

## COMPLIANCE CHECKLIST

### PREFERENTIAL PROCUREMENT REGULATIONS 2011

**Period: 01 April 2012 – 30 June 2012**

NR	SECTION	ACTION	YES	NO	N/A	COMMENTS
<b>PPFA – Planning and stipulation of preference point system to be utilized.</b>						
1.	<b>3(a)</b>	Does the HSRC properly plan for, and, as far as possible accurately estimate the costs of the provision of services, works or goods for which an invitation for tenders is to be made?	✓			
2.	<b>3(b)</b>	Does the HSRC determine and stipulate the appropriate preference point system to be utilized in the evaluation and adjudication of the tenders?	✓			
3.	<b>3(c)</b>	Does the HSRC determine whether the service, works or goods for which an invitation for the tenders to be made has been designated for local production and content in terms of regulation nine (9)?	✓			
4.	<b>4.1</b>	In the invitation to submit a tender does the HSRC indicate if that will be evaluated on functionality?	✓			
5.	<b>4.2</b>	Does the HSRC have an objective criterion to evaluate functionality?	✓			
6.	<b>4.3</b>	When evaluating tenders on functionality, does the HSRC clearly specify the following in the invitation to submit tenders?  (a) Evaluation criteria for measuring functionality (b) Weight of each criterion (c) Applicable values; and (d) Minimum qualifying score for functionality	✓			
7.	<b>4.4</b>	Does the HSRC ensure that no tender is regarded as an acceptable tender if it fails to achieve the minimum qualifying score for functionality as indicated in the tender invitation?	✓			
8.	<b>4.5</b>	Does the HSRC ensure that tenders that have achieved the minimum qualification score for functionality are evaluated further in terms of preference point system prescribed in regulation 5 and 6?	✓			
<b>PPFA – The 80/20 preference point system for acquisition of service, works or goods up to a Rand value of R1 million.</b>						
9.	<b>5.1 (a)</b>	Does the HSRC use the 80/20 preference point system to calculate the point for price in respect of tenders ( including price quotations) with a Rand value equal to or above R30 000 and up to a R100 000 (all applicable taxes included)?	✓			
10.	<b>5.1 (b)</b>	Does the HSRC apply formula in paragraph (a) for price quotations with a value less than R30 000, if applicable?	✓			
11.	<b>5.2</b>	Does the HSRC award points to a tender for attaining the B-BBEE status level of contributor in accordance to the prescribed table?	✓			
12.	<b>5.3</b>	Does the HSRC allocate a maximum of 20 points in accordance with regulation (2)?	✓			

13.	5.4	Does the HSRC add the scored points by the tenderer in respect of B-BBEE Contribution to the points scored for price as calculated in accordance with the sub-regulation (1)?	✓			
14.	5.5	Does the HSRC award contracts to the tenderer who scores the highest total number of points?	✓			
<b>PPPFA - The 90/10 preference point system for acquisition for services, works or goods with a Rand Value above R1 million</b>						
15.	6.1	Does the HSRC use the prescribed formula calculate points for price in respect of tenders with a Rand value above R1000 000 (all applicable taxes included)?	✓			
16.	6.2	Does the HSRC award points to a tenderer for attaining the B-BBEE status level of contributor in accordance to the prescribed table?	✓			
17.	6.3	Does the HSRC allocate a maximum of 10 points in accordance with regulation (2)?	✓			
18.	6.4	Does the HSRC add the scored points by the tenderer in respect of B-BBEE Contribution to the points scored for price as calculated in accordance with the sub-regulation (1)?	✓			
19.	6.5	Does the HSRC award contracts to the tenderer who scores the highest total number of points?	✓			
<b>PPPFA- Award of Contracts to tenderers not scoring the highest number of points</b>						
20.	7.1	Does the HSRC award a contract to a tenderer that did not score the highest total number of points, only in accordance with section 2.1 (f) of the act?	✓			
<b>PPPFA- Cancellation and re-invitation of tenders</b>						
8	8.1 (a)	Does the HSRC cancel the tender invitation in the event that the application of the 80/20 preference point system as stipulated in the tender documents, when all tenders received exceed the estimated rand value of R1 000 000?	✓			
21.	(b)	Does the HSRC evaluate all tenders received that are within the prescribed threshold of R1 000 000 on the 80/20 preference system?	✓			
22.	8.2 (a)	Does the HSRC cancel the tender invitation in the event that the application of the 90/10 preference point system as stipulated in the tender documents, when all tenders received are equal to, or below the estimated rand value of R1 000 000?	✓			
23.	(b)	Does the HSRC evaluate all tenders received that are within the prescribed threshold of R1 000 000 on the 90/10 preference system?	✓			
24.	8.3	In the event that HSRC cancelled a tender invitation as contemplated in the sub-regulation 1(a) and 2(a): Does the HSRC re-invite tenders and stipulate in the tender documents the correct preference point system?	✓			
25.	8.4	Prior to awarding of a tender does the HSRC cancel a tender due to the following? <ul style="list-style-type: none"> <li>Changed circumstances, there is no longer a need for the</li> </ul>	✓			

