

LESOTHO HIGHLANDS WATER PROJECT PHASE II

PROCUREMENT RULES FOR CONSTRUCTION CONTRACTS

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CONTENTS

- Legal Framework
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LEGAL FRAMEWORK

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LEGAL DOCUMENTS

- LHDA Order No 23 of 1986 as amended
- LHWP Treaty of 1986 and Protocols
- Phase II Agreement of 2011
- Applicable Lesotho laws

AGREEMENT
ON PHASE II OF THE LESOTHO HIGHLANDS
WATER PROJECT

BETWEEN

THE GOVERNMENT OF THE
KINGDOM OF LESOTHO

AND

THE GOVERNMENT OF
THE REPUBLIC OF SOUTH AFRICA

THE LHWP TREATY

The Treaty commits the two Governments to the implementation of Phase 1 and subjects other phases to negotiations

Provisions of the 1986 Treaty and its Protocols remain valid unless otherwise amended by the Phase II Agreement

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PHASE II AGREEMENT

Procurement – Article 10:

Competitiveness, transparency, cost effectiveness and quality

Order of Preference order: Lesotho, South Africa, SADC

Lesotho and RSA: Infrastructure work on 50:50

Lenders: Own procurement rules may apply

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FUNDING

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COST ALLOCATION

Government of Lesotho – Responsible for all costs related to the hydropower component – GoL Secured Grant from the World Bank for Further Feasibility Studies

RSA Government – Responsible for all costs related to the water transfer component

RSA Government – Has mandated TCTA to source funding on its behalf.

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TCTA MANDATE

Vaal River System

- LHWP – Lesotho Highlands Water Project
 - AMD – Acid Mine Drainage
1. Capex for the new schemes (LHWP II & AMD-LTS)
 2. Repayment of the existing LHWP debt

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FUNDING STRATEGY

Three sources of funding

1. Vaal River System Users Tariff
2. Fiscal transfers from Mining Levy
3. New debt



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FUNDING MIX

Three sources of debt funding

1. Main funding source – RSA Debt Capital Market
2. Secondary funding source – Bank and DFIs
3. Liquidity support – Commercial paper and revolving credit facilities

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PROCUREMENT OBJECTIVES AND PRINCIPLES

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PROCUREMENT OBJECTIVES

To maximize procurement opportunities

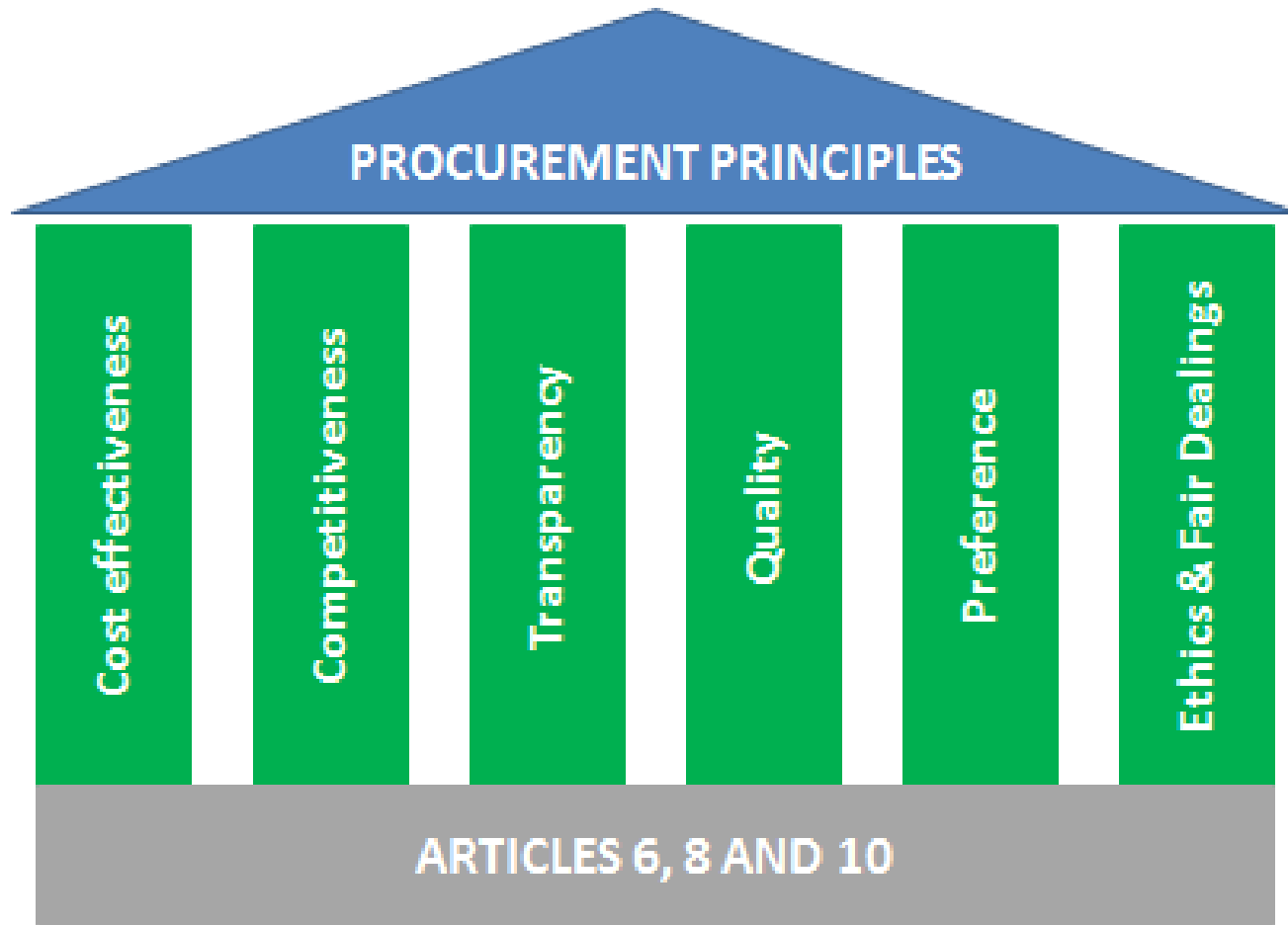
To minimize the utilization of imported goods, skills and labour

