

REPUBLIC OF SOUTH AFRICA

# Value For Money Bill

(As introduced to the PEOPLE OF SOUTH AFRICA)

(By the South African Institute of Race Relations (IRR); tagged in  
terms of s76 of the Constitution of the Republic of South Africa)

[#WhatSACanBe—4-2025]

**To give effect to section 217(3) of the Constitution by prescribing a single national framework for public procurement; to establish value for money as the decisive criterion for the award of public contracts; to provide for limited, transparent tie-break preferences; to provide for reporting and oversight; to repeal the Public Procurement Policy Framework Act, 2000, and the Public Procurement Act, 2024, and to provide for matters connected therewith.**

## **PREAMBLE**

**WHEREAS** section 217 of the Constitution requires the implementation of a policy that provides for categories of preference in the allocation of contracts to protect or advance persons or categories of persons who are disadvantaged by unfair discrimination, and that when an organ of state contracts for goods or services, it must do so in accordance with a system that is fair, equitable, transparent, competitive and cost-effective;

**AND WHEREAS** the obligations of section 217(1) of the Constitution amount to a requirement to maximise value for money in public procurement;

**AND WHEREAS** persons who are poor and black are disproportionately reliant on the state's ability to achieve maximum value for money in public procurement, both for their protection through quality public services and for their advancement through employment in a growing economy;

**AND WHEREAS** categories of preference in the allocation of contracts in terms of section 217(2) of the Constitution that specifically maximise value for money deliver real transformation by protecting and advancing persons disadvantaged by unfair discrimination;

**AND WHEREAS** the National Treasury has reported to Parliament that a majority of public procurement payments on the Central Supplier Database, which is broadly representative of public procurement practices, since 2017 have gone to companies that are majority (50%+) black-owned, marking a substantial and dramatic departure from the exclusion of the past;

**AND WHEREAS** it is necessary to align the Republic's procurement framework with international best practice by replacing points-based award systems with a decisive value-for-money standard, while allowing limited and transparent tie-break preferences and rigorous public reporting;

**AND WHEREAS** the Report of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State, commonly known as the Zondo Report, advised the unambiguous prioritisation of either value for money or some deviation therefrom in public procurement, and additionally advised the unambiguous prioritisation maximisation of value for money in public procurement to combat corruption;

**AND WHEREAS** digital transparency facilitates anti-corruption;

**B**E IT THEREFORE ENACTED by the Parliament of the  
Republic of South Africa, as follows: —

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## **CHAPTER 1**

## DEFINITIONS AND OBJECT OF ACT

### 1. Definitions

**“accounting authority”** means an accounting authority as defined in section 1 of the Public Finance Management Act;

**“accounting officer”** means—

- (a) in relation to a department or constitutional institution, the accounting officer as defined in section 1 of the Public Finance Management Act;
- (b) in relation to a municipality, the municipal official referred to in section 60 of the Municipal Finance Management Act; or
- (c) in relation to a municipal entity, the official of the entity referred to in section 93 of the Municipal Finance Management Act;

**“bid”** means a digitally recorded written offer, which is capable of acceptance and conversion into a contract, in the form determined by the procuring institution through any prescribed procurement method;

**“categories of preference”** means the following categories, to be applied only as provided in section 8—

- (a) Employment intensity: a bidder that, relative to competing bidders for the same solicitation, employs more persons per unit of output or turnover;
- (b) Proven delivery: a bidder that demonstrates a verifiable past record of delivering contracts of comparable scope on time and within budget;
- (c) Financial soundness: a bidder that is objectively assessed to be solvent and liquid, and to have the financial capacity to perform the contract without undue risk; and

(d) Transitional black ownership and management: for a limited period contemplated in section 8(6), a bidder that self identifies as majority black in both ownership and top management;

- (i) For purposes of paragraph (d) of the definition of “categories of preference”, “black” has the meaning assigned in the Broad Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003). Self identification must be made by sworn declaration in the prescribed form and manner.

