



national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

TO: ACCOUNTING OFFICERS OF ALL NATIONAL DEPARTMENTS AND
CONSTITUTIONAL INSTITUTIONS

ACCOUNTING OFFICERS OF ALL MUNICIPALITIES AND MUNICIPAL
ENTITIES

ACCOUNTING AUTHORITIES OF ALL SCHEDULE 2 AND 3 PUBLIC
ENTITIES

HEAD OFFICIALS OF PROVINCIAL TREASURIES

**NATIONAL TREASURY DESIGNATED SECTORS CIRCULAR NUMBER 11 OF
2019/2020: STANDARD FOR IMPLEMENTATION OF REGULATION 8(4) OF THE
PREFERENTIAL PROCUREMENT REGULATIONS, 2017**

PURPOSE

The purpose of the circular is to inform organs of state about the standard issued by the Department of Trade and Industry (the dti) in consultation with National Treasury to assist Accounting Officers and Accounting Authorities with the implementation of regulation 8 (4) of the Preferential Procurement Regulations, 2017 issued in terms of section 5 of the Preferential Procurement Policy Framework Act, Act No. 5 of 2000 (PPPFA).

BACKGROUND

Regulation 8.4 of the 2017 Preferential Procurement Regulations provides that where there no is product, sector or sub-sector designated for local production, an organ of state may include, as a specific condition of the tender, that only locally produced services or goods or locally manufactured goods with a stipulated minimum threshold for local production and content, will be considered. The threshold must be in accordance with the standards determined by the Department of Trade and Industry (**the dti**) in consultation with the National Treasury. Therefore, the standard is prescribed to give effect to the requirements of Regulation 8.4.

THE STANDARD

The standard seeks to assist accounting officers and accounting authorities with implementation of Regulation 8(4) of the Preferential Procurement Regulations, 2017. In summary it covers the following key points: promotion of local production and content through designating specific tenders to promote locally manufactured products; invitation of

bids for non-designated products; authorization to lower thresholds where approved minimum threshold for local production and content fails to reach thresholds and quantity demands for the tender. The standard is annexed as part of this circular.

APPLICABILITY

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.

DISSEMINATION OF INFORMATION CONTAINED IN THIS CIRCULAR

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.


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 their departments, Schedule 3A and 3C public entities reporting to their respective executive authorities.

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.

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.

AUTHORITY FOR THIS CIRCULAR AND EFFECTIVE DATE

This circular is issued in terms of Regulation 15(a) of the Preferential Procurement Regulations, 2017 and takes effect on the date of issue.


WILLIE MATHEBULA
ACTING CHIEF PROCUREMENT OFFICER
DATE: 14.12.19

**STANDARD FOR IMPLEMENTATION
OF REGULATION 8 (4) OF THE
PREFERENTIAL PROCUREMENT
REGULATIONS, 2017**

PART ONE

GENERAL

1. ACRONYMS AND ABBREVIATIONS

AO / AA	Accounting Officer / Accounting Authority
B-BBEE	Broad Based Black Economic Empowerment
MFMA	Municipal Finance Management Act, Act No 56 of 2003
PFMA	Public Finance Management Act, Act No. 1 of 1999 (as amended by Act 29 of 1999)
PPPFA	Preferential Procurement Policy Framework Act, No 5 of 2000
SARB	South African Reserve Bank
SABS	South African Bureau of Standards

2. PURPOSE

This standard is intended to assist Accounting Officers and Accounting Authorities with the implementation of regulation 8 (4) of the Preferential Procurement Regulations, 2017 issued in terms of section 5 of the Preferential Procurement Policy Framework Act, Act Number 5 of 2000 (PPPFA).

3. BACKGROUND

Regulation 8(4) of the 2017 Preferential Procurement Regulations provides that if there is no designated sector, an organ of state may include, as a specific condition of the tender, that only locally produced services or goods or locally manufactured goods with a stipulated minimum threshold for local production and content, will be considered. The threshold must be in accordance with the standards determined by the Department of Trade and Industry (**the dti**) in consultation with the National Treasury. Therefore the standard is prescribed to give effect to the requirements of Regulation 8 (4).