		services, works, or goods requested; <ul style="list-style-type: none"> <li>Funds are no longer available to cover the total envisaged expenditure; or</li> <li>No acceptable tenders are received.</li> </ul>				
26.	8.5	Does the HSRC publish the decision to cancel a tender invitation in the <i>Government</i> tender bulletin or in the media in which the tender invitation was advertised?	✓			
<b>PPFA – Local Production and Content</b>						
27.	9.3	Does the HSRC include a specific tendering condition that only locally produced services, works, or goods or locally manufactured goods with a stipulated minimum threshold for local production and content, will be considered, on condition that such prescript and threshold(s) are in accordance with the specific directives issued for this purpose by the National Treasury in consultation with the Department of Trade and Industry?			✓	
28.	9.4	Does the HSRC ensure that in terms of regulation 9 every tender is measurable and audited?	✓			
29.	9.5	Does the HSRC ensure that tenders referred to in sub-regulations (9.3) a two-stage tendering process is followed, where the first stage involves functionality and minimum threshold for local production and content and the second stage price and B-BBEE with possibility of price negotiations only with the short listed tenderer/s?	✓			
<b>PPFA – Broad Based Economic Empowerment Status Level Certificates</b>						
30.	10.1	Does the HSRC ensure that; tenderers with annual total revenue of R5 million or less submit a certificate of exemption issued by a registered auditor, accounting officer, or an accredited verification agency?	✓			
31.	10.2	Does the HSRC ensure that tenderers other than EME's submit their original and valid B-BBEE status level verification certificate or certified copy thereof, substantiating their B-BBEE rating?	✓			
32.	10.3	Does the HSRC ensure that the submitted certificates comply with the requirements of instructions and guidelines issued by the National Treasury and are in accordance with the notices published by the Department of Trade and Industry in the <i>Government Gazette</i> ?	✓			
33.	10.4	Does the HSRC ensure that the B-BBEE status level attained by the tenderer is used to determine the number of points contemplated in regulations 5.2 and 6.2?	✓			
<b>PPFA – Conditions</b>						
34.	11.1	Does the HSRC Ensure that; only a tenderer who has completed and signed the declaration part of the tender documentation are considered?	✓			
35.	11.2	When calculating comparative prices does the HSRC ensure that; discounts that have been offered unconditionally are taken into account?	✓			
36.	11.3	Does the HSRC ensure that; a discount that has been made conditionally is, despite not being taken into account for evaluation processes, implemented when payment is affected?	✓			

