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SOUTH AFRICA'S PUBLIC PROCUREMENT FRAMEWORK ENTERS A NEW ERA

What You Need to Know About South Africa's Draft Public Procurement Regulations, 2026

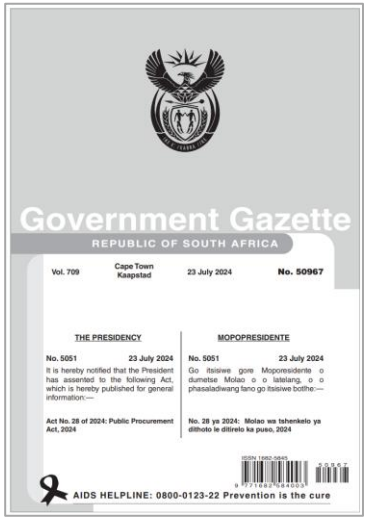
South Africa's public procurement landscape is undergoing one of its most significant reforms in decades. The Draft General Public Procurement Regulations, 2026 and Draft Public Procurement Tribunal Regulations, 2026 seek to operationalise the Public Procurement Act, 2024 ("PPA") and reshape how organs of state procure goods and services, implement transformation objectives and resolve procurement disputes.

The draft regulations, published by National Treasury on 16 April 2026 for public comment, introduce a more centralised, rules-based and transformation-driven procurement framework. They also significantly expand transparency, compliance, supplier vetting and reporting obligations for both procuring institutions and suppliers.

The public comment period for the Draft Public Procurement Tribunal Regulations closed on 15 May 2026, while comments on the Draft General Public Procurement Regulations, 2026 remain open until **15 June 2026**.

What Has Changed?

Previous Regime	New Regime
PPPFA framework	Public Procurement Act, 2024
80/20 and 90/10 preference points	Transformation increasingly embedded as a participation requirement
Decentralised procurement rules	More centralised and standardised procurement framework
Limited oversight and disclosure	Expanded transparency and reporting obligations
Preference-point system	Set-asides, prequalification and subcontracting mechanisms
Court-driven procurement disputes	Public Procurement Tribunal
Limited supplier vetting	Expanded mandatory security vetting and beneficial ownership verification


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THE PRESIDENCY
No. 5051 23 July 2024
It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—
Act No. 28 of 2024: Public Procurement Act, 2024
MOPOPRESIDENTE
No. 5051 23 July 2024
No. 28 ya 2024: Molao wa tshenkelo ya dithoto le ditirelo ka puso, 2024
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The draft regulations do not merely change procurement rules — they fundamentally reshape how businesses compete for public sector opportunities in South Africa.

Background & Legislative Context

Constitutional Foundation

Section 217 of the Constitution sets the framework for public procurement and requires procurement to be fair, equitable, transparent, competitive and cost-effective. At the same time, the Constitution permits preferential procurement measures aimed at advancing persons or categories of persons disadvantaged by unfair discrimination.

For many years, this framework was implemented through the Preferential Procurement Policy Framework Act, 2000 ("PPPFA"), which introduced the well-known 80/20 and 90/10 preference point system. Under the PPPFA framework, preference points were allocated during bid evaluation based on price and transformation-related criteria.

The Public Procurement Act, 2024

The enactment of the Public Procurement Act, 2024 ("PPA") represents a fundamental restructuring of South Africa's procurement framework. The PPA:

- repeals the PPPFA;
- creates a single procurement framework for all organs of state;
- standardises procurement rules and governance structures;
- strengthens transparency and oversight mechanisms;
- introduces stronger enforcement and debarment provisions; and
- places significantly greater emphasis on transformation, localisation, industrialisation, job creation and economic inclusion.

One of the most significant changes introduced by the PPA is the shift from preferential procurement as a scoring mechanism to a participation requirement in certain bids, fundamentally reshaping bidder eligibility and supplier participation across the public sector. The Act also establishes:

Public Procurement Office ("PPO") within National Treasury to support implementation of the PPA, strengthen procurement oversight, maintain supplier and debarment databases, and monitor compliance.

Public Procurement Tribunal ("PPT") as a specialised mechanism for resolving procurement disputes and reviewing procurement-related decisions, including debarment matters.

Ministerial regulations further authorises the Minister of Finance to issue regulations necessary to give effect to the PPA.

