

# Acts governing the South African tender Environment - PPPFA

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The other day I attended Tender Training (not our own) and it was shocking to see the lack of knowledge regarding South African tender procedures. In South Africa the tender processes are ruled by various Acts, Regulation and Guidelines that are specifically designed to ensure that the tender process are in line with the Constitution of South Africa which dictates that the tender process should be fair, equitable, transparent, competitive and cost-effective.

- The Preferential Procurement Policy Framework Act;
- Preferential Procurement Regulations, 2017;
- National Treasury's Supply Chain Regulations;
- General Procurement Guidelines.

First and foremost is **The Preferential Procurement Policy Framework Act, 2000**. This act was specifically introduced to comply with Section 217 (2) (a) of the Constitution of South Africa. ALL Government entities must follow this act. It is not a choice. It is not something that they can ignore if they feel like it. It must be followed.

Then there is the **Preferential Procurement Regulations, 2017**. These Regulations are there to guide Government entities on how to implement the Preferential Procurement Policy Framework Act. The Act and its Regulations go hand in hand and the one cannot exist without the other. According to the Preferential Procurement Regulations 2017, paragraph 3, it states the following: An Organ of State must:

- 1) determine and stipulate in the tender documents-
  - a) the preference point system applicable to the tender as envisaged in regulation 6 or 7; or
  - b) if it is unclear which preference point system will be applicable, 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;
- 2) determine whether pre-qualification criteria are applicable to the tender as envisaged in regulation 4;
- 3) determine whether the goods or services for which a tender is to be invited, are in a designated sector for local production and content as envisaged in regulation 8;
- 4) determine whether compulsory subcontracting is applicable to the tender as envisaged in regulation 9; and
- 5) determine whether objective criteria are applicable to the tender as envisaged in regulation 11.

In these Regulations you will also find clear guidelines on the 80/20 and 90/10 Preferential Procurement Points scoring system. All tender responses must be evaluated according to one of these points scoring systems regardless of any other special conditions that might be applicable for a specific tender. Remember that the:

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

Do not let anybody tell you that this is not important. It is the heartbeat of all tender evaluations in South Africa. Our advice to you is to familiarize yourself with this Act and its Regulations. When you do so, you will empower yourself to have bargaining power when tenders are awarded.

To learn more about tenders, attend our “Become a Tender Expert” 2-Day workshops presented in Johannesburg, Pretoria, Durban, Port Elizabeth, and Cape Town. Book and pay online at <https://howtotender.co.za/tender-expert-form/>

Contact us at [estelle@howtotender.co.za](mailto:estelle@howtotender.co.za) should you require more information.

*You can also purchase a Tender Manual (Handbook) on our website <https://howtotender.co.za/> which is a step by step guide how to respond to a South African Tender. It includes examples of completed SBD forms.*