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PROVINCIAL NOTICES		PROVINSIALE KENNISGEWINGS	
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[PROVINCIAL NOTICE NO. 103 OF 2021]

GOVERNMENT NOTICE**NATIONAL TREASURY****PUBLICATION OF DRAFT PREFERENTIAL PROCUREMENT REGULATIONS, 2022 FOR PUBLIC COMMENT**

In accordance with section 5(2) of the Preferential Procurement Policy Framework Act, 2000 (the Act), the draft Preferential Procurement Regulations, 2022 (the draft Regulations), in the Schedule are published for public comment. These Regulations are intended to be made by the Minister of Finance in terms of section 5(1), read with section 2(1)(b) and (c) and the definition of “prescribed” in section 1, of the Act.

The draft Regulations propose to prescribe—

- the threshold amounts in which the 80/20 and 90/10 preference point systems must be used, together with the formula to be applied; and
- other matters necessary or expedient in order to achieve the objects of the Act.

Written comments on the draft Regulations submitted by **11 April 2022** to CommentDraftLegislation@treasury.gov.za will be considered. By making a submission, the commentator agrees that the name of the commentator and the submission may be made public by the National Treasury and the submission will be disclosed if requested in terms of the Promotion of Access to Information Act, 2000.

SCHEDULE**PREFERENTIAL PROCUREMENT REGULATIONS, 2022****Contents**

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Definitions

1. In these Regulations, unless the context indicates otherwise, any word or expression to which a meaning has been assigned in the Act must bear the meaning so assigned—
 - “**National Treasury**” has the meaning assigned to it in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
 - “**price**” includes all applicable taxes less all unconditional discounts;
 - “**Rand value**” means the total estimated value of a contract in Rand, calculated at the time of the tender invitation;
 - and “**the Act**” means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

Application

2. These Regulations apply to organs of state as defined in section 1¹ of the Act.

Identification of preference point system

- 3.(1) An organ of state must, in the tender documents, stipulate—
 (a) the preference point system applicable to the tender as envisaged in regulations 4, 5, 6 or 7; and
 (b) any specific goal as envisaged in section 2(1)(d) and (e) of the Act.
 (2) If it is unclear whether the 80/20 or 90/10 preference point system applies—
 (a) in the case of a tender to generate income or to dispose of or lease assets, the highest acceptable tender;
 or
 (b) in the case of any other tender, the lowest acceptable tender,
 must be used to determine the applicable preference point system.

80/20 preference point system for acquisition of goods or services with Rand value equal to or above R30 000 and up to R50 million

- 4.(1) The following formula must be used to calculate the points out of 80 for price in respect of a tender with a Rand value equal to or above R30 000 and up to a Rand value of R50 million, inclusive of all applicable taxes:

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

Where-

P_s = Points scored for price of tender under consideration;

P_t = Price of tender under consideration; and

P_{min} = Price of lowest acceptable tender.

- (2) A maximum of 20 points may be awarded to a tenderer for the specified goals envisaged in section 2(1)(d) and (e) of the Act.
 (3) The points scored must be rounded off to the nearest two decimal places.
 (4) Subject to regulation 9, the contract must be awarded to the tenderer scoring the highest points.

90/10 preference point system for acquisition of goods or services with Rand value above R50 million

- 5.(1) The following formula must be used to calculate the points out 90 for price in respect of a tender with a Rand value above R50 million, inclusive of all applicable taxes:

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

Where-

¹ Paragraph (f) of the definition of organ of state in section 1 of the Act includes any other institution or category of institutions included in the definition of "organ of state" in section 239 of the Constitution and recognised by the Minister by notice in the *Government Gazette* as an institution or category of institutions to which the Act applies. Government Notices—

(a) R. 501 of 8 June 2011 recognises, with effect from 7 December 2011, all public entities listed in Schedules 2 and 3 to the Public Finance Management Act, 1999; and

(b) R. 571 of 15 June 2017 recognises, with effect from 17 June 2017, national and provincial government components listed in Schedule 3 to the Public Service Act, 1994 and municipal entity as defined in section 1 of the Local Government: Municipal Systems Act, 2000, as institutions to which the Act applies.

Note should be taken of notices issued from time to time in terms of paragraph (f) of this definition. The application of these Regulations is also subject to applicable exemptions approved in terms of section 3 of the Act.

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration; and

Pmin = Price of lowest acceptable tender.

