



CAPE TOWN STADIUM

CAPE TOWN STADIUM (RF) SOC LTD	
Policy	Cape Town Stadium (RF) SOC LTD Preferential Procurement Policy
Application	The Policy applies to the Directors and employees of the Cape Town Stadium (RF) SOC LTD
Approved by the Board	August 2023
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TABLE OF CONTENT

1. DEFINITIONS2

2. APPLICATION OF THE POLICY.....3

3. PURPOSE AND OBJECT OF THE POLICY3

4. IDENTIFICATION OF PREFERENCE POINT SYSTEM5

5. 80/20 PREFERENCE POINT SYSTEM FOR ACQUISITION OF GOODS OR SERVICES WITH AND VALUE EQUAL TO OR BELOW R50 MILLION.....5

6. 90/10 PREFERENCE POINT SYSTEM FOR ACQUISITION OF GOODS OR SERVICES WITH RAND VALUE ABOVE R50 MILLION.....6

7. 80/20 PREFERENCE POINTS SYSTEM FOR TENDERS TO INCOME-GENERATING CONTRACTS WITH RAND VALUE EQUAL TO OR BELOW R50 MILLION7

8. 90/10 PREFERENCE POINT SYSTEM FOR TENDERS FOR INCOME-GENERATING CONTRACTS WITH RAND VALUE ABOVE R50 MILLION7

9. APPLICATION OF SPECIFIC GOALS.....8

10. ACCEPTABLE EVIDENCE FROM BIDDERS CLAIMING POINTS FOR SPECIAL GOALS 10

11. CRITERIA FOR BREAKING DEADLOCK IN SCORING 11

12. MARKET-RELATED PRICING..... 11

13. REMEDIES..... 11

14. AWARD OF CONTRACTS TO TENDERERS NOT SCORING THE HIGHEST POINTS 12

15. SHORT TITLE AND COMMENCEMENT..... 12





CAPE TOWN STADIUM

1. DEFINITIONS

In this policy, unless the context indicates otherwise, any word or expression to which a meaning has been assigned in the Act and the Regulations must bear the meaning so assigned—

“Acceptable tender” means a tender that complies with all specifications and conditions of tender.

“B-BBEE Act” means the Broad Based Black Economic Empowerment Act 53 of 2003, as amended.

“Black designated groups” has the meaning assigned to it in the codes of good practice issued in terms of section 9 (1) of the B-BBEE Act.

“Black people / persons” has the meaning assigned to it in section 1 of the B-BBEE Act.

“CTS” means the Cape Town Stadium (RF) SOC Ltd

“Disability or disabled” means in respect of a person, a permanent impairment of a physical, intellectual, or sensory function, which results in restricted, or lack of, ability to perform an activity in the manner, or within the range, considered normal for a human being.

“Functionality” means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents.

“Highest acceptable tender” means a tender that complies with all specifications and conditions of tender and that has the highest price compared to other tenders.

“Lowest acceptable tender” means a tender that complies with all specifications and conditions of tender and that has lowest price compared to other tenders.

“Ownership or owned” means the measurement of ownership as per Code Series 100 of the B-BBEE Act Codes of Good Practice on Black Economic Empowerment.

“Price” means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts.

“Price quotation/s” means a formal written price quotations for procurements of a transaction value over R10 000 up to R200 000 (VAT included).

“Proof of B-BBEE status level of contributor” means the B-BBEE status level certificate issued by an authorised body or person:

- (i) a sworn affidavit as prescribed by the B-BBEE Codes of Good Practice; or
- (ii) any other requirement prescribed in terms of the B-BBEE Act.

“Proof of disability” means an affidavit issued by a registered medical practitioner confirming that the person is disabled.

“Rand value” means the total estimated value of a contract in Rand, calculated at the time of the tender invitation.

“Sector Code/s” means a code designated as such, and issued in terms of section 9(1) of the



CAPE TOWN STADIUM

B-BBEE Act, developed by major stakeholders in a particular industry.

"SMME" means small, medium and micro enterprises namely an eligible Exempted Micro Enterprise (EME) and Qualifying Small Enterprise (QSE) as defined within the Broad Based Black Economic Empowerment Act and applicable Sector Codes.

"Specific goals" means specific goals as contemplated in section 2(1)(d) of the Act which may include contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender and disability including the implementation of programmes of the Reconstruction and Development Programme as published in Government Gazette No. 16085 dated 23 November 1994;

"Tender" means a written offer in the form determined by CTS in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;

"Tender for income-generating contracts" means a written offer in the form determined by the CTS in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the CTS and a third party that produces revenue for the CTS, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions.

