Munisipaliteit • U-Masipala • Municipality
OVERSTRAND

PREFERENTIAL PROCUREMENT POLICY

PREFERENTIAL PROCUREMENT POLICY adopted in terms of section 2 of the Preferential Procurement Policy Framework Act, No. 5 of 2000 and the Preferential Procurement Regulations, 2022

PREAMBLE

WHEREAS the Overstrand Municipality aims to improve the quality of life of the local community and to free the potential of each person within a framework of facilitating service delivery, through effective governance and the Council takes into account the need for transparent procedures that give the effect to the principle of preferential procurement.

AND WHEREAS local economic development plays a crucial role in creating a prosperous, equitable, stable and democratic society and the overall national vision of economic development is one of decent work and living standards for all in the context of qualitative improved equality in ownership, skills and access to opportunities.

NOW THEREFORE the Council of the Overstrand Municipality resolves in terms of section 2 of the Preferential Procurement Policy Framework Act, No. 5 of 2000 that the principles embodied in the Preferential Procurement Regulations, 2022 are herewith integrated into the Overstrand Municipality's Preferential Procurement Policy to form the basis of the evaluation criteria for quotations and competitive tenders.

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1 Definitions

In this policy, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Act bears the same meaning, and:

"Acceptable Tender"	*mean any tender which, in all respects, complies with the specification and conditions of tender as set out in tender document*
"all applicable taxes"	includes Value-Added Tax, Pay-as-you-Earn, Income Tax, Unemployment Insurance Fund Contributions and Skills Development Levies;
"B-BBEE"	means Broad-Based Black Economic Empowerment as defined in Section 1 of the Broad-Based Black Economic Empowerment Act;
"B-BBEE status level of contributor"	means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
"black designated groups"	has the meaning assigned to it in the codes of good practice issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
"black people"	has the meaning assigned to it in section 1 of the Broad-Based Black Economic Empowerment Act;
"Broad-Based Black Economic Empowerment Act" (B-BBEEA)	means the Broad-Based Black Economic Empowerment Act, 2003 (Act No.53 of 2003);
"Comparative price"	means the price after the factors of a non-firm price and all unconditional discounts that can be utilised have been taken into consideration;
"Contract"	means the agreement that results from the acceptance of a tender by the Overstrand Municipality;
"EME"	means an exempted micro enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
"Firm price"	is the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy, or tax, which, in terms of a law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract;
"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;*
"Large Enterprises"	*is a company with an annual turnover in excess of R50 million.*
"Local area"	*means the local suppliers and/or service providers whose registered business address is within the Overstrand Municipal area, the Overberg district boundaries, and the Western Cape.*
"Lowest acceptable tender"	*means a tender that complies with all specifications and conditions of tender and that has lowest price compared to other tenders;*
"Market Analysis"	means a technique used to identify market characteristics for specific goods or services
"Municipality"	The Overstrand Municipality;
"National Treasury"	has the meaning assigned to it in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
"Non-firm prices"	means all prices other than "firm" prices;
"Objective Criteria"	for the purpose of section of 2(1)f of the procurement Act must be criteria other than the additional to criteria relating to equity ownership by HDI's or whether or not a bidder was located in a particular province or municipal area
"organ of state"	The definition of organ of state in section 1 of the Act in paragraph (a) to (e) includes- • a national or provincial department as defined in the Public Finance Management Act, 1999; • a municipality as contemplated in the Constitution; • a constitutional institution as defined in the Public Finance Management Act; • Parliament; • a provincial legislature. 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 Notice 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, 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.
"Person"	includes reference to a juristic person;
"Policy"	Means the Preferential Procurement Policy of the Overstrand Municipality
"price"	includes all applicable taxes less all unconditional discounts;
"proof of B-BBEE status level of contributor"	means- (a) the B-BBEE status level certificate issued by an authorised body or person; (b) a sworn affidavit as prescribed by the B-BBEE Codes of Good Practice; or (c) any other requirement prescribed in terms of the Broad-Based Black Economic Empowerment Act;
"QSE"	means a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
"Rand value"	means the total estimated value of a contract in Rand, calculated at the time of the tender invitation;
"Region"	means the district and/or Overberg District.
"rural area"	means- (a) a sparsely populated area in which people farm or depend on natural resources, including villages and small towns that are dispersed through the area; or (b) an area including a large settlement which depends on migratory labour and remittances and government social grants for survival, and may have a traditional land tenure system;
"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 Overstrand Municipality 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 an organ of state 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 organ of state and a third party that produces revenue for the organ of state, 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"	means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);
"treasury"	has the meaning assigned to it in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999); and
"Youth"	has the meaning assigned to it in section 1 of the National Youth Development Agency Act, 2008 (Act No. 54 of 2008).