4. APPLICABILITY

The standard is applicable 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.

PART TWO

5. PROMOTION OF LOCAL PRODUCTION AND CONTENT

- 5.1 For goods and services that are not yet designated for local production and content by **the dti**, background information would have to be obtained on opportunities for localisation in the procurement of the particular goods and/or services.
- 5.2 An organ of state intending to designate a tender for local production and content must ensure that there are enough local manufacturers in the country who are capable to compete for the provision of goods designated in the tender for local production and content.
- 5.3 An industry or market analysis should be conducted to determine:
 - 5.3.1 the number of existing manufacturers available in the country;
 - 5.3.2 security of supply / capability to supply for the duration of the tender;
 - 5.3.3 the contribution of other role players in the supply chain of the commodity or product such as distributors and product agents (secondary level); and
 - 5.3.4 the effect of local production and content on employment.
- 5.4 Localisation should be supported based on the following indicators:
 - 5.4.1. Long term public procurement plan and expenditure;
 - 5.4.2. Alignment with policy objectives, in particular the creation and retention of decent jobs;
 - 5.4.3. Promotion of SMME's, geographic spread, technological capabilities; and
 - 5.4.4. Local manufacturing capacity and security of supply.
- 5.5 Against the above background, departments and public entities should commit themselves to the development and implementation of localisation with the aim of increasing the competitiveness, capacity and capability of the local supply base.
- 5.6 It must be noted that the setting of thresholds using Regulation 8 (4) will be bid specific, can only be done in consultation with **the dti** and does not imply that the industry/sector/product has been designated for local production. The power to designate the industry/sector/product for local production is vested with **the dti**.
- 5.7 Stipulated minimum thresholds for the various products will be provided by **the dti** during consultation process.
- 5.8 AOs/AAs are encouraged to build regulation 8 (4) requirements on local production and content into their supply chain policies to avoid contestations on tenders.

6. INVITATION OF TENDERS FOR THE NON-DESIGNATED PRODUCTS

- 6.1 Tenders in respect of non-designated products, where local content is to be promoted must contain a specific tendering condition that only locally produced or manufactured goods or services with a stipulated minimum threshold will be considered.

- 6.2 The local content (LC) expressed as a percentage of the tender price must be calculated in accordance with the SABS approved technical specification number SATS 1286: 2011 as follows:

$$LC = [1 - x / y] * 100$$

Where

x is the imported content in Rand

y is the tender price in Rand excluding value added tax (VAT)

- 6.3 Prices referred to in the determination of x must be converted to Rand (ZAR) by using the exchange rate published by South African Reserve Bank (SARB) on the date of advertisement of the tender.
- 6.4 AOs/AAs must clearly stipulate in the tender documentation that the SABS approved technical specification number SATS 1286:2011 and the Guidance on the Calculation of Local Content together with the Local Content Declaration Templates [Annex C (Local Content Declaration: Summary Schedule), D (Imported Content Declaration: Supporting Schedule to Annex C) and E (Local Content Declaration: Supporting Schedule to Annex C)] are accessible to all potential tenderers on the dti's official website <http://www.thedti.gov.za/industrialdevelopment/ip.jsp> at no cost.
- 6.5 The Declaration Certificates for Local Production and Content (SBD / MBD 6.2) and Local Content Declaration Templates Annex C, Annex D and Annex E must form part of the tender documentation. The SBD 6.2 is for use by all national and provincial departments, constitutional institutions and public entities listed in schedules 2, 3A, 3B, 3C and 3D to the Public Finance Management Act, whilst the MBD 6.2 is for use by all municipalities and municipal entities to which the Municipal Finance Management Act (MFMA) applies.
- 6.6 AOs/AAs must stipulate in the tender documentation:
- (a) that the Declaration Certificate for Local Production and Content (SBD / MBD 6.2) together with the Annex C (Local Content Declaration: Summary Schedule) must be completed, duly signed and submitted by the tenderer at the closing date and time of the tender;
 - (b) that the rates of exchange quoted by the tenderer in paragraph 4.1 of the Declaration Certificate will be verified for accuracy;
 - (c) all the information relevant to bidders provided in paragraphs 7.1 to 7.4 below

