PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2022

This preference form must form part of all tenders invited. It contains general information and serves as a claim form for preference points for specific goals.

NB: BEFORE COMPLETING THIS FORM, TENDERERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF THE TENDER AND PREFERENTIAL PROCUREMENT REGULATIONS, 2022

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1. GENERAL CONDITIONS

1.1 The following preference point systems are applicable to invitations to tender:

- the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and
- the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).

1.2 **To be completed by the organ of state**

a) The applicable preference point system for this tender is the 80/20 preference point system.

1.3 Points for this tender (even in the case of a tender for income-generating contracts) shall be awarded for:

(a) Price; and

(b) Specific Goals.

1.4 **To be completed by the organ of state:**

The maximum points for this tender are allocated as follows:

	POINTS
PRICE	**80**
SPECIFIC GOALS	**20**
Total points for Price and SPECIFIC GOALS	**100**

1.5 Failure on the part of a tenderer to submit proof or documentation required in terms of this tender to claim points for specific goals with the tender, will be interpreted to mean that preference points for specific goals are not claimed.

1.6 The organ of state reserves the right to require of a tenderer, either before a tender is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the organ of state.

2. DEFINITIONS

2.1 **"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;

2.2 **"price"** means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;

2.3 **"rand value"** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;

2.4 **"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; and

2.5 **"the Act"** means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

2.6 **"All applicable taxes"** includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies.

2.7 **"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.

2.8 **"Contract"** means the agreement that results from the acceptance of a bid by an organ of state.

2.9 **"Equity Ownership"** means the percentage ownership and control, exercised by individuals within an enterprise.

2.10 **"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.

2.11 **"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 200 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.

2.12 **"Lowest acceptable tender"** means a tender that complies with all specifications and conditions of tender and that has lowest price compared to other tenders.

2.13 **"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.

2.14 **"Owned"** means having all the customary elements of ownership, including the right of decision-making and sharing all the risks and profits commensurate with the degree of ownership interests as demonstrated by an examination of the substance, rather than the form of ownership arrangements.

2.15 **"Person"** includes reference to a juristic person.

2.16 **"Person with Disability"** are persons who have a long-term or recurring physical or mental

impairment, which substantially limits their prospects of entry into, or advancement in employment.

2.17 **"Price"** means an amount of money tendered for goods or services and includes all applicable taxes less all unconditional discounts.

2.18 **"Rand value"** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes.

2.19 **"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.

2.20 **"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.

2.21 **"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.

2.22 **"Trust"** means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person.

2.23 **"Trustee"** means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.

3. ESTABLISHMENT OF HDI EQUITY OWNERSHIP IN AN ENTERPRISE

3.1 Equity ownership shall be equated to the percentage of an enterprise which is owned by individuals classified as HDIs, or in the case of a company, the percentage shares that are owned by individuals classified as HDIs, who are actively involved in the management and daily business operations of the enterprise and exercise control over the enterprise, commensurate with their degree of ownership at the closing date of the tender.

3.2 Where individuals are not actively involved in the management and daily business operations and do not exercise control over the enterprise commensurate with their degree of ownership, equity ownership may not be claimed.

4. ADJUDICATION USING A POINT SYSTEM

4.1 A maximum of 20 or 10 points may be awarded to a tenderer for the specific goals for the tender.

4.2 The points scored for the specific goals must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.

4.3 Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.

4.4 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.

4.5 If functionality is part of the evaluation process and two or more tenderers score equal total points and equal preference points for specific goals, the contract must be awarded to the tenderer that scored the highest points for functionality.

