

Specific tender conditions and Black Ownership

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This article is about the fine script in tenders or request for proposals that one tends to overlook when confronted with a tender document and deadlines.

The specific fine script that we want to address is where the Organ of State make use of section 2(1) (f) of the Preferential Procurement Policy Framework Act (PPPFA). This sections states: *“the contract must be awarded to the tenderer who scores the highest points, **unless** objective criteria in addition to those contemplated in paragraphs (d) and (e) justify the award to another tenderer; and...”*.

One specific Organ of State that utilizes this section of the PPPFA is ESKOM. At Eskom it is especially important to promote and encourage Supplier Development and Localisation. In a recent tender that was published by ESKOM, it was made clear that the specific tender will not be awarded to the highest point scorer but rather to businesses that fall into the following criteria:

- Preference will be given to Black Owned companies; or
- Joint Ventures where the lead firm or company is more than 50% Black Owned.

During the briefing session for this specific tender ESKOM officials made it clear that they will adhere to these conditions. If you are a Black Owned business, it will be no problem adhering to these conditions but if your business has less than 51% Black Ownership you are going to struggle to be awarded this specific tender. The thing is: this is not the exception to the rule, but it is the rule!

Remember to check for specific conditions in all tender documents, whether it is for black ownership or anything else. Be sure not to get caught out by specific conditions.

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 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.