

## Is it compulsory to sub-contract part of the tender?

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There seems to be a lot of confusion amongst entrepreneurs when it comes to tenders and sub-contracting, due in large part, to *The Preferential Procurement Regulations, 2017* which came into effect on 1 April 2017. Many entrepreneurs ask us whether they should sub-contract or not, when responding to a tender.

*Regulation 9 of The Preferential Procurement Regulations 2017, stipulates the following:*

- (1) **IF IT IS FEASIBLE** to sub-contract for a contract above R30 million, an Organ of State must apply sub-contracting to advance designated groups.
- (2) The Organ of State must advertise this specific tender condition that the successful bidder must sub-contract at a minimum of 30% (of the value of the contract) to (one or more) to an EME or QSE which is at least 51% owned by:
  - a. black people;
  - b. black people who are youth;
  - c. black people who are women;
  - d. black people with disabilities;
  - e. black people living in rural or under develop areas or townships;
  - f. black people who are military veterans;
  - g. A cooperative which is at least 51% owned by black people;
- (3) In paragraph 3 of Regulation 9 it also states that the Organ of State must make available the list of all suppliers registered on a database approved by the National Treasury to provide the required goods or services in respect of the applicable designated groups mentioned above from which the bidder must select a supplier.

Regulation 9 is very clear because its states “the tenderer MUST sub-contract...” Thus, according to the Regulations all contracts with a value of R30 million and above will have to comply with this Regulation. Read the tender document carefully because somewhere in the tender document it will stipulate whether the bidder will have to sub-contract. Follow those rules. If the tender document does not contain any sub-contracting instructions, then it is not necessary to sub-contract.

The fact is that the tender document will dictate what you should or should not do. Read the tender document carefully, follow the instructions precisely and to the point.

To learn more about this and many other tender conditions 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.