4.6 If two or more tenderers score equal total points in all respects, the award must be decided by the drawing of lots.

5. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

5.1 POINTS AWARDED FOR PRICE

5.1.1 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

A maximum of 80 or 90 points is allocated for price on the following basis:

80/20 **or** **90/10**

$$\boldsymbol{Ps} = 80\left(1 - \frac{\boldsymbol{Pt-Pmin}}{\boldsymbol{Pmin}}\right) \quad \text{or} \quad \boldsymbol{Ps} = 90\left(1 - \frac{\boldsymbol{Pt-Pmin}}{\boldsymbol{Pmin}}\right)$$

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmin = Price of lowest acceptable tender

5.2 FORMULAE FOR DISPOSAL OR LEASING OF STATE ASSETS AND INCOME GENERATING PROCUREMENT

POINTS AWARDED FOR PRICE

A maximum of 80 or 90 points is allocated for price on the following basis:

80/20 **or** **90/10**

$$\boldsymbol{Ps} = 80\left(1 + \frac{\boldsymbol{Pt-Pmax}}{\boldsymbol{Pmax}}\right) \quad \text{or} \quad \boldsymbol{Ps} = 90\left(1 + \frac{\boldsymbol{Pt-Pmax}}{\boldsymbol{Pmax}}\right)$$

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmax = Price of highest acceptable tender

6. POINTS AWARDED FOR SPECIFIC GOALS

6.1 In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 1 below as may be supported by proof/ documentation stated in the conditions of this tender:

6.2 In cases where organs of state intend to use Regulation 3(2) of the Regulations, which states that, if it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—

(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,

then the organ of state must indicate the points allocated for specific goals for both the 90/10 and 80/20 preference point system.

6.3 Equity claims for a trust will only be allowed in respect of those persons who are both trustees and beneficiaries and who are actively involved in the management of the trust. Documentation to substantiate the validity of the credentials of the trustees contemplated above must be submitted.

6.4 Listed companies and tertiary institutions do not qualify for HDI preference points.

6.5 A consortium or joint venture may, based on the percentage of the contract value managed or executed by their HDI-members, be entitled to preference points in respect of an HDI.

6.6 A person awarded a contract may not subcontract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher points for specific goals than the person concerned, unless the contract is subcontracted to an EME or QSE that has the capability and ability to execute the subcontract.

Table 1: Specific goals for the tender and points claimed are indicated per the table below.

***Note to tenderers: The tenderer must indicate how they claim points for each preference point system.*)**

SPECIFIC GOAL	ACHIEVEMENT LEVEL	TOTAL NUMBER OF POINTS THAT MAY BE CLAIMED (90/10 SYSTEM)	TOTAL NUMBER OF POINTS THAT MAY BE CLAIMED (80/20 SYSTEM)
Persons historically disadvantaged on the basis of race	100% black ownership	2.5	5
	75% - 99% black ownership	2	4
	60% - 74% black ownership	1.5	3
	51% - 59% black ownership	1	2
	0 – 50% black ownership	0	0

SPECIFIC GOAL	ACHIEVEMENT LEVEL	TOTAL NUMBER OF POINTS THAT MAY BE CLAIMED (90/10 SYSTEM)	TOTAL NUMBER OF POINTS THAT MAY BE CLAIMED (80/20 SYSTEM)
Persons historically disadvantaged on the basis of gender (ownership by women)	100% black women ownership	4	8
	75% - 99% black women ownership	3	6
	60% - 74% black ownership	2	4

SPECIFIC GOAL	ACHIEVEMENT LEVEL	TOTAL NUMBER OF POINTS THAT MAY BE CLAIMED (90/10 SYSTEM)	TOTAL NUMBER OF POINTS THAT MAY BE CLAIMED (80/20 SYSTEM)
	51% - 59% black women ownership	1	2
	0 – 50% black women ownership	0	0

SPECIFIC GOAL	ACHIEVEMENT LEVEL	TOTAL NUMBER OF POINTS THAT MAY BE CLAIMED (90/10 SYSTEM)	TOTAL NUMBER OF POINTS THAT MAY BE CLAIMED (80/20 SYSTEM)
Persons historically disadvantaged on the basis of disability	1 - 100% disabled ownership	2	4
	0% disabled ownership	0	0