Strategic Procurement Categorisation

The draft regulations require procuring institutions to adopt a more strategic and differentiated procurement approach based on:

`value` `criticality` `supply market complexity` `supplier availability`

Institutions must publish their strategic procurement plans and summary procurement analyses on their websites, including emergency preparedness measures.

The regulations categorise procurement into distinct procurement types, each requiring a different sourcing and supplier management approach depending on the nature and strategic importance of the procurement activity:

Category	Characteristics	Procurement Approach
Strategic	High value, critical to service delivery, limited suppliers, complex specifications	Long-term collaborative partnerships
Leverage	High value with multiple suppliers	Economies of scale and competitive pricing
Bottleneck	Low value but limited suppliers	Supply continuity and risk reduction
Routine	Low value, standardised goods/services, many suppliers	Automation and process efficiency

This reflects a move toward more sophisticated supply chain management and strategic sourcing practices within the public sector.



Procurement Methods

The draft regulations provide for multiple procurement methodologies depending on complexity, value and market conditions. Procurement may occur through:

- competitive procurement processes; or
- direct procurement in limited prescribed circumstances.

1 Direct Procurement

Direct procurement may be used where:

- a supplier holds exclusive intellectual property or licensing rights;
- only one supplier exists in the market;
- national security considerations apply;
- the required goods or services are provided by an international organisation under an international or bilateral government agreement; or
- emergency procurement is required.

While these provisions recognise practical procurement realities, certain exemptions — particularly those relating to international agreements — may raise concerns regarding competitive neutrality and the interaction with preferential procurement objectives.

Importantly, institutions using direct procurement must:

- provide written reasons for the deviation; and
- publish those reasons on their websites within seven days of contract award.

Procurement Methods

2 Competitive Procurement

The regulations introduce a broader and more flexible range of procurement methods, allowing institutions to adopt procurement approaches that are better aligned to the complexity, scale and strategic nature of the goods or services being procured:

Procurement Method	Best Used For	Key Feature
Request for Quotation (RFQ)	Lower-value, low-risk procurement	Price-driven quotations
Request for Bid (RFB)	Standardised higher-value procurement	Weighted evaluation criteria
Request for Proposal (RFP)	Complex or specialised procurement	Technical and functional assessment
Two-Stage Bidding	Large infrastructure or specialised projects	Technical proposals assessed before final bids
Competitive Dialogue	Undefined complex projects	Iterative engagement
Competitive Negotiation	Innovative or urgent procurement	Negotiated optimisation
Framework Agreements	Recurring procurement	Ongoing call-off arrangements
Transversal Contracts	Cross-government procurement	Economies of scale
Unsolicited Bids	Innovative supplier solutions	Market-testing required

Procurement Methods

3 Three-Tier Procurement Framework

The draft regulations replace the traditional preference-points system with a three-tier preferential procurement framework that embeds transformation requirements more directly into public procurement. Where applicable mandatory empowerment requirements are not met, a bidder may be disqualified.

Set-Asides 01

R30k – R20m

Contracts may be reserved for:

- Black people
- Women
- Youth
- Military veterans
- Persons with disabilities
- Enterprises in designated geographical areas

Generally requires 100% ownership by the qualifying category.

Prequalification 02

R20m – R100m

Bidders may need to:

- Demonstrate that at least **40%** of prior procurement spend was with enterprises that are at least **51%** owned and managed by black persons, with proof as required;

OR

- Subcontract at least **30%** to qualifying enterprises.

Subcontracting 03

R100m+

Institutions may require subcontracting as a condition of bid.

Minimum 25% subcontracting to qualifying enterprises, subject to feasibility.

This represents a significant departure from the previous preference-points regime and effectively embeds transformation requirements into bidder eligibility itself.

Enhanced Transparency Requirements

The draft regulations place significant emphasis on transparency, disclosure and public accountability. Procuring institutions must notify all unsuccessful bidders within 10 days of the award, after the successful bidder has been notified. The notice to unsuccessful bidders must include the reasons why the bidder was not successful. For awards exceeding R50 million, the procuring institution must hold a briefing session to which the public, civil society and the media are invited.

These requirements are intended to strengthen transparency, improve public oversight and reduce the risk of opaque procurement practices.

Supplier Databases, Security Vetting and Debarment

Supplier Registration

All prospective suppliers must:

- register on the PPO supplier database; and
- maintain updated supplier information.

Procuring institutions are required to verify supplier status against:

- the PPO database;
- exclusion registers; and
- debarment records.