To maximize skills & technology transfer

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PROCUREMENT PRINCIPLES



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CONTRACTOR PROCUREMENT FRAMEWORK

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ROLES AND RESPONSIBILITIES

- Employer (LHDA): Sets policies and strategy
- Consultants: Design and construction monitoring
- Contractor: Construction to design specification and quality
- **Consultant will propose specifics for each contract**

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CONTRACT PACKAGING

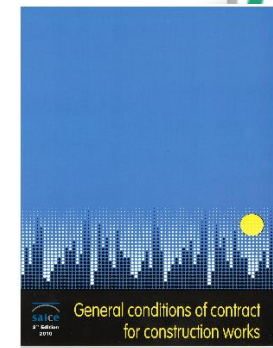
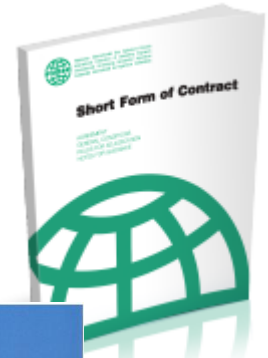
- Strategy is to maximize participation of Lesotho and RSA contractors (especially Black-owned entities) – **So one consultant may manage one or more construction contracts**
- The LHDA Procurement Policy **limits the number and cumulative value** of contracts that can be awarded to a single organization

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FORM OF CONTRACT

- Major Contracts – FIDIC (Harmonized Version – Pink Book)
- Medium - GCC or FIDC Short Form (Green Book)
- Architectural & Building - JBCC



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ELIGIBILITY

ADVANCE INFRASTRUCTURE

- All roads
- Power and telecommunications
- Housing infrastructure
- Diversion tunnels

Restricted to contractors registered in Lesotho and RSA only

MAIN WORKS AND OTHER

- Polihali Dam
- Polihali Transfer Tunnel
- Major bridges

No restrictions but preference requirements will apply

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EVALUATION GUIDELINES

STEP 1 – ADMINISTRATIVE COMPLIANCE CHECK

- BASIS – PASS / FAIL

STEP 2 – QUALITY EVALUATION

- Basis – Pass / Fail to attain required threshold points

STEP 3 - PRICE AND PREFERENCE EVALUATION

- BASIS – POINTS

Tenders which fail steps 1 or 2 will be rejected regardless of price

PREFERENCE SCORING

OWNERSHIP/JV PARTICIPATION

Lesotho and RSA registered companies (Including Black-owned)

EMPLOYMENT

Basotho and RSA Black people – As % of total man hours/days/months

PROCUREMENT

Goods and services from Lesotho and RSA Black-owned companies – As % of tendered sum

ENTERPRISE DEVELOPMENT

Training of Lesotho & RSA Black-owned companies – As % of tendered sum

SKILLS DEVELOPMENT –

Training of Basotho and RSA Black people – As % of tendered sum

IMPLEMENTATION GUIDELINES

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STEP 1 – ADMINISTRATIVE COMPLIANCE

The following will be considered during the Compliance Check

Registration – Company Registration Certificate(s)

Tax Registration – Valid Tax Clearance Certificate(s) – Tax Compliance

LHDA Rating – Based on CIDB Rating and/or Rating as per Lesotho Ministry of Public Works / Roads Directorate (see next Slide).