SPECIFIC GOAL	ACHIEVEMENT LEVEL	TOTAL NUMBER OF POINTS THAT MAY BE CLAIMED (90/10 SYSTEM)	TOTAL NUMBER OF POINTS THAT MAY BE CLAIMED (80/20 SYSTEM)
RDP goals: Business enterprises which are classified as SMMEs (EMEs or QSEs)	Yes	1.5	3
	No	0	0

6.7 A tenderer must submit CIPC registration documents as proof of ownership.

6.8 Points for persons historically disadvantaged on the basis of disability must be substantiated by a medical assessment report from an accredited medical practitioner. The medical assessment report must not be older than a year at the closing date of the tender or RFQ.

6.9 A tenderer must submit proof of its B-BBEE status level of contributor to substantiate a claim for RDP goals.

6.10 A tenderer failing to submit proof of specific goals shall not be disqualified but will score points out of 80 for price; and shall score 0 points out of 20 for specific goals.

6.11 Failure on the part of a tenderer to submit proof or documentation required to claim points for specific goals will be interpreted to mean that preference points for specific goals are not claimed.

6.12 The NGB reserves the right to require of a tenderer, either before a tender is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the NGB.

7. BID DECLARATION

7.1 Bidders who claim points in respect of specific goals must complete the following:

The specific goals allocated points in terms of this tender	Number of points claimed (90/10 system) (To be completed by the tenderer)	Number of points claimed (80/20 system) (To be completed by the tenderer)
Persons historically disadvantaged on the basis of **race**		
Persons historically disadvantaged on the basis of **gender** (ownership by women)		
Persons historically disadvantaged on the basis of **disability**		
RDP goals: Business enterprises which are classified as SMMEs (EMEs or QSEs)		

8. SUB-CONTRACTING

8.1 Will any portion of the contract be sub-contracted?

(***Tick applicable box***)

YES		NO	

8.1.1 If yes, indicate:

i) What percentage of the contract will be subcontracted.....……%
ii) The name of the sub-contractor……..
iii) Number of points claimed for specific goals .....……..
iv) Whether the sub-contractor is an EME or QSE.

(Tick applicable box)

YES		NO	

9. DECLARATION WITH REGARD TO COMPANY/FIRM

9.1 Name of company/firm…….

9.2 Company registration number: ……...

9.3 TYPE OF COMPANY/ FIRM

☐ Partnership/Joint Venture / Consortium

- ☐ One-person business/sole propriety
- ☐ Close corporation
- ☐ Public Company
- ☐ Personal Liability Company
- ☐ (Pty) Limited
- ☐ Non-Profit Company
- ☐ State Owned Company

[TICK APPLICABLE BOX]

TOTAL NUMBER OF YEARS THE FIRM HAS BEEN IN BUSINESS?

_____

9.4 **List all Shareholders by Name, Position, Identity Number, Citizenship, HDI status and ownership, as relevant. Information to be used to calculate the points claimed in paragraph 7.**

Name	Date/Position occupied in Enterprise	ID Number	Date RSA Citizenship obtained	* HDI Status			% of business / enterprise owned
				No franchise prior to elections	Women	Disabled	

*Indicate YES or NO

9.5 Consortium / Joint Venture

9.5.1 In the event that preference points are claimed for HDI members by consortia / joint ventures, the following information must be furnished in order to be entitled to the points claimed in respect of the HDI member:

Name of HDI member (to be consistent with paragraph 9.4)	**Percentage (%) of the contract value managed or executed by the HDI member**

I, the undersigned, who is duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the specific goals as advised in the tender, qualifies the company/ firm for the preference(s) shown and I acknowledge that:

i) The information furnished is true and correct;

ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;

iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct;

iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have –

) disqualify the person from the tendering process;

) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;

) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;

) recommend that the tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and

) forward the matter for criminal prosecution, if deemed necessary.

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SIGNATURE(S) OF TENDERER(S)

SURNAME AND NAME: .....

DATE: .....

ADDRESS: .....

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