Security Vetting

The regulations introduce extensive supplier vetting requirements, including:

- criminal background checks;
- verification of ownership and beneficial ownership;
- financial due diligence; and
- legal and regulatory compliance checks.

Additional vetting measures may apply to:

- national security procurement;
- strategic infrastructure; and
- designated sensitive procurement categories.

Debarment

The draft regulations strengthen debarment provisions significantly.

Five-Year Debarment May Apply For:

- submitting false information;
- material contractual non-performance;
- contraventions of the PPA; or
- false supplier registration information.

Ten-Year Debarment May Apply For:

- corruption;
- fraud;
- collusion;
- price fixing;
- procurement-related criminal conduct; or
- interference with competitive bidding processes.

Localisation, Industrialisation and Economic Development

The draft regulations reinforce the state's developmental procurement objectives.

Procuring institutions must align procurement with:
- localisation policies;
- industrialisation objectives;
- job creation targets;
- beneficiation initiatives;
- labour absorption goals; and
- small enterprise development objectives.

Bid specifications may therefore include requirements relating to:
- local production and content;
- local employment creation;
- regional economic participation; and
- subcontracting to local SMMEs.

The regulations also permit institutions to incorporate sustainability and environmental considerations into procurement frameworks.

Bid Evaluation Framework

Bid evaluations must consider:
- cost effectiveness;
- functionality and technical capability;
- capacity to deliver;
- preferential procurement requirements; and
- price.

The regulations require bid documents to clearly disclose weighting methodologies.

Importantly, the framework cautions against evaluation criteria that unfairly exclude:
- **emerging suppliers;**
- **smaller enterprises; or**
- **new market entrants.**

Complaints and Oversight

The regulations establish a more formalised procurement complaints process.

Any member of the public may lodge a procurement complaint with:
- the PPO; or
- the relevant provincial treasury.

Complaints must generally be lodged within 30 days of becoming aware of the issue.

The PPO must:
- maintain complaint registers;
- conduct preliminary assessments;
- determine whether investigations are warranted; and
- publish summary reports regarding complaints and remedial action.

This framework significantly expands procurement oversight and public accountability mechanisms.

Draft Public Procurement Tribunal Regulations, 2026

The Draft Public Procurement Tribunal Regulations establish the operational framework for the Public Procurement Tribunal ("PPT"), which will serve as a specialised dispute resolution body for procurement-related matters.

Key features include:

- A debarred person or bidder who applies for review of procurement decisions must pay a fee of R500.
- All persons nominated as candidates for the PPT must undergo mandatory security vetting prior to appointment. The vetting process includes verification of criminal history, financial standing, prior involvement in financial mismanagement, potential conflicts of interest, affiliations and activities that may compromise the person's ability to perform their functions. The vetting process also verifies citizenship or permanent residency status, as well as employment and educational credentials. The Minister may require a tribunal member to undergo security vetting during their term of office.
- An independent panel is responsible for shortlisting and interviewing candidates for appointment to the PPT. The panel comprises:
  - a retired judge as chairperson;
  - the Director-General of National Treasury;
  - the Director-General of Justice and Constitutional Development; and
  - the Public Procurement Officer.
- The panel receives shortlisted candidates and security vetting outcomes from National Treasury and must recommend suitable candidates for appointment by the Minister.
- Tribunal members must adhere to the prescribed code of conduct.
- All members must sign a declaration confirming that they understand their duties and are bound by the code of conduct.
- Non-compliance with the code of conduct may result in removal from the tribunal.

Conclusion

The Draft General Public Procurement Regulations, 2026 and Draft Public Procurement Tribunal Regulations, 2026 represent one of the most significant shifts in South Africa's public procurement framework in decades. The regulations move beyond procedural reform. They fundamentally reshape how businesses access, compete for and retain public sector opportunities by embedding transformation, localisation, transparency and governance requirements more deeply into the procurement process.

For many businesses, procurement readiness will no longer be determined solely by price and technical capability. Ownership structures, procurement practices, subcontracting arrangements, governance controls and compliance systems may increasingly determine whether a business is able to participate in public sector opportunities at all.

Businesses engaging with the public sector should therefore begin reviewing their procurement strategies, supplier structures, compliance frameworks and transformation readiness ahead of the finalisation and implementation of the regulations.



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27 FOUR

Our Name

Our name reflects the momentous day when South Africa's democracy was born: **27 April 1994**. Pregnant with potential and possibility, it serves as a constant reminder to contribute toward a future that is inclusive, equitable, and sustainable.

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