



national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

PPPFA CIRCULAR 01 OF 2021/22
PREFERENTIAL PROCUREMENT POLICY
FRAMEWORK ACT
(ACT 5 OF 2000)

APPLICATION OF FORMULAE IN REGULATIONS 6(1) AND 7(1) OF PREFERENTIAL PROCUREMENT REGULATIONS, 2017, ON DISPOSAL, LEASING AND OTHER INCOME GENERATING PROCUREMENT

TO ALL:	ACCOUNTING OFFICERS OF DEPARTMENTS ACCOUNTING OFFICERS OF CONSTITUTIONAL INSTITUTIONS ACCOUNTING AUTHORITIES OF SCHEDULE 2 AND 3 PUBLIC ENTITIES HEAD OFFICIALS OF PROVINCIAL TREASURIES ACCOUNTING OFFICERS OF MUNICIPALITIES AND MUNICIPAL ENTITIES
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1. PURPOSE

- 1.1 To inform organs of state that the Minister of Finance has exempted organs of state to which the Preferential Procurement Policy Framework Act, 2000 (the PPPFA) and the Preferential Procurement Regulations, 2017 (“the 2017 Regulations”) apply from complying with the formulae prescribed in regulations 6(1) and 7(1) of the 2017 Regulations **in respect of the disposal and leasing of state assets and other income generating tenders.**
- 1.2 To advise organs of state to use the formulae in paragraph 4 for disposal, lease of state assets and other income generating tenders.

2. INTRODUCTION

- 2.1. It has come to the attention of National Treasury that organs of state have found it difficult to use the preference points system in regulations 6(1) and 7(1) of the 2017 Regulations or simply not applied preference points at all when disposing or leasing states assets but merely accepted the highest price without considering empowerment objects.
- 2.2. The Implementation Guide to the Preferential Procurement Regulations, 2011 may have added to the confusion by stating that the preference points system does not apply to the leasing and disposal of state assets. The Implementation Guide to the 2017 Regulations did not provide guidance regarding how to factor in empowerment objectives in the disposal and leasing of state assets, which resulted in organs of state applying Treasury Regulations, 2005 and the Local Government Supply Chain Management Regulations, 2005 relating to the disposal of state assets.
- 2.3. Although in most contracts the state pays for goods and services, which is a cost to the fiscus, the purposeful interpretation of the PPPFA is that the same principles of awarding points for

price and empowerment objectives is applicable to income generating tenders, including disposal and leasing of state assets, and this requires the current formulae to be implemented in reverse as an income to the fiscus.

- 2.4. In order to provide certainty on the application of the preference points system to these types of tenders, the Minister of Finance has exempted organs of state from applying the formulae provided in the 2017 Regulations.
- 2.5. In light of this exemption, organs of state are advised to use the formulae in paragraph 4 in cases of disposal and leasing of state assets as well as other income-generating tenders.

3. EXEMPTION

The Minister of Finance has in terms of section 3(c) of the PPPFA, exempted organs of state from applying the formulae in regulations 6(1) and 7(1) of the 2017 Regulations when applying empowerment objectives **for disposal and leasing of state assets as well as other income generating tenders.**

4. ALTERNATIVE FORMULAE

- 4.1 Organs of state are advised to use the following formula to calculate the points for price in respect of a tender for the disposal or leasing of state assets or another income generating procurement with a Rand value equal to or above R30 000 and up to a Rand value of R50 million, inclusive of all applicable taxes.

$$P_s = 80 \left(1 + \frac{P_t - P_{max}}{P_{max}} \right)$$

Where

- P_s = Points scored for price of tender under consideration;
 P_t = Price of tender under consideration; and
 P_{max} = Price of highest acceptable tender.

- 4.2 Allocation of B-BBEE points remains the same with the table provided in regulation 6(2) of the 2017 Regulations.
- 4.3 Organs of state are advised to use the formula in this paragraph to calculate points for price in respect of a tender for the disposal or leasing of state assets or another income generating procurement with a Rand value equal to or above R50 million, inclusive of all applicable taxes.

$$P_s = 90 \left(1 + \frac{P_t - P_{max}}{P_{max}} \right)$$

Where

- Ps = Points scored for price of tender under consideration;
Pt = Price of tender under consideration; and
Pmax = Price of highest acceptable tender.

- 4.4 Allocation of B-BBEE points remains the same as those provided in regulation 7(2) of the 2017 Regulations.
- 4.5 Organs of state may negotiate a fair market price with the three preferred bidders in line with regulations 6(9) and 7(9) of 2017 Regulations, if the prices offered are below fair market prices.

5. CONTACT INFORMATION

Enquiries pertaining to the content of this instruction may be directed to:

Email: cpo@treasury.gov.za

6. APPLICABILITY

- 6.1 This Circular applies to all national and provincial departments, constitutional institutions; public entities listed in schedules 2 and 3 to the PFMA, and municipalities and municipal entities to which the MFMA applies.

7. DISSEMINATION OF INFORMATION CONTAINED IN THIS CIRCULAR

- 7.1 Heads of provincial treasuries are requested to bring the contents of this Circular to the attention of accounting officers and supply chain management officials of their respective provincial departments.
- 7.2 Accounting officers of national and provincial departments are requested to bring the contents of this Circular to the attention of accounting authorities and the supply chain management officials of Schedule 3A and 3C public entities reporting to their respective executive authorities.
- 7.3 Accounting officers of municipalities and municipal entities are requested to bring the contents of this Circular to the attention of the supply chain management officials of their municipalities and municipal entities.

7.4 Accounting authorities of Schedule 2, 3B and 3D public entities are requested to bring the contents of this Circular to the attention of the supply chain management officials of their public entities.

8. NOTIFICATION TO THE AUDITOR-GENERAL

8.1 A copy of this Circular will be forwarded to the Auditor-General for notification.

9. AUTHORITY FOR THIS CIRCULAR AND EFFECTIVE DATE

9.1 This Circular is issued in terms of regulation 15(a) of the Preferential Procurement Regulations, 2017 and takes effect on **1 August 2021**.



ESTELLE SETAN

ACTING CHIEF PROCUREMENT OFFICER

DATE: 23 July 2021