



SARS PREFERENTIAL POLICY

TABLE OF CONTENTS

1	PURPOSE	3
2	POLICY STATEMENT	3
2.1	Procurement Objectives	3
2.2	Procurement Principles	4
2.3	Categories of Preference in Awarding of Bids	4
2.4	Advancement of persons or categories of persons disadvantaged by unfair discrimination	5
2.5	Advancement of specific goals, local procurement, and employment of local citizens	5
2.6	Subcontracting and skills transfer	5
2.7	Payment	6
2.8	Remedies Regarding Misrepresentation and False Information	6
2.9	Protection of Information	6
2.10	Records Management and Maintenance	6
2.11	Compliance, Monitoring and Evaluation	7
2.12	Delegation of Authority	7
3	REFERENCES	7
3.1	Legislation	7
4	DEFINITIONS AND ACRONYMS	7

1 PURPOSE

- 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) **In terms of section 217 (2) of the Constitution, Organs of State may implement procurement policies providing for the following:**
 - i) **Categories of preference in the allocation of contracts; and**
 - ii) **The protection or advancement of persons, or categories of persons, disadvantaged by unfair discrimination.**
- c) 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 the 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.
- d) **The SARS Internal Preferential Procurement Policy encompasses the provisions of the Preferential Procurement Act (Act 5 of 2001) and its Regulations.**
- e) **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, or the Constitution of the Republic of South Africa, then the relevant Act or legislation shall take precedence.**
- f) This policy applies without exception to all the SARS employees, and all the suppliers that interact with SARS when procuring goods and services.
- g) **It is against the background provided above that SARS develops this Policy to regulate the advertisement, evaluation, adjudication and awarding of bids, deviations, variations, and transversal contracts.**
- h) The purpose of this policy is **to provide for the:**
 - i) **Categories of preference in awarding of bids;**
 - ii) **Advancement of persons or categories of persons disadvantaged by unfair discrimination; and**
 - iii) **Advancement of specific goals, local procurement, and employment of local citizens.**

2 POLICY STATEMENT

2.1 Procurement Objectives

- a) **SARS procures its goods and services in a manner that is consistent with the legislative requirements and best practices in that procurement within SARS occurs in a manner that promotes the following objectives:**
 - i) **Enable business units in SARS to achieve strategic and operational objectives by procuring goods, services, and infrastructure in a timely, cost effective and compliant manner;**
 - ii) **Promote Broad-Based Black Economic Empowerment (B-BBEE) - enterprises providing goods and services to SARS through competitive procurement processes;**
 - iii) **Promote Small Medium and Micro Enterprises (SMME's), providing goods and services to SARS following a competitive procurement process;**
 - iv) **Promote an increase in participation of black women owned entities providing goods and services to SARS through a competitive procurement process;**
 - v) **Encourage the participation of new suppliers that has not previously conducted business with SARS, to compete in procurement processes resulting in providing goods and services to SARS;**

- vi) Implement recognised best procurement practices of preferential public procurement through effective planning, strategic purchasing, and contract management; and
- vii) Enable supply chain opportunities to local businesses.

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; and
 - iii) Business will only be conducted with service providers that comply with legal requirements as per the SARS Supply Chain Management 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.
 - B) 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.
 - 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.

2.3 Categories of Preference in Awarding of Bids

- a) Application of Preference Points System:
 - i) Based on the SARS commodity-based 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;
 - ii) 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; and
 - iii) SARS will select specific goals based on its Sourcing strategy and reserve the right to not specify any specific goal.

2.4 Advancement of persons or categories of persons disadvantaged by unfair discrimination

a) SARS Empowerment Goals:

- i) SARS may take a strategic position to empower designated groups in applying SARS Preferential Procurement Policy through the following measures:
 - A) Obligating large contractors to engage small businesses in the performance of their contracts;
 - B) Requiring joint venture/consortium formation between large businesses and small businesses;
 - C) Obligating main contractors or service providers to engage targeted enterprises in the performance of their contracts incorporating resource specifications;
 - D) Engage in Enterprise and Supplier development with the purpose on capacity building;
 - E) Encourage youth employment with medium and large enterprises; and
 - F) Adopt procurement practices to appoint multiple services providers to devolve services to a regional basis in order to service SARS operational sites. In such instances, preference will be given to suppliers situated and operating in such specific region.

b) Socio-economic Projects

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

2.5 Advancement of specific goals, local procurement, and employment of local citizens

a) Local content, Social and Environmental preferences:

- i) SARS is committed to preferential procurement of local suppliers, suppliers confirming to social and ethical objectives and any other category that is aligned to National developmental and strategic goals; and
- ii) All suppliers will be required to work with SARS to improve local procurement outcomes across our supply chain by setting targets, measuring, and monitoring our activities and their impact.

b) Employment of local and community citizens:

- i) SARS is committed to give preference to suppliers that employ local South Africans. Specific goals towards geographic presence will be stipulated in the bidding documents based on the location of where the services are rendered in applicable cases.

2.6 Subcontracting and skills transfer

a) If feasible to subcontract for a contract above R30 million, SARS will apply subcontracting to advance the following designated groups:

- i) An Exempted Micro Enterprise (EME) or Qualifying Small Enterprise (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 women;
- 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
 - vi) Underdeveloped areas or townships.
- b) SARS encourages skills transfer and a mechanism of reporting will form part of the contract in the attainment of this goal, which will be linked to the delivery and payment schedules.

2.7 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.

2.8 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.
- c) Sound business principles and good governance will underlie all transactions. There will be no compromise on quality, delivery, service, safety, health, and environment.

2.9 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) including the recent amendments to the Act. By submitting any personal information to SARS, current and prospective employees automatically consent to the processing of such information.
- 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.

2.10 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.

2.11 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.

2.12 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:	The South African Revenue Service Act, No. 34 of 1997
Other Legislation:	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
International Instruments:	None.

4 DEFINITIONS AND ACRONYMS

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