7. AUTHORISATION LETTER REQUESTS

- 7.1 If during the contract period, the quantity of required items cannot be wholly sourced from South African (SA) based manufacturers and/ or at stipulated local content threshold at any particular time, tenderers / suppliers should obtain written authorisation from the dti to supply the remaining portion of the items at a lower local content threshold. The dti, in consultation with the procuring organ of state, will grant authorisation on a case-by-case basis and will consider the following:

- a) required volumes in the particular tender;
- b) available collective SA industry manufacturing capacity at that time;
- c) delivery times;
- d) availability of input materials and components;
- e) security of supply and emergencies
- f) technical considerations including operating conditions;
- g) localisation plans aimed at establishing and/or increasing local manufacturing capacity; and
- h) replacement of components on the existing infrastructure (where applicable) in order to honour the warranties and guarantees.

7.2. Specifications, designs, standards, material availability, technological choices and volumes are some of the main causes of authorizations.

7.3. The tender information / relevant information must be provided on the tenderer's / supplier's letterhead when requesting an authorisation letter:

- a) Procuring entity
- b) Tender / contract description
- c) Tender reference number
- d) Closing date of tender
- e) Detailed specifications of items for which the exemption is requested for (kindly attach specifications)
- f) Products/ inputs/components to be imported
- g) Reasons for the request
- h) Supporting letters from local bidders' suppliers and manufacturers

7.4 The turn-around time for processing of authorisation requests is 5 working days from the date of receipt.

8. EVALUATION OF TENDERS IN SUPPORT OF LOCAL PRODUCTION AND CONTENT

8.1. A staged evaluation process must be followed including evaluation in terms of local production and content and other evaluation processes as may be stipulated in the tender.

8.2. Evaluation in terms of the stipulated minimum threshold for local production and content.

8.2.1. Tenders must be evaluated in terms of the minimum threshold stipulated in the tender documents.

8.2.2. The declaration made by the tenderer in the Declaration Certificate for Local Content (SBD / MBD 6.2) and Annex C (Local Content Declaration: Summary Schedule) must be used for this purpose. If the tender is for more than one product, the local content percentages for each product contained in Annex C must be used.


8.2.3. The amendment of the stipulated minimum threshold for local production and content after closing date of tender and during evaluation is not allowed.

8.2.4. A tender must be disqualified if the tenderer fails to achieve the stipulated minimum threshold for local production and content.

8.3. Evaluation in terms of the 80/20 or 90/10 preference point systems.

- 8.3.1. Only tenders that achieve the minimum stipulated threshold for local production and content may be evaluated further.
- 8.3.2. Unless exempted by the Minister of Finance, the evaluation must be done in accordance with the 80/20 or 90/10 preference point systems prescribed in Preferential Procurement Regulations, 2017.

9. AWARDS, POST AWARD AND REPORTING REQUIREMENTS

- 9.1. Suppliers / contractors must not be allowed to sub-contract in such a manner that the local production and content of the overall value is reduced to below the stipulated minimum threshold.
- 9.2. AOs / AAs are required to keep records of the tenders post award for monitoring and reporting purposes. **The dti** may request this information at any time.
- 9.3. Once tenders are awarded, **the dti** must be:
- (a) Notified of all the successful tenderers and the value of contracts; and
 - (b) Provided with copies of the contracts, the SBD/MBD 6.2 Certificates together with the Declaration C submitted by the successful tenderers within 30 days of award.
- 9.4. The purpose of the requirements of paragraph 9.3 above is for **the dti** to among others monitor localisation initiatives. 

10. CONTACT INFORMATION

Any enquiries in respect of Local Production and Content and all documents to be submitted to the dti must be directed as follows:

The Department of Trade and Industry
Private Bag X84
Pretoria
0001

For Attention:

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