2 Introduction

The Constitution of the Republic of South Africa, 1996, provides in sections 152(1)(c) and 152(2) that local government must promote social and economic development and that the municipality must strive within its financial and administrative capacity, to achieve the objects set out in subsection 152(1).

The Constitution provides in section 217 that an organ of state must contract for goods or services in accordance with a procurement system which is fair, equitable, transparent, competitive, and cost effective and to implement a policy to grant preferences within a framework prescribed by National Legislation.

The Broad-Based Black Economic Empowerment Act, 2003 provides in section 10 that every organ of state and public entity must apply any relevant code of good practice issued in terms of the Act in (b) developing and implementing a preferential procurement policy.

The Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000) was promulgated by the Minister in response to the Constitutional provision and allow for a Municipality to develop a preferential procurement policy and to implement such policy within the PPPFA framework.

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.

The RDP (1994), as basis for development in South Africa, was meant to provide a holistic, integrated, coherent socio-economic policy that is aimed at mobilising people and resources to work towards the upliftment of the material and social conditions of local communities to build sustainable livelihoods for these communities.

In terms of Section 2 (1)(d)(ii), the following activities may be regarded as a contribution towards achieving the goals of the RDP, in addition to the awarding of preference points in favour of HDIs (published in Government Gazette No. 16085 dated 23 November 1994):

(i) The promotion of South African owned enterprises.

(ii) The promotion of export orientated production to create jobs.

(iii) The promotion of SMMEs.

(iv) The creation of new jobs or the intensification of labour absorption.

(v) The promotion of enterprises located in a specific province for work to be done or services to be rendered in that province.

(vi) The promotion of enterprises located in a specific region for work to be done or services to be rendered in that region.

(vii) The promotion of enterprises located in a specific municipal area for work to be done or services to be rendered in that municipal area.

(viii) The promotion of enterprises located in rural areas.

(ix) The empowerment of the work force by standardising the level of skill and knowledge of workers.

(x) The development of human resources, including by assisting in tertiary and other advanced training programmes, in line with key indicators such as percentage of wage bill spent on education and training and improvement of management skills; and

(xi) The upliftment of communities through, but not limited to, housing, transport, schools, infrastructure donations, and charity organisations.

3 Application of the policy

1) This policy applies to all procurement of goods and services by means of a tender as defined in paragraph 1 above.
2) This policy does not apply to public auctions or any other sale or lease of assets where it is not practical to apply a system of preference.
3) This policy does not apply to procurement under R2 000.
4) This policy must be applied concurrently with other legislative prescripts and other policies that regulates the procurement of goods and services by the municipality.

4 Purpose, and Objectives

1) The purpose of this policy is to:
   a) Provide for categories of preference in awarding of tenders.
   b) Provide for the advancement of persons or categories of persons disadvantaged by unfair discrimination; and
   c) Clarify the mechanisms how the above items in paragraph 2 (i) and (ii) will be implemented.

2) Objectives
   a) Promote Broad-Based Black Economic Empowerment (B-BBEE) - enterprises providing services and goods.
   b) Promote Small Medium and Micro Enterprises (SMME's), Joint Ventures, Consortiums, and partnerships.
   c) Implement recognised best procurement practises through effective planning, strategic purchasing, and contract management.

