

NDLAMBE MUNICIPALITY



PREFERENTIAL PROCUREMENT POLICY 2024/2025

1. Definitions

- 1.1. "Bid" means a written offer in the form determined by an organ of state in response to either;
 - 1.1.1. an invitation to either provide goods or services through price quotations, competitive bidding process or any other method envisaged in legislation, or;
 - 1.1.2. an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between Council 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;
- 1.2. "Bid documents" means the relevant invitation notice and, if required, the returnable document to be submitted by bidders;
- 1.3. "Broad-Based Black Economic Empowerment Act" means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- 1.4. "Constitution" means Constitution of the Republic of South Africa, 1996;
- 1.5. "Council" means the council of Ndlambe Municipality;
- 1.6. "highest acceptable bid" means a bid that complies with all specifications and conditions of bidding and that has the highest price compared to other bids;
- 1.7. "lowest acceptable bid" means a bid that complies with all specifications and conditions of bidding and that has lowest price compared to other bids;
- 1.8. "Minister" means the Cabinet member responsible for finance;
- 1.9. "PPPFA Regulations" means the Preferential Procurement Regulations made by the Minister on 4 November 2022 (Gazette 47452);
- 1.10. "price" means an amount of money offered for goods or services, and includes all applicable taxes less all unconditional discounts;
- 1.11. "Rand value" means the total estimated value of a contract in Rand, calculated at the time of the bid invitation;
- 1.12. "Supply Chain Regulations" means the Local Government: Municipal Finance Management Act, 2003: Municipal Supply Chain Management Regulations published by Government Notice 868 of 2005;
- 1.13. "specific goals" means specific goals as contemplated in section 2(1)(d) of the Act;
- 1.14. "the Act" means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000)

2. Policy Statement

- 2.1. Purpose
 - 2.1.1. to give effect to Section 217 of the Constitution which states, *inter alia*, that organs of state or institutions are not prevented from implementing a procurement policy providing for -
 - 2.1.1.1. categories of preference in the allocation of contracts; and
 - 2.1.1.2. the protection or advancement of persons, or categories of persons, disadvantaged by unfair discrimination.
 - 2.1.2. to give effect to Section 2(1) of the Act which states, *inter alia*, that " an organ of state must determine its preferential procurement policy."

- 2.2. Desired Outcomes
- 2.2.1. to stimulate and promote local economic development in a targeted and focused manner;
 - 2.2.2. to facilitate creation of employment and business opportunities for the people of Ndlambe with particular reference to persons or categories of persons historically disadvantaged by unfair discrimination on the basis of race, gender and disabilities.;
 - 2.2.3. to promote the competitiveness of local businesses;
 - 2.2.4. to increase the small business sector access, in general, to business opportunities created by Council.

Identification of preference point system

- 2.3. Bid Documents must stipulate—
- 2.3.1. the applicable preference point system as envisaged in the PPPFA Regulations 4, 5, 6 or 7;
 - 2.3.2. the specific goal in the invitation to submit the bid 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.
- 2.4. If it is unclear whether the 80/20 or 90/10 preference point system applies, Bid Documents must stipulate in the case of—
- 2.4.1. an invitation to bid for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable bid will be used to determine the applicable preference point system; or
 - 2.4.2. any other invitation to bid, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable bid will be used to determine the applicable preference point system.
- 2.5. Notwithstanding PPPFA Regulations 4 and 6, the 80/20 preferential points system shall not be applied to procurements or disposals equal to or below the threshold as determined in the Supply Chain Regulation 18(a), as may be amended by the Minister from time to time.

3. Application of preference point system

- 3.1. The formulae and methodologies to be applied in calculating price and specific goal points shall be those as set out in PPPFA Regulations 4 to 7, which formulae and methodologies are subject to amendment by the Minister from time to time.

4. Specific Goals

4.1. Preference in terms of the specific goals

In relation to the Specific Goals Categories, the weighting below can be changed or vary from project to project. Please note that specific goals might not be feasible to be applied in some projects. The SCM Manager must advise the user department prior to the project being presented and approved by the Bid Specification Committee. The final specific goals to be used in procurement documents for each project will be approved by the Bid Specification Committee.

