

## MASILONYANA LOCAL MUNICIPALITY

### PREFERENTIAL PROCUREMENT POLICY MANAGEMENT POLICY



[PREFERENTIAL PROCUREMENT POLICY: 2024/2025]

### MASILONYANA LOCAL MUNICIPALITY PREFERENTIAL PROCUREMENT POLICY

**PREFERENTIAL PROCUREMENT POLICY** adopted in terms of section 5, read with section 2(1)(b)(i) and (ii) and 2(1)(c), of the Preferential Procurement Policy Framework Act, No. 5 of 2000 and the Preferential Procurement Regulations of 2022, that came into effect on 16 January 2023.

#### PREAMBLE

**WHEREAS** Masilonyana Local Municipality aims to improve the quality of life of the local community and to free the potential of each person within a framework of facilitating service delivery, through effective governance and the Council consider the need for transparent procedures that give the effect to the principle of preferential procurement.

**AND WHEREAS** local economic development plays a crucial role in creating a prosperous, equitable, stable and democratic society and the overall national vision of economic development is one of decent work and living standards for all in the context of qualitative improved equality in ownership, skills and access to opportunities.

Council also resolves in terms of section 2 of the Preferential Procurement Policy Framework Act, No. 5 of 2000 and the Preferential Procurement Regulations, 2022 to adopt the following as the Preferential Procurement Policy of Masilonyana Local Municipality.

## Contents

1. Definitions
2. Application
3. Identification of preference point system
4. 80/20 preference point system for acquisition of goods or services with Rand value equal to or below R50 million
5. 90/10 preference point system for acquisition of goods or services with Rand value above R50 million
6. 80/20 preference points system for tenders to generate income or to dispose of or lease assets with Rand value equal to or below R50 million
7. Preference point system for tenders to generate income or to dispose of or lease assets with Rand value above R50 million
8. Criteria for breaking deadlock in scoring
9. Remedies
10. Short title and commencement

## Definitions

1. In these Policy, unless the context indicates otherwise, any word or expression to which a meaning has been assigned in the Act must bear the meaning so assigned-

**“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 based on race, gender and disability including the implementation of programmes of the **(RDP)** 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; and

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

**“People with disabilities”** has the meaning assigned to it in section 1 of the Employment Equity Act, 1998 (Act No. 55 of 1998).

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

**“township”** means an urban living area that any time from the late 19th century until 27 April 1994, was reserved for black people, including areas developed for historically disadvantaged individuals post 27 April 1994.

**“locality”** means local suppliers and/or service providers that resides within the Masilonyana Local Municipality area, Lejweleputswa District and Free State Provinces as per the allocation of points in line with the preferential procurement policy of the Municipality.

**“youth”** has the meaning assigned to it in section 1 of the National Youth Development Agency Act, 2008 (Act No. 54 of 2008).

**“Designated group”** means-

- (a) black designated groups.
- (b) black people.
- (c) women.
- (d) people with disabilities; or
- (e) small enterprises, as defined in section 1 of the National Small Enterprise Act, 1996 (Act No. 102 of 1996).

**“Designated sector”** means a sector, sub-sector or industry or product designated in terms of paragraph 8(1)(a).

**“Sub-contracting”** means employing or sub-contracting a certain percentage of work or project to another small or emerging company.

## **Application**

2. This Policy applies to Masilonyana Local Municipality as envisaged in the definition of Local Municipality in section 1 of the Act.

## **3. Identification of preference point system**

3.(1) An organ of state must, in the tender documents, stipulate —

(a) the applicable preference point system as envisaged in regulations 4, 5, 6 or 7.

(b) the specific goal in the invitation to submit the tender 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) 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

(a) 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.

#### **80/20 preference point system for acquisition of goods or services / tender for Rand value equal to or below R50 million**

4.(1) The following formula must be used to calculate the points out of 80 for price in respect of a tender with a Rand value equal to or above 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

#### **90/10 preference point system for acquisition of goods or services / tender with Rand value above R50 million**

5. (1) The following formula must be used to calculate the points out of 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.

**80/20 preference points system for tenders to generate income or to dispose of or lease assets with Rand value equal to or below R50 million**

6.(1) 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:

$$Ps = 80 \left( 1 + \frac{Pt - Pmax}{Pmax} \right)$$

Where:

Ps = Points scored for price of tender under consideration.

Pt = Price of tender under consideration; and

Pmax = 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.

**Preference point system for tenders to generate income or to dispose of or lease assets with Rand value above R50 million**

7(1) 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:

$$Ps = 90 \left( 1 + \frac{Pt - Pmax}{Pmax} \right)$$

Where:

Ps = Points scored for price of tender under consideration.

Pt = Price of tender under consideration; and

Pmax = 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

## 8. Specific Contract Participation Goals

8.1 the tendering conditions will stipulate the specific goals, as contemplated in section 2(1)d(ii) of the preferential Procurement Act, to be attained,

8.2 Tenders for income-generating contracts points will be allocated points as follows:

Locality of supplier	Number of points for locality (80/20)	Number of points for locality (90/10)
Within the boundaries of South Africa	20	10

8.3 for any tenders a maximum of 20 points (80/20 preference points system) or 10 (90/10 preference points system), will be allocated for specific goals. These goals are:

8.3.1 Contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination based on race, gender or disability

8.3.2 Local labour, and/ or promotion of enterprise located in the municipal area.

8.4 50 per cent of the 80/20 or 90/10 points will be allocated to designated group or HDI/Designated groups while the other 50 percent will be allocated to locality in promoting this goal as follows:

Specific Goals points allocation	Number of Points for Preference	
	80/20	90/10
Locality (see 8.5 below)	10	5
HDI/Designated Groups (to be broken and allocated as per the conditions of a tender or RFQ)	10	5
<b>Total Points</b>	<b>20</b>	<b>10</b>

8.4.1 Points for HDI/Designated groups will be broken down as follows:

Category	80/20	90/10	Document(s) required
Black – owned	51 percent > = 3	51 percent > = 1.5	Certified Company Registration Certificate and Certified ID Copy, CSD Report.
Women – owned	30 > = 3	30 > = 1.5	Certified Company Registration Certificate and Certified ID Copy, CSD Report.
Youth	2	1	Certified Company Registration Certificate and Certified ID Copy, CSD Report.
People living with disabilities	2	1	Confirmation letter from the Doctor OR Affidavit, CSD Report.

8.5 50 per cent of the **80/20** or **90/10** points of locality allocated as follows:

Local area of supplier	Number of Points for Preference	
	80/20	90/10
Within the boundaries of Masilonyana Local Municipality	10	5
Within the boundaries of Lejweleputswa Region	6	3
Outside of the boundaries of Lejweleputswa but within the Free State	4	2

8.6 Any specific goal for which a point may be awarded, must be clearly specified in the invitation to submit a tender or RFQ.

8.7 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 for the relevant specific goals where the supplier or service provider did not submit evidence.

8.8 The preference points scored by a bidder must be added to the points scored for price.

8.9 The points scored must be rounded off to the nearest two decimal places.

8.10 The contract must be awarded to the tenderer scoring the highest procurement points

### **Criteria for breaking deadlock in scoring**

9 (1) 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. (2) If two or more tenderers score equal total points in all respects, the award must be decided by the drawing of lots.

### **Remedies**

10 (1) If an organ of state 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.

### **Short title and commencement**

- 11. This policy is called the Preferential Procurement Policy of Masilonyana Local Municipality and takes effect on the day adopted by Council of Masilonyana Local Municipality and be reviewed annually by a way of Council Resolution.