**“Constitution”** means the Constitution of the Republic of South Africa, 1996;

**“digital repository”** means a digitally constituted repository of procurement information supplied by accounting authorities and accounting officials and maintained by National Treasury that is open to access for the public in accordance with the Protection of Personal Information Act;

**“National Treasury”** means the department responsible for national financial management;

**“organ of state”** has the meaning assigned in section 239 of the Constitution and includes a public entity;

**“prescribed”** means prescribed by regulation under section 14;

**“provincial treasury”** has the meaning assigned in the Public Finance Management Act, 1999;

**“solicitation”** means an invitation to bid, request for proposals, request for quotations or other prescribed method;

**“value for money”** means the optimal combination of total life cycle costs and benefits to the State and end users, having regard to quality, fitness for purpose, delivery, risk, integrity and other prescribed criteria, determined by objective and transparent methods.

## **2. Objects of the Act**

The objects of this Act are to—

- (a) give effect to section 217(3) of the Constitution by prescribing a national framework for public procurement;
- (b) establish value for money as the determinative standard for the award of contracts in accordance with section 217(1);
- (c) prohibit the use of any points based systems to determine contract awards in any way that deviates from maximum value for money procurement;
- (d) protect and advance persons that are disadvantaged by unfair discrimination through the establishment of categories of preference that maximise value for money in public procurement;
- (e) provide for limited, transparent tie break preferences;
- (f) provide for e-invoicing, and limited timeframes for payments to stimulate business activity particularly amongst small and medium enterprises;
- (g) strengthen transparency, competition, integrity and accountability; and
- (h) ensure coherent roles for the National Treasury and Provincial Treasuries.

## **3. Application of this Act and conflict of laws**



- (1) This Act applies to all organs of state in the national, provincial and local spheres when contracting for goods or services.
- (2) This Act binds the State.
- (3) To the extent that this Act conflicts with any other national or provincial legislation in relation to award criteria or methods of evaluating and awarding public contracts, this Act prevails.
- (4) Nothing in this Act derogates from obligations under the Public Finance Management Act, 1999, the Municipal Finance Management Act, 2003, or the preferential procurement provisions of an international agreement binding on the Republic, except as prescribed to give effect to section 217 of the Constitution.

## **CHAPTER 2**

### **PROCUREMENT PRINCIPLES AND VALUE-FOR-MONEY**

#### **STANDARD**

##### **4. Procurement principles and value-for-money standard**

- (1) Procurement must be conducted in a manner that is fair, equitable, transparent, competitive and cost effective.
- (2) Value for money is the decisive criterion for the award of a contract and must be determined by objective methods that include—
  - (a) life cycle costing, including acquisition, operation, maintenance and disposal;
  - (b) quality and fitness for purpose;
  - (c) delivery schedule and reliability;

- (d) risk (including performance, financial and supply chain risks) and appropriate allocation thereof;
  - (e) capacity and capability of the bidder; and
  - (f) integrity and compliance, including tax compliance and the absence of fraud, corruption and collusion.
- (3) National Treasury must prescribe standard methodologies, tools and guidance for determining value for money, consistent with international best practice.
- (4) An accounting authority, or accounting officer, must digitally record, in writing, the determination of value for money and the reasons for award.
- (5) The accounting authority, or accounting officer, must upload the written determination and reasons referred to in subsection (4) within ten working days of award to the digital repository maintained by the National Treasury.

### **CHAPTER 3**

#### **PROCUREMENT METHODS AND PROCEDURES**

##### **5. Procurement planning and methods**

- (1) Open competitive tendering is the default method of procurement.
- (2) Other prescribed methods may be used only where justified and recorded, including—
- (a) restricted or two stage bidding;
  - (b) request for quotations below prescribed thresholds;
  - (c) competitive negotiations; and

- (d) emergency procurement, subject to strict conditions and reporting.
- (3) Thresholds and procedural requirements for each method must be prescribed by National Treasury after public consultation.
- (4) Specifications must be based on functional and performance requirements and may not be designed to unfairly limit competition.