- (2) A maximum of 10 points may be awarded to a tenderer for the specified goals envisaged in section 2(1)(d) and (e) of the Act.
- (3) The points scored must be rounded off to the nearest 2 decimal places.
- (4) Subject to regulation 9, the contract must be awarded to the tenderer scoring the highest points.

80/20 preference points system for tenders to generate income or to dispose of or lease assets with Rand value equal to or above R30 000 and up to Rand value of R50 million

- 6.(1) The following formula must be used to calculate the points for price in respect of a tender to generate income or to dispose of or lease assets, with a Rand value equal to, or above R 30 000 and up to a Rand value of R50 million, inclusive of all applicable taxes:

$$Ps = 80 \left(1 + \frac{Pt - Pmax}{Pmax} \right)$$

Where-

Ps = Points scored for price of tender under consideration;

Pt = Price of tender under consideration; and

Pmax = Price of highest acceptable tender.

- (2) A maximum of 20 points may be awarded to a tenderer for the specified goals envisaged in section 2(1)(d) and (e) of the Act.
- (3) The points scored must be rounded off to the nearest 2 decimal places.
- (4) Subject to regulation 9, the contract must be awarded to the tenderer scoring the highest points.

90/10 preference point system for tenders to generate income or to dispose of or lease assets with Rand value equal to or above R50 million

- 7.(1) The following formula must be used to calculate the points for price in respect of a tender to generate income or to dispose of or lease assets, with a Rand value above R50 million, inclusive of all applicable taxes:

$$Ps = 90 \left(1 + \frac{Pt - Pmax}{Pmax} \right)$$

Where-

Ps = Points scored for price of tender under consideration;

Pt = Price of tender under consideration; and

Pmax = Price of highest acceptable tender.

- (2) A maximum of 10 points may be awarded to a tenderer for the specified goals envisaged in section 2(1)(d) and (e) of the Act.
- (3) The points scored must be rounded off to the nearest 2 decimal places.
- (4) Subject to regulation 9, the contract must be awarded to the tenderer scoring the highest points.

Criteria for breaking deadlock in scoring

- 8.(1) If two or more tenderers score an equal total number of points, the contract must be awarded to the tenderer that scored the highest points for specific goals.
- (2) If two or more tenderers score equal total points in all respects, the award must be decided by the drawing of lots.

Award of contracts to tenderers not scoring highest points

9. A contract may be awarded to a tenderer that did not score the highest points only in accordance with section 2(1)(f) of the Act.

Remedies

- 10.(1) Upon detecting that a tenderer submitted false information regarding specific goals or any other matter required in terms of these Regulations which will affect or has affected the evaluation of a tender, the organ of state must—
- (a) inform the tenderer accordingly; and
- (b) give the tenderer an opportunity to make representations within 14 days as to why—
- (i) the tender submitted may not be disqualified or, if the tender has already been awarded to the tenderer, the contract should not be terminated in whole or in part; and
- (ii) the organ of state should not restrict the tenderer from conducting any business for a period not exceeding 10 years with any organ of state.
- (2) After considering the representations referred to in subregulation (1)(b), the organ of state may—
- (a) if it concludes that such false information was submitted by the tenderer—
- (i) disqualify the tenderer or terminate the contract in whole or in part; and
- (ii) if applicable, claim damages from the tenderer;
- (b) if it concludes that the tenderer must be restricted, restrict the tenderer from doing business with any organ of state for a period not exceeding 10 years.
- (3) An organ of state must, within five working days—
- (a) inform the National Treasury, in writing, of any action taken in terms of subregulation (2); and
- (b) if it decides to restrict a tenderer, request the National Treasury to publish the name of the tenderer in its list of restricted suppliers.
- (4) The National Treasury must, within three working days after receiving a request in terms of subregulation (3)(b), publish the name of the tenderer in its list of restricted suppliers.

Repeal of regulations

11. Any regulations made under section 5 of the Act are repealed.

Short title and commencement

12. These Regulations are called the Preferential Procurement Regulations, 2022 and take effect on the date of promulgation of these Regulations.

