

Preferencing schedule where preferences are granted in respect of HDI equity

1 Definitions

The following definitions shall apply to this schedule:

Equity ownership: The percentage of an enterprise or business owned by individuals or, in respect of a company, the percentage of the company's shares that are owned by individuals, who are actively involved in the management of an enterprise or business and exercise control over the enterprise, commensurate with their degree of ownership at the closing date of the tender.

Note: All claims for HDI equity ownership by an HDI will be considered according to the following criteria:

- equity within private companies will be based on the percentage of equity ownership;
- preference points will not be awarded to public companies and tertiary institutions;
- equity claims for a trust will only be allowed in respect of those persons who are both trustees and beneficiaries and who are actively involved in the management of the Trust; and,
- a consortium or Joint Venture may, based on the percentage of the contract value managed or executed by their HDI members, be entitled to equity ownership.

Historically disadvantaged individual (HDI): A natural person who, due to the apartheid policy that had been in place had no franchise in national elections prior to the introduction of the Constitution of the RSA, 1983 (Act 110 of 1983) or the Constitution of the RSA, 1993 (Act 200 of 1993) (the interim Constitution)

2 Conditions associated with the granting of preferences

The tenderer who claims a preference, undertakes to:

- 1) not subcontract more than 25% of the Net Amount of the Contract to a person who is not an HDI or does not qualify for such preference;
- 2) maintain a HDI equity ownership of not less than that upon which the preference is based upon for the duration of the Contract;
- 3) accept the sanctions set out in Section 3 below should conditions 1 or 2 be breached;
- 4) complete the Tender Preference Claim in respect of Enterprise Status or Structure in the Tendering Entity contained in Section 4 below; and
- 5) complete the Declaration with regard to Equity Ownership contained in section 5 below.

3 Sanctions relating to breaches of preferencing conditions

The sanctions for breaching the preferencing conditions are:

- 1) termination of the Contract; or
- 2) a financial penalty payable to the Employer equal to 1,25 times the number of tender evaluation points awarded in respect of the preference claimed, multiplied by the Contract Price exclusive of VAT, divided by 100.

4 Tender preference claim in respect of enterprise status or structure of the tendering entity

Number of preference points = $\text{NOP} \times \text{EP} / 100$

NOP = maximum tender evaluation points provided for in the Preferential Procurement Policy Framework Act (Act 5 of 2000)

EP = the percentage of equity ownership by an HDI within the business enterprise

I/we apply on behalf of my/our firm for a preference based on an HDI equity ownership percentage of

5 Declaration with regard to equity ownership

5.1 How long has the Company been in existence ?

5.2 Describe principal business activities:

.....
.....
.....

5.3 List all shareholders by name, identity number, citizenship, HDI status, ownership, as relevant

Name	Position occupied in enterprise	ID number	Date RSA or TBVC Citizenship obtained	Percentage owned by HDIs

5.4 How many permanent staff members does the tenderer employ?

The undersigned, who warrants that he / she is duly authorised to do so on behalf of the firm or sole proprietor confirms that he / she understands the conditions under which such preferences are granted and confirms that the tenderer satisfies the conditions pertaining to the granting of tender preferences.

Signature :

Name :

Duly authorised to sign on behalf of :

Telephone :

Fax :

Date :

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Sample preferencing schedule where preferences are granted in respect of the direct participation of targeted enterprises and / or labour

Definitions	Guidance notes
<p>The following definitions shall apply to this schedule:</p>	<p><i>Insert definition for Targeted Enterprises and / or Targeted Labour.</i></p>
<p>2 Conditions associated with the granting of preferences</p>	
<p>The Tenderer, undertakes to:</p> <ol style="list-style-type: none"> 1) engage one or more.....in accordance with the provisions of the SANS 1914-.....as varied in Section 3 hereunder; 2) deliver to the Employer, within 5 working days of being requested in writing to do so, a completed Joint Venture Disclosure Form (Annex D of SANS 1914-1) and a Joint Venture Agreement, should a joint venture be proposed at prime contract level with Targeted Partners to satisfy Contract Participation Goal undertakings (deliver to the Employer, within 5 working days of being requested in writing to do so, a Targeted Enterprise Declaration Affidavit in respect of all Targeted Enterprises engaged at prime contract level to satisfy Contract Participation Goal undertakings 3) accept the sanctions set out in Section 4 below should such conditions be breached; 4) complete the Tender Preference Claim Form contained in Section 5 below, and 5) complete the Supporting Contract Participation Goal Calculation contained in this schedule. 	<p><i>Insert targeted enterprises / targeted labour (or both) and insert appropriate SANS part number in 1). Adjust wording to 2) to reflect documentation that is required or delete if not required..</i></p>
<p>3 Variations to the targeted construction procurement specification SANS 1914-</p>	<p><i>Insert SANS part number.</i></p>
<p>The variations to SANS 1914-..... are set out below. Should any requirements of the variations conflict with requirements of SANS 1914-, the requirements of the variations shall prevail. </p>	<p><i>Insert SANS part number and title as relevant.</i></p>
<p>4 Sanctions</p>	<p><i>Insert variations if any. If none, insert "There are no variations".</i></p>
<p>In the event that the Tenderer fails to substantiate that any failure to achieve the Contract Participation Goal relating to the granting of a preference was due to quantitative under runs, the elimination of items, or any other reason beyond the Contractor's control which may be acceptable to the Employer, it shall be liable to pay to the Employer a financial penalty calculated in the following manner:</p> $P = \frac{0,15 \times (D - D_o)}{100} \times N_A$ <p>where D = tendered Contract Participation Goal percentage. D_o = the Contract Participation Goal which the Employer's representative based on the credits passed, certifies as being achieved upon completion of the Contract. N_A = Net Amount P = Rand value of penalty payable</p>	
<p>5 Tender preference claim in respect of enterprise status or structure of the tendering entity</p>	
<p>I / we hereby tender a Contract Participation Goal of% in order to claim a preference.</p>	



The undersigned, who warrants that he / she is duly authorised to do so on behalf of the firm or sole proprietor confirms that he / she understands the conditions under which such preferences are granted and confirms that the tenderer satisfies the conditions pertaining to the granting of tender preferences.

Signature:.....

Name:.....

Duly authorised to sign on behalf of :

Telephone :

Fax:

Date:

Supporting contract participation goal calculation

.....

*Insert Annex A:
Tendered goal
calculation from
relevant part of
SANS 1914*

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