5 Identification of preference point system

1) The Municipality shall, in the tender documents, stipulate —
   a) the preference point system applicable; and
   b) any specific goal as envisaged in section 2(1)(d) and (e) of the Preferential Procurement Act.
2) If it is unclear whether the 80/20 or 90/10 preference point system applies—
   a) 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
   b) 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.

6 80/20 preference point system for acquisition of goods or services with Rand value equal to or below R50 million

1) The following formula must be used to calculate the points out of 80 for price in respect of an invitation for a tender with a Rand value equal to or below R50 million inclusive of all applicable taxes:

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

Where;
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 20 points may be awarded to a tenderer for the specified goals for the tender.*
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.*
4) *Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.*

7 90/10 preference point system for acquisition of goods or services with Rand value above R50 million

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

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

Where;

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 for the tender.*
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.*
4) *Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.*

8 80/20 preference points system for tenders for income-generating contracts with Rand value equal to or below R50 million

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:

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

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 specific goal specified for the tender.
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.
4) Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.

9 90/10 preference point system for tenders for income-generating contracts with Rand value above R50 million

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:

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

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 specific goal specified for the tender.
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.
4) Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.

10 Points for specific goals to promote economic development

1. The tendering conditions will stipulate the specific goals, as contemplated in section 2(1)(d) of the Preferential Procurement Policy Framework Act, be attained.
2. A maximum of 20 points (80/20 preference points system) or 10 (90/10) preference points system), will be allocated for specific goals. These goals are:

   a) contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender or disability.

      i) For purposes of this Policy, persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race are black persons.

      ii) For purposes of this Policy, persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of gender are women.

      iii) For purposes of this Policy persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of disability are disabled persons.

      iv) These persons or categories of persons in (i) to (iii) above are hereafter referred as historically disadvantaged persons (HDI).

   b) the promotion of enterprises located in the local area (phased in approach to be applied for other RDP goals)

3. Regarding paragraph 10.2 (a), points will be allocated to promote this goal, in terms of the tables below:

   a) Two of the three specific goals as listed below must be applied for each tender.

Specific Goals	**Achievement Level**	**Total Number of Points That May Be Claimed**	
		80/20	**90/10**
Persons historically disadvantaged on the basis of **race**	100% black ownership	5	2.5
	75% - 99% black ownership	4	2
	60% - 74% black ownership	3	1.5
	51% - 59% black ownership	2	1
	0 – 50% black ownership	0	0
Persons historically disadvantaged on the basis of **gender**	100% owned by women	5	2.5
	75% - 99% owned by women	3	2
	60% - 74% owned by women	2	1.5
	51% - 59% owned by women	1	1
	0 – 50% owned by women	0	0
Persons historically disadvantaged on the basis of **disability**	100% owned by persons living with disabilities	5	2.5
	75% - 99% owned by persons living with disabilities	3	2
	60% - 74% owned by persons living with disabilities	2	1.5
	51% - 59% owned by persons living with disabilities	1	1
	0 – 50% owned by persons living with disabilities	0	0

4. A tenderer must submit proof of its BBBEE status level contributor.
5. Regarding paragraph 10.2 (b) points will be allocated to promote this goal in terms of the table below:

a) **Transaction values Above R30 000**

Local area of supplier	**Number of Points for Preference**	
	80/20	**90/10**
Within the boundaries of the Overstrand municipality	10	5
Within the boundaries of Overberg District	6	3
Within the boundaries of the Western Cape	4	2
Outside of the boundaries of the Western Cape	0	0
Outside of the boundaries of the Western Cape	0	

b) **Transaction values under R30 000**

Local area of supplier	**Number of Points for Preference**
Within the boundaries of the Overstrand municipality	20
Within the boundaries of Overberg District	10
Within the boundaries of the Western Cape	6
Outside of the boundaries of the Western Cape	0

