLION.

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 above R2 000 and 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

P_{\min} = 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.

(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.

7. 90/10 PREFERENCE POINT SYSTEM FOR ACQUISITION OF GOODS OR SERVICES WITH RAND VALUE ABOVE R50 MILLION

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

$$P_s = 90 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

Where-

P_s = Points scored for price of tender under consideration;

P_t = Price of tender under consideration; and

P_{\min} = 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.

- (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.

8. 80/20 PREFERENCE POINTS SYSTEM FOR TENDERS FOR INCOME-GENERATING CONTRACTS WITH RAND VALUE EQUAL TO OR BELOW R50 MILLION

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:

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

Where-

- P_s = Points scored for price of tender under consideration.
- P_t = Price of tender under consideration; and
- P_{max} = 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.
- (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.

9. 90/10 PREFERENCE POINTS SYSTEM FOR TENDERS FOR INCOME-GENERATING CONTRACTS WITH RAND VALUE ABOVE R50 MILLION

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:

$$P_s = 90 \left(1 + \frac{P_t - P_{max}}{P_{max}} \right)$$

Where-

P_s = Points scored for price of tender under consideration.

P_t = Price of tender under consideration; and

P_{max} = 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.

(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.

10. CRITERIA FOR BREAKING 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 two or more tenderers score equal total points in all respects, the award must be decided by the drawing of lots.

11. REMEDIES

(1) If the 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), the organ of state 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.

12. SHORT TITLE AND COMMENCEMENT

This is Maluti A Phofung Local Municipality Preferential Procurement Policy, and will take effect from 01 July 2023

13. ANNEXURES

“Annexure A”

Allocation of Specific Goals points for Procurements and Income-Generating transactions below R50 000 000 and above R50 000 000 (80/20 and 90/10 Preferential Points System).

50% (10 out of 20 and 5 out of 10) of Specific goals points, will be allocated based on B-BBEE status level of contributor in the following manner,

B-BBEE STATUS LEVEL OF CONTRIBUTION	NUMBER OF POINTS (80/20 SYSTEM)	NUMBER OF POINTS (90/10 SYSTEM)	DOCUMENTATION REQUIRED FROM THE BIDDER TO VALIDATE THEIR CLAIM FOR POINTS
1	10	5	SANAS Accredited BBBEE Certificate or Sworn Affidavit
2	8	4	
3	6	3	
4	4	2	
5	2	1	
6	2	1	
7	2	1	
8	2	1	
NON COMPLIANT CONTRIBUTOR	0	0	

“Annexure B”

Allocation of Specific Goals points for Procurements and Income-Generating transactions below R50 000 000 (80/20 Preferential Points System) and above R50 000 000 (90/10 Preferential Points System).

Specific goals points will be determined and recommended by the Bid Specification Committee and approved by the Accounting Officer based as follows;

CATEGORIES OF HISTORICALLY DISADVANTAGED PERSONS	DOCUMENTATION REQUIRED FROM THE BIDDER TO VALIDATE THEIR CLAIM FOR POINTS
<p>Unfair discrimination on a basis of race and disability</p> <p>Any person who had no franchise in national elections prior to the introduction of the Constitution of the Republic of South Africa and discriminated on a basis of disability</p> <p>Persons with disabilities are people who have a long term or recurring impairment, including sensory which substantially limits their prospects of entry into or advancement in employment</p>	<ul style="list-style-type: none"> • Company registration documents • Identification Documents • Doctor’s report or a completed EEA1 form by a medical doctor confirming impairments

GENDER	DOCUMENTATION REQUIRED FROM THE BIDDER TO VALIDATE THEIR CLAIM FOR POINTS
<p>Woman owned enterprises</p>	<ul style="list-style-type: none"> • Company registration documents • Identification Documents

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YOUTH ENTERPRISES	DOCUMENTATION REQUIRED FROM THE BIDDER TO VALIDATE THEIR CLAIM FOR POINTS
Enterprises owned by persons younger than 35 years	<ul style="list-style-type: none"> • Company registration documents • Identification Documents

RURAL BASED BUSINESSES	DOCUMENTATION REQUIRED FROM THE BIDDER TO VALIDATE THEIR CLAIM FOR POINTS
Enterprises located and operated by persons from rural areas	<ul style="list-style-type: none"> • Company registration documents • Proof of location provided by the municipality

LOCATION BASED	DOCUMENTATION REQUIRED FROM THE BIDDER TO VALIDATE THEIR CLAIM FOR POINTS
Within the boundaries of the Maluti A Phofung Municipality	<ul style="list-style-type: none"> • Official Municipal Rates Statement • Lease Agreement • Affidavit for rural entities
Within the boundaries of Thabo Mofutsanyane District	
Within the boundaries of the Free State	

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CORPORATE SOCIAL INITIATIVE IN THE MUNICIPAL AREA	DOCUMENTATION REQUIRED FROM THE BIDDER TO VALIDATE THEIR CLAIM FOR POINTS
Obligation of firms to act in the interest of society and this include but not limited to the following; Economic Social and Environmental	<ul style="list-style-type: none"> • Proposal and Rand value allocated for corporate social initiative
Within the boundaries of Thabo Mofutsanyane District	
Within the boundaries of the Free State	

Number of points per preference will be determined and recommended by Bid Specification Committee and approved by the accounting officer from time to time

FINAL