4.2. The table below depicts the allocation of points per project and shall not exceed the 20 or 10 points as per the PPPFA Regulations 4, 5, 6 or 7:

NO	Specific Goals Categories	Max points allocation Number of Points for Preference (80- Price/20 Specific Goals);	Max points allocation Number of Points for Preference (90- Price/10 Specific Goals);
1	B-BBE Status level of bidders	10	5
2	Local area of supplier or contractors	10	5
3	An EME or QSE which is at least 51% owned by black people who are youth;	10	5
4	An EME or QSE which is at least 51% owned by black people who are women;	10	5
5	An EME or QSE which is at least 51% owned by people with disabilities;	10	5

4.3. Evidence for the allocation of specific goals points

4.3.1. B-BBEE status level of bidders

- 4.3.1.1. Level 1 – 10 points in the case of 80/20 procurements (2022 PPPFA Regulations 4 and 6) and 5 points in the case of 90/10 procurements (PPPFA Regulations 5 and 7)
- 4.3.1.2. Level 2 – 5 points in the case of 80/20 procurements (2022 PPPFA Regulations 4 and 6) and 2.5 points in the case of 90/10 procurements (PPPFA Regulations 5 and 7)
- 4.3.1.3. All other levels – NIL points

4.3.2. Evidence required –

- 4.3.2.1. A sworn affidavit as prescribed by the B-BBEE Codes of Good Practice; or
- 4.3.2.2. any other requirement prescribed in terms of the Broad-Based Black Economic Empowerment Act, including a compliant certificate.

4.3.3. Locality of bidders

- 4.3.3.1. Located In the area of jurisdiction of Ndlambe Local Municipality - 10 points in the case of 80/20 procurements (2022 PPPFA Regulations 4 and 6) and 5 points in the case of 90/10 procurements (2022 PPPFA Regulations 5 and 7)
- 4.3.3.2. All other localities - NIL points

4.3.4. Evidence required –

- 4.3.4.1. A Ndlambe Municipality Billing Clearance certificate, or
- 4.3.4.2. Lease agreement with a Ndlambe Municipality address, or
- 4.3.4.3. A statement of account with a Ndlambe Municipality address
- 4.3.4.4. The above documents are subject to the address of the bidder being the same as that on their company registration documents, Central Supplier Database preferred address and have not changed for a period of two years.

4.3.5. Evidence required for EME or QSE which is at least 51% owned

- 4.3.5.1. by black people who are youth;
- 4.3.5.2. black people who are women;
- 4.3.5.3. black people with disabilities;

shall be verified using the demographics information as detailed in the Central Supplier Database report from the National Treasury. Where additional information is required to substantiate the above criterion, this will be approved by the Chairperson of the Bid Evaluation Committee and documented in the evaluation report for audit of the project.

5. Criteria for breaking deadlock in scoring

- 5.1. If two or more bidders score an equal total number of points, the contract must be awarded to the bidder that scored the highest points for specific goals.
- 5.2. If two or more bidders score an equal total number of points and have the same points for specific goals, the award must be made to the bidder located in the area of jurisdiction of Ndlambe Local Municipality.
- 5.3. If two or more bidders score equal total points in all respects, and are from the same locality (being either Ndlambe LM or not) the award must be decided by the drawing of lots.

6. Remedies

- 6.1. If is the view of the Ndlambe Local Municipality evaluating officials that a bidder submitted false information regarding a specific goal—
- 6.1.1. the bidder must be informed accordingly; and
 - 6.1.2. the bidder must be given an opportunity to make representations within 14 days as to why the bid may not be disqualified or, if the bid has already been awarded to the bidder, the contract should not be terminated in whole or in part.
- 6.2. After considering the representations referred to in Para 9.1.2 above, Ndlambe Local Municipality may, if it concludes that such information is false—
- 6.2.1. disqualify the bidder or terminate the contract in whole or in part; and
 - 6.2.2. if applicable, claim damages from the bidder.

7. Inconsistency

In the event of any inconsistency between a provision of this Policy and any other policy of Council, the provision of this Policy prevails.

8. Commencement

This policy takes effect on the date of its adoption by the council.