#### **6. Solicitation, evaluation, and award**

- (1) Solicitations must state the evaluation methodology, including how value for money will be determined.
- (2) Bids must be opened, evaluated and awarded in accordance with prescribed procedures ensuring transparency and integrity.
- (3) The accounting authority, or accounting officer, must—
  - (a) establish evaluation panels with appropriate expertise;
  - (b) apply the prescribed value for money methodology;
  - (c) reject non responsive or non compliant bids; and
  - (d) award the contract to the bidder that maximises value for money.
- (4) The reasons for award must be published together with the notice of award.

### **CHAPTER 4**

#### **PROHIBITED PRACTICES AND PREFERENCES**

##### **7. Prohibition of points based award systems**

- (1) An organ of state may not use any points system or similar mechanism that assigns predetermined numerical weights to

preferences that are in tension with value for money procurement for the purpose of determining the winning bidder.

- (2) Any regulation, instruction, policy, guideline or practice authorising or requiring such a points based award system ceases to have effect on the commencement of this Act.
- (3) Nothing in this section prevents the measurement or disclosure of socio economic outcomes for monitoring purposes.

#### **8. Tie-break preferences and categories of preference**

- (1) If two or more bids are objectively determined to offer equal maximum value for money, the accounting authority, or accounting officer, may apply one or more categories of preference listed in subsection (3) solely to break the tie.
- (2) A tie exists only where the documented value for money determination results in equal scores or outcomes after applying all prescribed methodologies and permissible adjustments.
- (3) The categories of preference are—
  - (a) Employment intensity;
  - (b) Proven delivery;
  - (c) Financial soundness; and
  - (d) Transitional black ownership and management, as contemplated in subsection (6).
- (4) National Treasury must prescribe objective indicators and measurement methods for subsections (3)(a) to (c), and the order of application between subsections (3)(a) to (d) where more than one category applies.

- (5) Where more than one tied bidder qualifies under the applicable categories, the accounting authority or accounting officer must apply the prescribed order and, if still tied, determine the award by a transparent random draw in the presence of at least two impartial witnesses, with a record kept.
- (6) Subsection (3)(d) may be applied only for a period of three years from the commencement of this Act. After that period, race may not be used as a category of preference for tie break purposes.
- (7) A bidder relying on subsection (3)(d) must submit a sworn declaration in the prescribed form. A false declaration constitutes an offence under section 13.
- (8) The use of any tie break preference must be recorded with reasons in the award record and included in the monthly report under section 9.

## **CHAPTER 5**

### **TRANSPARENCY, REPORTING, AND DATA**

#### **9. Monthly reporting to National Treasury**

- (1) Each organ of state must, by the 15th day of each month, submit to National Treasury a report, in the prescribed electronic form, for the preceding month indicating—
  - (a) the number of awards made;
  - (b) the total value of awards made;
  - (c) the number of ties encountered;

- (d) the number of ties broken using each category of preference in section 8(3), disaggregated by procurement method and sector; and
  - (e) any instances where a random draw under section 8(5) was required.
- (2) National Treasury must include these reports in its digital repository.

#### **10. Transparency, publication and data**

- (1) The digital repository must include, in the prescribed manner—
- (a) all solicitations and amendments thereto;
  - (b) notices of award with reasons and the value for money determination; and
  - (c) each contract, redacted only as required by law.
- (2) Procurement data must be recorded in open, digital formats to enable public oversight and value for money analytics.
- (3) Supplier debarment and conflict of interest registers must be maintained and published as part of the National Treasury's digital repository in the prescribed manner.

### **CHAPTER 6**

#### **INSTITUTIONAL ROLES AND RESPONSIBILITIES**

##### **11. Role of National Treasury and Provincial Treasuries**

- (1) National Treasury must—
- (a) issue norms, standards, instructions and templates necessary to implement this Act;

- (b) prescribe methodologies for determining value for money in terms of section 4 of this Act;
  - (c) monitor compliance and publish performance information;
  - (d) establish and maintain the digital repository of information pertinent to public procurement within thirty days of the implementation of this Act; and
  - (e) support capacity building across all spheres.
- (2) A provincial treasury must monitor and support implementation within the province and may issue instructions consistent with those of National Treasury.
- (3) An instruction issued under this section may not amend or override a provision of this Act.