"The Act" or **"Act"** means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

"The Regulations" or **"Regulations"** means the Preferential Procurement Regulations, 2022.

2. APPLICATION OF THE POLICY

- 2.1 This policy applies to all procurement of goods and services undertaken in terms of Section 12(1)(c) and (d) of the CTS Supply Chain Management Policy (as amended) with a value of R10, 000 and above.
- 2.2 This policy does not apply to public auctions where it is not practical to apply a system of preference.
- 2.3 This policy must be applied concurrently with other legislative prescripts and other policies that regulates the procurement of goods and services by CTS.

3. PURPOSE AND OBJECT OF THE POLICY

- 3.1 The objective of this policy is to comply with the provisions of section 217(2) and (3) of the Constitution and section 2 of the Act, by implementing a policy that provides for categories of preference in the allocation of contracts and the protection and advancement of people disadvantaged by unfair discrimination .
- 3.2 The Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000)-[PPFA] was promulgated in compliance with section 217(3) of the Constitution to create the

Preferential Procurement Policy
August 2023

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CAPE TOWN STADIUM

framework within which CTS may develop its preferential procurement policy.

- 3.3 Section 2 (1) (d) (i) and (ii) of the Preferential Procurement Policy Framework Act, 2000 refers to specific goals which may include:
- (i) contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender or disability;
 - (ii) implementing the programmes of the Reconstruction and Development Programme (RDP) as published in Government Gazette 16085 dated 23 November 1994.
- 3.4 Although the preferential procurement policy-specific goals are created as the only exception to section 217(1) of the Constitution, the preferential procurement-specific goals must still be compliant with and based on the objects of local government set out in section 152 of the Constitution and the developmental duties as required by section 153 of the Constitution as well as comply with applicable national legislation that sets standards and or guidelines for preferential procurement such as the B-BBEE Act.
- 3.5 The Minister of Finance has, in terms of section 5, read with sections 2(1)(b)(i) and (ii) and 2(1)(c), of the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000), issued regulations to provide for the preference point system that must be followed by organs of state in their preferential procurement policies.
- 3.6 In addition to adhering to the peremptory prescribed preference point system as set out in the regulations, CTS must add to this preference points system its 10 or 20 points for specific goals as set out in section 2(1)(d)(i) and (ii) of the Act.
- 3.7 Section 10 of the B-BBEE Act requires that the CTS take into account and, as far as is reasonably possible, apply any relevant code of good practice issued in the development of its preferential procurement policy.
- 3.7 The purpose of this policy is to:
- (i) Ensure compliance with Section 217(2) of The Constitution of the Republic of South Africa and Section 2(1)(d) of the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000)
 - (ii) Provide for categories of preference in awarding of bids and allocation of contracts;
 - (iii) Provide for the protection or advancement of persons or categories of persons disadvantaged by unfair discrimination; and
 - (iv) Clarify the mechanisms how the above items in paragraph 3.7 (i) and (ii) will be implemented.



CAPE TOWN STADIUM

4. IDENTIFICATION OF PREFERENCE POINT SYSTEM

- 4.1 The CTS will, in the tender documents, stipulate —
- (i) the applicable preference point system as envisaged in section 5, 6, 7 or 8; and
 - (ii) the specific goal in the invitation to submit the tender for which a point may be awarded, and the number of points that will be awarded to each goal, and proof of the claim for such goal.
- 4.2 If it is unclear whether the 80/20 or 90/10 preference point system applies, CTS will, in the tender documents, stipulate in the case of—
- (i) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or
 - (ii) any other invitation for tender, 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.

5. 80/20 PREFERENCE POINT SYSTEM FOR ACQUISITION OF GOODS OR SERVICES WITH AND VALUE EQUAL TO OR BELOW R50 MILLION

- 5.1 The following formula must be used to calculate the points out of 80 for in respect of an invitation for a tender with a Rand value equal to or below 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.

- 5.2 A maximum of 20 points may be awarded to a tenderer for the specific goal specified for the tender.
- 5.3 The points scored for the specific goal must be added to the points scored for the price and the total must be rounded off to the nearest two decimal places.



CAPE TOWN STADIUM

- 5.4 Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.