<p align="center">FREE STATE PROVINCIAL GAZETTE <i>(Published every Friday)</i></p>	<p align="center">VRYSTAAT PROVINSIALE KOERANT <i>(Verskyn elke Vrydag)</i></p>																								
<p>All correspondence, advertisements, etc. must be addressed to the Officer in charge of the Provincial Gazette, P.O. Box 517, Bloemfontein, Tel.: (051) 403 3139. Free Voucher copies of the Free State Provincial Gazette or cuttings of advertisements are NOT supplied. The cost per copy of the Provincial Gazette is as follows:</p> <table border="1" data-bbox="140 495 791 600"> <tr> <td>EMAIL</td> <td>R 10.00</td> </tr> <tr> <td>COLLECTION</td> <td>R 23.00</td> </tr> <tr> <td>POST</td> <td>R 35.00</td> </tr> </table>	EMAIL	R 10.00	COLLECTION	R 23.00	POST	R 35.00	<p>Alle korrespondensie, advertensies, ens. moet aan die Beampte Belas met die Provinsiale Koerant, Posbus 517, Bloemfontein, Tel.: No. (051) 403 3139 geadresseer word. Gratis eksemplare van die Vrystaat Provinsiale Koerant of uitknipsels van advertensies word NIE verskaf nie. Die koste per kopie van die Provinsiale Koerant is soos volg:</p> <table border="1" data-bbox="817 495 1473 600"> <tr> <td>E-POS</td> <td>R 10.00</td> </tr> <tr> <td>AFHAAL</td> <td>R 23.00</td> </tr> <tr> <td>POS</td> <td>R 35.00</td> </tr> </table>	E-POS	R 10.00	AFHAAL	R 23.00	POS	R 35.00												
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<p align="center">SUBSCRIPTION RATES (payable in advance)</p> <p>The subscription fee for the Provincial Gazette (including all Extraordinary Provincial Gazettes) is as follows:</p> <table border="1" data-bbox="140 757 791 976"> <tr> <td>6 MONTHS, EMAIL</td> <td>R 280.00</td> </tr> <tr> <td>12 MONTHS, EMAIL</td> <td>R 560.00</td> </tr> <tr> <td>6 MONTHS, COLLECTION</td> <td>R 500.00</td> </tr> <tr> <td>12 MONTHS, COLLECTION</td> <td>R 1 000.00</td> </tr> <tr> <td>6 MONTHS, POST</td> <td>R 870.00</td> </tr> <tr> <td>12 MONTHS, POST</td> <td>R 1 740.00</td> </tr> </table>	6 MONTHS, EMAIL	R 280.00	12 MONTHS, EMAIL	R 560.00	6 MONTHS, COLLECTION	R 500.00	12 MONTHS, COLLECTION	R 1 000.00	6 MONTHS, POST	R 870.00	12 MONTHS, POST	R 1 740.00	<p align="center">INTEKENGELD (vooruitbetaalbaar)</p> <p>Die intekengeld vir die Provinsiale Koerant (insluitend alle Buitengewone Provinsiale Koerante) is soos volg:</p> <table border="1" data-bbox="817 757 1473 976"> <tr> <td>6 MAANDE, E-POS</td> <td>R 280.00</td> </tr> <tr> <td>12 MAANDE, E-POS</td> <td>R 560.00</td> </tr> <tr> <td>6 MAANDE, AFHAAL</td> <td>R 500.00</td> </tr> <tr> <td>12 MAANDE, AFHAAL</td> <td>R 1 000.00</td> </tr> <tr> <td>6 MAANDE, POS</td> <td>R 870.00</td> </tr> <tr> <td>12 MAANDE, POS</td> <td>R 1 740.00</td> </tr> </table>	6 MAANDE, E-POS	R 280.00	12 MAANDE, E-POS	R 560.00	6 MAANDE, AFHAAL	R 500.00	12 MAANDE, AFHAAL	R 1 000.00	6 MAANDE, POS	R 870.00	12 MAANDE, POS	R 1 740.00
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<p align="center">CLOSING TIME FOR ACCEPTANCE OF ADVERTS</p> <p>Herewith the amended closure times for all requests for publication in the weekly Provincial Gazette/ Tender Bulletin by Provincial and National Departments, Municipalities and Public Entities. As from 20 August 2021 the date of publication will be as follows: The cut-off for the receipt of advertisements in the Provincial Gazette/ Tender Bulletin will be 16:00 on Fridays. Such advertisements will appear in the Provincial Gazette/ Tender Bulletin on Friday the next week. (For example: The closure date for advertisements in the Provincial Gazette/ Tender Bulletin of 20 August 2021 will be 16:00 on Friday 13 August 2021.) See last page of this document for the approved publication rates for 2021/22. Late submission of advertisements will only be accepted until 16:00 on the Tuesday before the publication of