Declarations

- LHWP Anti-Corruption Policy
- Recent or current litigation
- Autonomy of Government Owned Entity
- Sanction or debarring of entity or country of origin by funding, government or UN agencies

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LHDA RATING/CATEGORISATION

FINANCIAL CAPACITY

Best annual turnover from previous 5 years and available capital

PROFESSIONAL STAFF

Minimum number of professionals staff in the relevant technical discipline

SIMILAR CONTRACTS

Largest completed contract in the last 5 years in similar works

The LHDA rating is aligned with CIDB and the Ministry of Public Works in Lesotho

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LHDA RATING/CATEGORISATION

Upper limit of tender value range LSL million	Best Annual Turnover LSL million	Available Capital LSL million	Largest completed similar contract LSL million	Number of Professional staff in relevant technical discipline	CIDB Designation	Approximate Public Work categories for building Contractors	Approximate Roads Directorate	Categorisation	LHWP2 Categorisation
0.2	Not required	Not required	Not required	0	1	D	E3	R	
0.65	Not required	Not required	0.15	0	2	D	E3	S	
2	1	0.1	0.5	0	3	C	E3	T	
4	2	0.2	1	0	4	C/B	E1/E2	U	
6.5	3.25	0.65	1.6	0	5	A/B	E1	V	
13	7.8	1.3	3.25	1	6	A	C/D	W	
40	24	4	10	2	7		A/B	X	
130	90	13	32.5	3	8		A	Y	
>130	270	40	100	4	9			Z	

STEP 2 – QUALITY ASSESSMENT

Methodology – Contractor key work methods

Financial capacity – Detailed analysis

Resourcing – Human and plant resources

Qualifications– Any conditions that accompany the tender

Contractual distortions / Manipulations - Deviations

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STEP 2 – EVALUATION CRITERIA

Each item is assessed by rating the submission on a 1-5 scale

RATING	POINTS
Poor	1
Weak	2
Adequate	3
Good	4
Outstanding	5

TENDERERS WHO DO NOT ACHIEVE A SCORE OF 70% WILL NOT BE CONSIDERED FOR STEP 3

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STEP 3 – PREFERENCE EVALUATION

OWNERSHIP/JV PARTICIPATION

- Minimum threshold value for participation of Lesotho National (LN) and RSA Black -owned (BO) companies will be specified.
- Failure to meet the specified minimum will be a **disqualifying criteria.**

- For example, if the specified minimum for:
 - LN = 30% of the JV Share and
 - BO = 20% of the RSA Share of the JV

- **Points = 1 point for every 2% share above the specified minimum**

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STEP 3 – PREFERENCE EVALUATION

EMPLOYMENT

- Minimum threshold value for participation of Lesotho National (LN) and RSA Black Individuals (BI) will be specified for each of the following, **Management, Supervisory and Women and Youth**. (People with **Disabilities** Where appropriate)
- Failure to meet the specified minimum will be a **disqualifying criteria**.
- Example, if the specified minimum for a category is:
 - LN = 30% of the total man-hours for that category
 - BI = 20% of the total man-hours for that category
- **Points = 1point for every 5% above the specified minimum**

UNSKILLED LABOUR WILL BE 100% FOR LESOTHO NATIONALS

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STEP 3 – PREFERENCE EVALUATION

PROCUREMENT

- Minimum threshold value for procurement of goods and services from Lesotho Nationals (LN) and RSA Black-owned companies (BO) will be specified.
- Failure to meet the specified minimum will be a **disqualifying criteria**.
- A Procurement Plan is required as part of the submission
- Example, if the specified minimum is:
 - LN = 10% of the tendered sum
 - BI = 10% of the tendered sum
- **Points = 1point for every 1% above the specified minimum**

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STEP 3 – PREFERENCE EVALUATION

ENTERPRISE DEVELOPMENT

- Minimum threshold value for training of Lesotho Nationals (LN) and RSA Black-owned companies (BO) will be specified.
- Failure to meet the specified minimum will be a **disqualifying criteria**.
- An Enterprise Development Plan is required as part of the submission
- Example, if the specified minimum is:
 - LN = 10% of the tendered sum
 - BO = 10% of the tendered sum

Points = 1 point for every 1% above the specified minimum

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STEP 3 – PREFERENCE EVALUATION

SKILLS DEVELOPMENT

- Minimum threshold value for training of Lesotho Nationals (LN) and RSA Black Individuals (BO) will be specified.
- Failure to meet the specified minimum will be a **disqualifying criteria**.
- A Skills Development Plan is required as part of the submission
- Example, if the specified minimum is:
 - LN = 1% of the Tendered Sum
 - BI = 1% of the Tendered Sum
- **Points = 2.5 points for every 1% above the specified minimum**

ACCREDITATION IS CRITICAL

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STEP 3 – FINANCIAL EVALUATION

- The points for price will be calculated according to the following formula:

$$A = \left(1 - \frac{(P - P_m)}{P_m} \right)$$

- Where :
- P_m is the Lowest Tendered Price that passed Step 2
- P is the Tendered Price under consideration
- A is the unweighted points for Price

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STEP 3 – WEIGHTING OF POINTS

The 80:20 principle will apply for contracts with an estimated value of < LSL 100 million:

Where :

- **80** is for **Price** and **20** is for **Preference**

The 90:10 principle will apply for contracts with an estimated value of > LSL 100 million:

Where :

- **90** if for **Price** and **10** is for **Preference**

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CONCLUDING REMARKS

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REMARKS

- This is not a tender briefing session
- Read Instructions to Tenderers
- Stay away from corrupt practices
- Use stipulated channels of communication to seek clarity



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THANK YOU AND GOOD LUCK

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Questions?