6. 90/10 PREFERENCE POINT SYSTEM FOR ACQUISITION OF GOODS OR SERVICES WITH RAND VALUE ABOVE R50 MILLION

- 6.1 The following formula must be used to calculate the points out 90 for price in respect of an invitation for 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-

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.

- 6.2 A maximum of 10 points may be awarded to a tenderer for the specific goal specified for the tender.
- 6.3 The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.
- 6.4 Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.



CAPE TOWN STADIUM

7. 80/20 PREFERENCE POINTS SYSTEM FOR TENDERS TO INCOME-GENERATING CONTRACTS WITH RAND VALUE EQUAL TO OR BELOW R50 MILLION

- 7.1 The following formula must be used to calculate the points for price in respect of an invitation for tender for income-generating contracts, with a Rand value equal to or below R50 million, inclusive of all applicable taxes:

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

Where-

- P_s = Points scored for price of tender under consideration;
- P_t = Price of tender under consideration; and
- P_{max} = Price of highest acceptable tender.

- 7.2 A maximum of 20 points may be awarded to a tenderer for the specific goal specified for the tender.
- 7.3 The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.
- 7.4 Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.

8. 90/10 PREFERENCE POINT SYSTEM FOR TENDERS FOR INCOME-GENERATING CONTRACTS WITH RAND VALUE ABOVE R50 MILLION

- 8.1 The following formula must be used to calculate the points for price in respect of a tender for income-generating contracts, with a Rand value above R50 million inclusive of all applicable taxes:

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



CAPE TOWN STADIUM

Where-

P_s	=	Points scored for price of tender under consideration;
P_t	=	Price of tender under consideration; and
P_{max}	=	Price of highest acceptable tender.

- 8.2 A maximum of 10 points may be awarded to a tenderer for the specific goal specified for the tender.
- 8.3 The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.
- 8.4 Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.

9. APPLICATION OF SPECIFIC GOALS

- 9.1 CTS will set specific goals for each tender individually at tender planning stage.
- 9.2 The Specific goals may only be in line with either of the options detailed in sub-sections 9.3, 9.4 or 9.5 and must be clearly stated in the tender document.
- 9.3 Option 1 - SPECIFIC GOALS IN COMPLIANCE WITH SECTION 2(1)(d)(i) OF THE ACT
- (i) Section 2(1)(d)(i) of the Act, states that specific goals may include contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of:
- a. race,
 - b. gender, or
 - c. disability
- (ii) For purposes of this Policy, persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race are black persons.
- (iii) For purposes of this Policy, persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of gender are women.
- (iv) For purposes of this Policy persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of disability are disabled persons.
- (v) These persons or categories of persons in (ii) to (iv) above are hereafter referred as historically disadvantaged persons (HDI).
- (vi) Where CTS decides to apply specific goals for HDI in a tender, the allocation of points for specific goals for HDI's will be done by dividing 100% of the available 20 or 10 points into 25% increments across the goals.



CAPE TOWN STADIUM

- a. Examples of how this is to be applied is as follows:

Race	Gender	Disability	Total points
25%	75%	0%	100%
50%	50%	0%	100%
75%	25%	0%	100%
25%	25%	50%	100%

9.4 Option 2 - SPECIFIC GOALS IN COMPLIANCE WITH SECTION 2(1)(d)(ii) OF THE ACT

- (i) Section 2(1)(d)(ii) of the Act, states that specific goals may include implementing the programmes of the Reconstruction and Development Programme (RDP) as published in Government Gazette No. 16085 dated 23 November 1994.
- (ii) Over and above the awarding of preference points in favour of HDIs, the following activities may be regarded as a contribution towards achieving the goals of the RDP which will be applied by CTS:
- The promotion of SMME's;
 - The promotion of Skills Development in compliance with the B-BBEE Act and applicable Sector Codes;
 - The promotion of Socio-Economic Development Contributions in compliance with the B-BBEE Act and applicable Sector Codes;
 - The promotion of Environmental Sustainable business practices.
- (iii) Where CTS decides to apply specific goals for RDP in a tender, the allocation of points for specific goals for RDP's will be done by dividing 100% of the available 20 or 10 points into 25% increments across the goals.
- a. Examples of how this is to be applied is as follows:

SMME	Skills Development	Environmental Sustainability	Total points
25%	75%	0%	100%
50%	50%	0%	100%
75%	25%	0%	100%
25%	25%	50%	100%

9.5 Option 3 – COMBINATION OF HDI AND RDP SPECIFIC GOALS

- (i) The CTS may also combine the application of 9.3 and 9.4 above for a specific tender.
- (ii) Where the specific goals are a combination of 9.3 and 9.4, the available points will be divided equally between the two options. Put differently; Option 1 (points for HDI) will account for 50% of the available preference points, with Option 2 (points for RDP) accounting for the other 50%.
- (iii) CTS will apply the process detailed in 9.3 and 9.4 above in determining the further splitting of points.