the Provincial Gazette/ Tender Bulletin. However, in such cases double rates will be charged. (For example: Late advertisements received for Friday, 20 August 2021 will be accepted until 16:00 on Tuesday 17 August 2021.) See last page of this document for the approved publication rates for 2020/21. Monthly closure for the advertisements in the Provincial Gazette for liquor or gambling license renewal will remain 16:00 on Fridays two weeks before publication dated. (For example: The closure date for license renewal advertisements to be published on Friday, 3 September 2021 is Friday, 20 August 2021. No request for advertisements will be accepted between Wednesday and Friday for publication in</p>	<p align="center">SLUITINGSTYD VIR DIE AANNAME VAN ADVERTENSIES</p> <p>Hiermee die veranderde sluitingstye vir advertensies deur Provinsiale en Nasionale Departemente, Munisipaliteite and Openbare entiteite, vir die publikasie in die weeklikse Provinsiale Koerant/ Tender Bulletin. Vanaf 20 Augustus sal die datum van publikasies soos volg wees: Die weeklikse sluiting vir advertensies in the Provinsiale Koerant/ Tender Bulletin is 16:00 op Vrydae. Sodanige advertensies sal in die Provinsiale Koerant/ Tender Bulletin gepubliseer word in die daaropvolgende week. (Byvoorbeeld: Die sluitingsdatum vir advertensies op 20 Augustus 2021 is 16:00 op Vrydag, 13 Augustus 2021.) Sien die laaste bladsy van hierdie dokument vir the goedgekeurde publikasie tariewe vir 2020/21. Laat indiening van advertensies sal slegs aanvaar word tot 16:00 op Dinsdae in dieselfde week van die publikasie. Vir sodanige advertensies sal 'n dubbel publikasietarief gehef word. (Byvoorbeeld: Laat publikasies vir Vrydag 20 Augustus 2021 sal aanvaar word tot 16:00 op Dinsdag, 17 Augustus 2021). Sien die laaste bladsy van hierdie dokument vir the goedgekeurde publikasie tariewe vir 2020/21. Maandelikse sluiting vir advertensies in the Provinsiale Koerant vir die hernuwing van drank- en dobbel lisensie bly 16:00 op Vrydae, twee weke voor die publikasie datum. (Byvoorbeeld: Die sluitingsdatum vir advertensies vir die hernuwing van lisensies, vir publikasie op 3 September 2021 is Vrydag, 20 Augustus 2021. Geen aansoek vir advertensies sal tussen Woensdae en Vrydae aanvaar word vir publikasie in dieselfde week nie.</p>																								
<p align="center">ADVERTISEMENT RATES</p> <p>Notices required by Law to be inserted in the Provincial Gazette: R 68.00 per centimeter or portion thereof.</p>	<p align="center">ADVERTENSIETARIEWE</p> <p>Kennisgewings wat volgens Wet in die Provinsiale Koerant geplaas moet word: R 68.00 per sentimeter of deel daarvan.</p>																								

<p>Advertisement fees are payable in advance to the Officer in charge of the Provincial Gazette, P.O. Box 517, Bloemfontein, 9300, Tel.: (051) 403 3139.</p>	<p>Advertensiegelde is vooruitbetaalbaar aan die Beampte belas met die Provinsiale Koerant, Posbus 517, Bloemfontein 9300, Tel.: (051) 403 3139.</p>
<p><i>NUMBERING OF PROVINCIAL GAZETTE</i> You are hereby informed that the numbering of the Provincial Gazette /Tender Bulletin and notice numbers will from 2010 coincide with the relevant financial year. In other words, the chronological numbering starting from one will commence on or after 1 April of every year.</p>	<p><i>NOMMERING VAN PROVINSIALE KOERANT</i> U word hiermee in kennis gestel dat die nommering van die Provinsiale Koerant / Tender Bulletin en kennisgewingnommers vanaf 2010 met die betrokke boekjaar sal ooreenstem. Met ander woorde, die kronologiese nommering beginnende met een, sal op of na 1 April van elke jaar begin.</p>
<p><i>Printed and published by the Free State Provincial Government</i></p>	<p><i>Gedruk en uitgegee deur die Vrystaatse Provinsiale Regering</i></p>
