

# SARS PREFERENTIAL PROCUREMENT POLICY

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## 1 SCOPE

- a) The Constitution of the Republic of South Africa Act, No.108 of 1996, (section 217) requires an organ of state to contract for goods or services in accordance with a procurement system which is fair, equitable, transparent, competitive, cost effective and to grant preferences within a framework prescribed by National Legislation.
- b) Section 2 (a) of The Black-based Economic Empowerment Act, No.53 of 2003, states that one of the goals of the Act is to promote economic transformation to enable meaningful participation of black people in the economy. This Policy gives rise to the National Legislation to advance section 217 of the Constitution.
- c) This policy in its design, development, implementation, and review is guided and underpinned by the South African Revenue Service (SARS) strategic objectives, intent, values, code of conduct, and applicable legislation. Should any aspect of this policy be in conflict with the SARS Act, any regulations or other applicable legislations, the Constitution of the Republic of South Africa shall take precedence.
- d) This policy applies without exception to all SARS employees, subsidiaries of SARS and all suppliers that interact with SARS when procuring goods and services.

### 1.1 Purpose

- a) The purpose of this policy is to:
  - i) Provide for categories of preference in awarding of bids;
  - ii) Provide for the advancement of persons or categories of persons disadvantaged by unfair discrimination; and
  - iii) Clarify the mechanisms how the above items in par 1.1 (a) (i) and (ii) will be implemented.

## 2 POLICY

### 2.1 Procurement Objectives

- a) Promote Black-Based Black Economic Empowerment (B-BBEE) - enterprises providing services and goods.
- b) Promote Small Medium and Micro Enterprises (SMME's), Joint Ventures, Consortiums, and partnerships.
- c) Implement recognised best procurement practises through effective planning, strategic purchasing, and contract management.
- d) Introduce a systematic approach to the appointment of service providers and to promote consistency in respect of SARS Supply Chain Management (SCM).

### 2.2 Procurement Principles

- a) The principles that underpin this policy are as follows:
  - i) Sound commercial principles that underlie all transactions. There will be no compromise on quality, service delivery or any other commercial aspects related to the delivery of business objectives.
  - ii) All preferential procurement processes must be transparent and subjected to audit in accordance with sound business principles and practices.
  - iii) Business will only be conducted with service providers that comply with legal requirements as per the SARS SCM Policy that can be found on the SARS website.

- b) The Policy is founded upon the following core principles:
- i) **Value for money:**
    - A) Price alone is often not a reliable indicator and SARS may not necessarily obtain the best value for money by accepting the lowest price offer that meets mandatory requirements. Best value for money means the best available outcome when all relevant costs and benefits over the procurement cycle are considered.
  - ii) **Open and effective competition:**
    - A) All procurement laws, policies, practices, and procedures will be readily accessible to all parties involved in the procurement process. The procurement process will be open and transparent, and reasons must be provided for decisions in terms of current legislation.
  - iii) **Ethics and fair dealing:**
    - A) All procurement officials must comply with the SARS ethical standards to promote mutual trust and respect and an environment where business can be conducted in a fair and reasonable manner.
    - B) The following is regarded as an acceptable ethical behaviour:
      - I) Open, honest, and co-operative business relations;
      - II) Confidentiality of commercial information;
      - III) Avoidance of conflict of interest or a perception of bias;
      - IV) Disclosure of conflict of interest as soon as they arise;
      - V) Fair dealing and impartiality in the conduct of tender evaluations; and
      - VI) Avoidance of combative or collusive practices.
  - iv) **Accountability and reporting:**
    - A) Procurement officials and other officials involved in Supply Chain Management must be answerable for their decisions and actions to the public.
  - v) **Equity:**
    - A) SARS will strive to enhance the development of SMME's and B-BBEE enterprises to allow them to contribute meaningfully to SARS and the economy.
- c) The principles of this policy, where possible, must apply to deviations, variation of contracts, other organs of state contracts and transversal contracts.

### 2.3 SARS Empowerment Goals

- a) SARS may take a strategic position to empower designated groups in applying SARS Preferential Procurement Policy through the following measures:
- i) Obligating large contractors to engage small businesses in the performance of their contracts;
  - ii) Requiring joint venture/consortium formation between large businesses and small businesses; or
  - iii) Obligating main contractors or service providers to engage targeted enterprises in the performance of their contracts incorporating resource specifications.