9.6 This section will apply for the identification of specific goals for both goods and services
 Preferential Procurement Policy
 August 2023

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CAPE TOWN STADIUM

as-well-as income-generating contracts.

10. ACCEPTABLE EVIDENCE FROM BIDDERS CLAIMING POINTS FOR SPECIAL GOALS

- 10.1 In order to confirm/verify the specific goals claimed by a tenderer in a specific tender, the following is the only documentation which will be deemed as acceptable and which must be submitted with the tender:
- (i) Race
 - a. Proof of B-BBEE status level of contributor, clearly indicating the percentage black ownership; and/or
 - b. Company Registration Certification, as issued by the Companies and Intellectual Property Commission, clearly indicating the percentage shareholding of all owners, along with all necessary Identification Documentation; and/or
 - c. In respect of a Sole Proprietor or Partnership, a sworn affidavit clearly indicating the owners/partners of the organization and their respective percentage ownership.
 - (ii) Gender
 - a. Proof of B-BBEE status level of contributor, clearly indicating the percentage black woman ownership; and/or
 - b. Company Registration Certification, as issued by the Companies and Intellectual Property Commission, clearly indicating the percentage shareholding of all owners, along with all necessary Identification Documentation
 - (iii) Disability
 - a. Company Registration Certification, as issued by the Companies and Intellectual Property Commission, clearly indicating the percentage shareholding of all owners, along with all necessary Identification Documentation; and
 - b. Proof of disability.
 - (iv) SMME
 - a. Proof of B-BBEE status level of contributor, specifically in line with the respective Sector Codes which the company operates in; and
 - b. A copy of the company's latest financial statements confirming the annual revenue.
 - (v) Skills Development
 - a. Proof of B-BBEE status level of contributor, specifically in line with the respective Sector Codes which the company operates in.
 - (vi) Socio-Economic Development Contributions

Preferential Procurement Policy
August 2023

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CAPE TOWN STADIUM

- a. Proof of B-BBEE status level of contributor, specifically in line with the respective Sector Codes which the company operates in.
- (vii) Environmental Sustainability
 - a. Proof of an adopted environmental and social sustainability policy within the organization; and/or
 - b. Relevant environmental sustainability certification/accreditation, such as ISO 14001.

11. CRITERIA FOR BREAKING DEADLOCK IN SCORING

- 11.1 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.
- 11.2 If functionality is part of the evaluation process and two or more tenderers score equal total points and equal specific goal points the contract must be awarded to the tenderer that scored the highest points for functionality.
- 11.3 If two or more tenderers score equal total points in all respects, the award must be decided by the drawing of lots.

12. MARKET-RELATED PRICING

- 12.1 If the price offered by a tenderer scoring the highest points is not market-related, the CTS may, subject to SCM Regulation 24, –
 - (i) negotiate a market-related price with the tenderer scoring the highest points or cancel the tender;
 - (ii) if the tenderer does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the second highest points or cancel the tender;
 - (iii) if the tenderer scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the third highest points or cancel the tender.
 - (iv) If a market-related price is not agreed with any acceptable tender, the CTS must cancel the tender.

13. REMEDIES

- 13.1 If CTS is of the view that a tenderer submitted false information regarding a specific goal, it must—



CAPE TOWN STADIUM

- (i) inform the tenderer; accordingly, and
 - (ii) give the tenderer an opportunity to make representations within 14 days as to why the tender 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.
- 13.2 After considering the representations referred to in par 13 (1)(ii), the CTS may, 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.

14. AWARD OF CONTRACTS TO TENDERERS NOT SCORING THE HIGHEST POINTS

- 14.1 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.

15. SHORT TITLE AND COMMENCEMENT

- 15.1 This Policy shall be called the Cape Town Stadium Preferential Procurement Policy, 2023 and take effect on ~~27 January 2023~~ 31 August 2023

This policy was approved by the Cape Town Stadium (RF) SOC Limited Board of Directors on

~~27 January 2023~~ 31 August 2023



PJ Veldhuizen
Chairman of the Board



Date

Preferential Procurement Policy
August 2023

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