37.	<b>11.4</b>	Ensure that points scored are rounded off accordingly?	✓			
38.	<b>11.5(a)</b>	Where two or more tenders scored equal total points, does the HSRC ensure; that the successful tender is awarded to the one scoring the highest preference points for B-BBEE?	✓			
39.	<b>11.5(b)</b>	When functionality is part of the evaluation process and two or more tenders scored equal points including equal preference points for B-BBEE; does the HSRC ensure that; the successful tender is awarded to the one scoring highest number of points for functionality?	✓			
40.	<b>11.5(c)</b>	Where two or more tenders are equal in all respects, does the HSRC ensure that; the awarding is decided by the drawing of lots?	✓			
41.	<b>11.6</b>	Does the HSRC ensure that; trusts, consortium or joint ventures qualify for their B-BBEE status level as a legal entity, only if they have submitted the B-BBEE status level certificates?	✓			
42.	<b>11.7</b>	Does the HSRC ensure that; trusts, consortium or joint ventures qualify for their B-BBEE status level as unincorporated entity, only if they have submitted their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate tender?	✓			
43.	<b>11.8</b>	Does the HSRC ensure that; a person is not awarded points for B-BBEE status level if it is indicated in the tender documents that such a tenderer intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a tender qualifies for, unless the intended subcontractor is an exempted micro enterprise that has the capability and ability to execute such contract?	✓			
44.	<b>11.9</b>	Does the HSRC ensure that; contract is not awarded to a person who intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is subcontracted to an exempted micro enterprise that has the capability and ability to execute such contract?	✓			
45.	<b>11.10</b>	Does the HSRC ensure that is does not award a contract in relation to a designated sector; to a person who intends on sub-contracting in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold?	✓			
46.	<b>11.11</b>	If services are provided only by tertiary institutions, does the HSRC ensure that; such services are procured through tendering process from the identified tertiary institution?	✓			
47.	<b>11.12</b>	Does the HSRC ensure that; tertiary institutions referred in sub-regulation (11) submit their B-BBEE status in terms of specialized scorecard contained in the B-BBEE Codes of Good Practice?	✓			
48.	<b>11.13(a)</b>	Does the HSRC ensure that; the appointment of contractor is done by means of tendering process, where the service can be provided by one or more tertiary institutions, or public entities and enterprises from the private sector?	✓			

49.	<b>11.13(b)</b>	Does the HSRC ensure that; public entities submit their B-BBEE status in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice?	✓			
<b>PPPFA- Declarations</b>						
50.	<b>12.1</b>	in the manner stipulated in the tender document, does the HSRC ensure that a tender declares that:				
51.	<b>(a)</b>	The information provided true and correct?	✓			
52.	<b>(b)</b>	The signatory to the tender document dully authorised?	✓			
53.	<b>(c)</b>	Documentary proof regarding tendering issue will, when required be submitted to the satisfaction of HSRC?	✓			
<b>PPPFA- Remedies</b>						
54.	<b>13.1</b>	Does the HSRC act against the tender or person awarded the contract upon detecting that:				
55.	<b>(a)</b>	The B-BBEE status level has been claimed or obtained on a fraudulent basis?	✓			
56.	<b>(b)</b>	Any condition of the contract has not been fulfilled?	✓			
57.	<b>13.2</b>	Does the HSRC apply the following remedies against the person contemplated in sub-regulation 1 by:				
58.	<b>(a)</b>	Disqualify the person from tendering?	✓			
59.	<b>(b)</b>	Recover all costs, losses or damages it has incurred or suffered as a result of that person's conduct?	✓			
60.	<b>(c)</b>	Cancel the contract and claim damages that it has suffered as a result of having to make less favourable arrangements due to such cancellation?	✓			
61.	<b>(d)</b>	Restrict the tender or contractor, its shareholders and directors , or only the shareholders and directors who acted on fraudulent basis, from obtaining business from any organ of the state for a period not exceeding 10 years, after the <i>audi alteram partem</i> (hear the other side) rule has been applied?	✓			
62.	<b>(e)</b>	Forward the matter for criminal prosecution?	✓			
<b>PPPFA – Tax Clearance</b>						
63.	<b>14.1</b>	Does the HSRC ensure that tenders are not awarded to any person whose tax matters are not declared by the South African Revenue Services to be in order?	✓			