### 2.4 Socio-economic projects

- a) SARS may expect suppliers to indicate or provide an outline of socio-economic projects to be implemented.
- b) The proposed projects must be measurable with specific focus on vulnerable groups such as:
- i) On the job training and development of staff (Leadership);
  - ii) Job creation particularly for the unemployed or young people including the recruitment of long-term job seekers and handicapped people;
  - iii) Young women leadership programme;
  - iv) Skills development initiatives (technical and soft skills) must be accredited with recognised institutions;
  - v) Youth leadership and empowerment projects; and
  - vi) Business skills and enterprise support including mentoring of local enterprises.

## 2.5 Payment

- a) SARS endeavours to process approved invoices within thirty (30) days of receiving the invoice, unless otherwise provided for in the contract or compliance related restrictions.
- b) Performance guarantees will be introduced as a minimum, based on the risk exposure and type of contract.

## 2.6 Application of Preference Points System

- a) Based on the SARS sourcing strategy, bids must be published with an indication of the applicable points system and Rand value. The 80/20 and 90/10 preference points systems will be considered in line with SS-PROC-03-A01 – Application of Preference Point System – Internal Annexure.
- b) The 80/20 or 90/10 preference points system for tenders to generate income or to dispose of or lease assets will be based on SARS selling, leasing or disposal strategy. Bids will be published with an indication of the applicable points in line with SS-PROC-03-A01 – Application of Preference Point System – Internal Annexure.

## 2.7 Remedies Regarding Misrepresentation and False Information

- a) If a tenderer submits false information, SARS must take the following measures against the tenderer:
  - i) Disqualify the tenderer or terminate the contract in whole or in part; and
  - ii) If applicable, claim damages from the tenderer.
- b) SARS may also proceed to restrict the tenderer from doing business with any organ of state for a period as determined by law.

## 2.8 Protection of Information

- a) SARS will promote the protection of personal information during this process by ensuring that the information collected is specific, explicitly defined and for lawful purposes in accordance with the provisions of the Protection of Personal Information Act, No. 4 of 2013 (POPI Act).
- b) If during the course of implementing this policy, information becomes available that is personal in nature, such information shall be kept confidential and only be used for the purposes for which it is intended.

## 2.9 Records Management and Maintenance

- a) All records created or received by employees and independent contractors during the course of their duties are the property of the SARS and subject to its overall control.
- b) All records (whether digital or non-digital) must be managed and stored in a secure manner that ensures integrity, authenticity, and accessibility requirements of the records in accordance with the SARS File Plan, Information Security Policies, and the Records Management Policy.
- c) All original records are to be retained for the period stipulated in the SARS Records Retention Policy.
- d) Records should only be disposed of when:
  - i) All governance processes have been followed as outlined in the Records Management Policy and SOP;
  - ii) The records have reached the end of their retention period; and
  - iii) The records are not required for administrative, operational, investigative, and financial or audit processes.
- e) All Records Management enquiries must be sent to [RecordsManagement@sars.gov.za](mailto:RecordsManagement@sars.gov.za)

## 2.10 Compliance, Monitoring and Evaluation

- a) This policy shall be reviewed at least once every three (3) years and as often as required to ensure its currency in satisfying the business needs of SARS.
- b) Any approved revised version of this policy shall supersede any previous version.

## 2.11 Delegation of Authority

- a) The current approved SS-PROC-01-A01 – Supply Chain Management Authorisation Levels – Internal Annexure applies.

## 3 REFERENCES

### 3.1 Legislation

TYPE OF REFERENCE	REFERENCE
Legislation and Rules administered by SARS:	<b>The South African Revenue Service Act, No. 34 of 1997.</b>
Other Legislation:	<b>Black-based Black Economic Empowerment Act, No. 53 of 2003 Constitution of the Republic of South African Act, No.108 of 1996 National Youth Commission Act No.19 of 1996 Preferential Procurement Policy Framework Act No. 5 of 2000 Protection of Personal Information Act, No. 4 of 2013 (POPI Act) Public Financial Management Act (PFMA) No. 1 of 1999</b>
International Instruments:	<b>None</b>

### 3.2 Cross References

- a) N/A

## 4 DEFINITIONS AND ACRONYMS

<b>B-BBEE</b>	Broad-Based Black Economic Empowerment
<b>PFMA</b>	Public Financial Management Act
<b>SARS</b>	South African Revenue Service
<b>SCM</b>	Supply Chain Management
<b>SMME</b>	Small Medium and Micro Enterprises