6. Any specific goal for which a point may be awarded, must be clearly specified in the invitation to submit a tender.
   a) In order to confirm/verify the specific goals claimed by a tenderer in a specific tender, the following is the only documentation which will 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; 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.
      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/or
         b) In respect of a Sole Proprietor or Partnership, a sworn affidavit clearly indicating the owners/partners of the organization and their respective percentage ownership; and
         c) Proof of disability.
      iv) **Locality**
         a) The registered address as reflected on the Companies and Intellectual Property Commission (CIPC) report; or
         b) In case of Sole Proprietor / Natural Person, etc.:

(i) Any verifiable proof of residence / address in the name of the bidder or owner, older than 3 months, which were issued prior to the advertising date of the bid.
(ii) Verifiable proof of residence / address may include the following but not limited to:
(iii) Bank statement
(iv) Municipal account
(v) Address on Tax Compliance Status Certificate

7. A tenderer failing to submit proof of required evidence to claim preferences for specific goals, which is in line with section 2 (1) (d) of the Act.
   a) may only score in terms of the 80/90-point formula for price; and
   b) scores 0 points out of 10/5 of the relevant specific goals where the supplier or service provider did not stipulate.
8. The preference points scored by a tenderer must be added to the points scored for price.
9. The points scored must be rounded off to the nearest two decimal places.
10. The contract must be awarded to the tenderer scoring the highest points.

11 Criteria for breaking deadlock in scoring

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 an equal total number of points, the objective criteria in addition to those contemplated in paragraphs section 2(1)(d) and (e) justify the award to the tenderer that scored the highest points in terms in accordance with section 2(1)(f) of the Act.
3. If two or more tenderers score equal total points in all respects, the award must be decided by the drawing of lots.

12 Award of contracts to tenderers not scoring highest points

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.

13 Remedies

1. If a Municipality is of the view that a tenderer submitted false information regarding a specific goal, it must——
   a) inform the tenderer; accordingly, and
   b) 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—
2. After considering the representations referred to in paragraph 12 (1)(b), the Municipality 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.

14 Performance management

The specific goals achieved through the application of the Preferential Procurement Framework Act, 2000 will be monitored in terms of the elements embedded in the Supply Chain Management Policy.

15 Short title and commencement

This part of the policy is called the Preferential Procurement Policy of the Overstrand Municipality. This policy will come into effect on **01 July 2026** and will be reviewed at least annually by way of a Council resolution.

POLICY SECTION:	DIVISIONAL MANAGER: SUPPLY CHAIN MANAGEMENT				
CURRENT REVIEW	2026/05/29	PREVIOUS REVIEW	2019/05/29	PREVIOUS REVIEW	2012/11/28
PREVIOUS REVIEW	2025/05/29	PREVIOUS REVIEW	2018/05/30	PREVIOUS REVIEW	2012/06/26
PREVIOUS REVIEW	2024/05/31	PREVIOUS REVIEW	2017/11/29	PREVIOUS REVIEW	2012/05/30
PREVIOUS REVIEW	2024/02/29	PREVIOUS REVIEW	2017/05/31	PREVIOUS REVIEW	2011/11/30
PREVIOUS REVIEW	2023/05/31	PREVIOUS REVIEW	2017/03/29	PREVIOUS REVIEW	2011/05/04
PREVIOUS REVIEW	2022/12/14	PREVIOUS REVIEW	2016/05/25	PREVIOUS REVIEW	2010/05/26
PREVIOUS REVIEW	2022/05/31	PREVIOUS REVIEW	2016/02/24	PREVIOUS REVIEW	2009/05/27
PREVIOUS REVIEW	2021/05/26	PREVIOUS REVIEW	2015/05/28	APPROVAL	2008/06/25
PREVIOUS REVIEW	2020/05/27	PREVIOUS REVIEW	2014/05/28		
PREVIOUS REVIEW	2019/06/26	PREVIOUS REVIEW	2013/05/29		