## **CHAPTER 7**

### **DISPUTE RESOLUTION AND PENALTIES**

#### **12. Review, complaints and remedies**

- (1) A bidder or interested party adversely affected by a procurement decision may lodge a complaint in the prescribed manner for internal review by the accounting authority, or accounting officer.
- (2) Internal review must be decided within prescribed time periods, with reasons.
- (3) This section does not preclude any remedy under the Promotion of Administrative Justice Act, 2000.

#### **13. Offences and penalties**

- (1) A person commits an offence if that person—

- (a) knowingly makes a false sworn declaration under section 1(2) or 8(7);
  - (b) engages in bid rigging, collusion or corrupt activity in connection with a procurement process; or
  - (c) knowingly manipulates evaluation records to create or conceal a tie.
- (2) A person convicted of an offence is liable to a fine or to imprisonment for a period not exceeding five years.
- (3) In addition to any penalty, the court may order debarment for a period not exceeding five years.

## **CHAPTER 8**

### **E-INVOICING AND PAYMENT TERMS**

#### **14. Short title and commencement**

- (1) An e-invoicing system must be introduced, as prescribed by the Minister, within six months of the Act's commencement.
- (2) Organs of state may begin using the e-invoicing system from the point of its introduction for some, or all, contracts.
- (3) Organs of state must use the e-invoicing system for all contracts within thirty months of its introduction.
- (4) Unless determined otherwise in a contract or other agreement, all payments due to creditors must be settled within five days from receipt of an e-invoice.
- (5) All other valid invoices, and in the case of civil claims, payments due to creditors emanating from settlement or court judgment, must be paid within thirty days of receipt.



## **CHAPTER 9**

### **REGULATIONS AND EVALUATION**

#### **15. Regulations**

- (1) The Minister of Finance may, after public consultation, make regulations regarding—
  - (a) value for money methodologies, tools and sector specific guidance;
  - (b) procurement methods, thresholds and procedures;
  - (c) indicators and measurement methods for the categories in section 8(3)(a) to (c) and their order of application;
  - (d) reporting formats and data standards; and
  - (e) any matter necessary to give effect to this Act.
- (2) Regulations must be tabled in the National Assembly and the National Council of Provinces within fourteen sitting days after publication.
- (3) The Minister of Finance must, immediately after thirty months of the initial implementation of this Act, empanel a committee of experts to evaluate the extent to which maximising value for money for the first time in the history of South African public procurement has –
  - (a) occurred through the implementation of this Act; and
  - (b) protected and advanced disadvantaged persons through public service delivery improvements and positive economic second-order effects.

## **CHAPTER 10**

### **TRANSITIONAL AND GENERAL PROVISIONS**

#### **16. Transitional provisions**

- (1) Anything lawfully done under the Public Procurement Policy Framework Act, 2000, or under the Public Procurement Act, 2024, and in force immediately before the commencement of this Act, remains valid as if done under this Act, to the extent not inconsistent with this Act.
- (2) Existing solicitations issued before the commencement of this Act may proceed under the rules applicable at the time of issue, but any award made on or after a date six months after commencement must comply with this Act.
- (3) Any points-based preferences must not be applied to awards made on or after the commencement of this Act.

## **17. Repeal of laws**

The laws mentioned in the Schedule attached to this Act are hereby repealed to the extent indicated.

## **18. Short title and commencement**

This Act is called the Value for Money Act, 2025, and comes into operation on a date fixed by the President by proclamation in the Gazette, which may be different dates for different provisions.

**SCHEDULE: LAWS REPEALED OR AMENDED TO THE  
EXTENT THAT THEY ARE IN CONTRAVENTION OF THIS  
ACT** as per Section 17:

<b>No. and year of law</b>	<b>Short title</b>	<b>Extent of repeal</b>
Act No. 5 of 2000	Public Procurement Policy Framework Act, 2000	The whole
Act No. [—] of [year]	Public Procurement Act, [year] (assented to but not commenced)	The whole