



Lesotho Highlands Water Project

Phase II Construction Contracts Procurement Rules

(T TENTE – DM Phase II)

29th May 2017

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1. LEGAL FRAMEWORK

2. FUNDING

3. PROCUREMENT OBJECTIVES AND PRINCIPLES

4. CONTRACTOR PROCUREMENT FRAMEWORK*

5. IMPLEMENTATION GUIDELINES*

6. CONCLUDING REMARKS

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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

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

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

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PROCUREMENT - ARTICLE 10

Competitiveness, transparency, cost effectiveness & quality

Order of Preference: Lesotho, South Africa, SADC ,Other

Lesotho & 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**

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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Vaal River System

- **LHWP – Lesotho Highlands Water Project**
- **AMD – Acid Mine Drainage (Long Term Solution)**

1. Capex for the new schemes (LHWP 2 & AMD-LTS)

2. Repayment of the existing debt for LHWP 1

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Sources of Funding for Water Transfer Component

- 1. Vaal River System Users Tariff**
- 2. Fiscal Transfers From Mining Levy**
- 3. New Debt**

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Sources of Debt Funding

- 1. Main Source of Funding – RSA Debt Capital Market**
- 2. Secondary Source of Funding - Bank and DFIs**
- 3. Liquidity Support – Commercial Paper - Revolving Credit Facilities**

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Sources of Funding for Hydropower Component

The Government of Lesotho has secured a Grant from the World Bank to complete further feasibility studies.

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PROCUREMENT OBJECTIVES & PRINCIPLES

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PROCUREMENT OBJECTIVES



To maximize procurement opportunities.

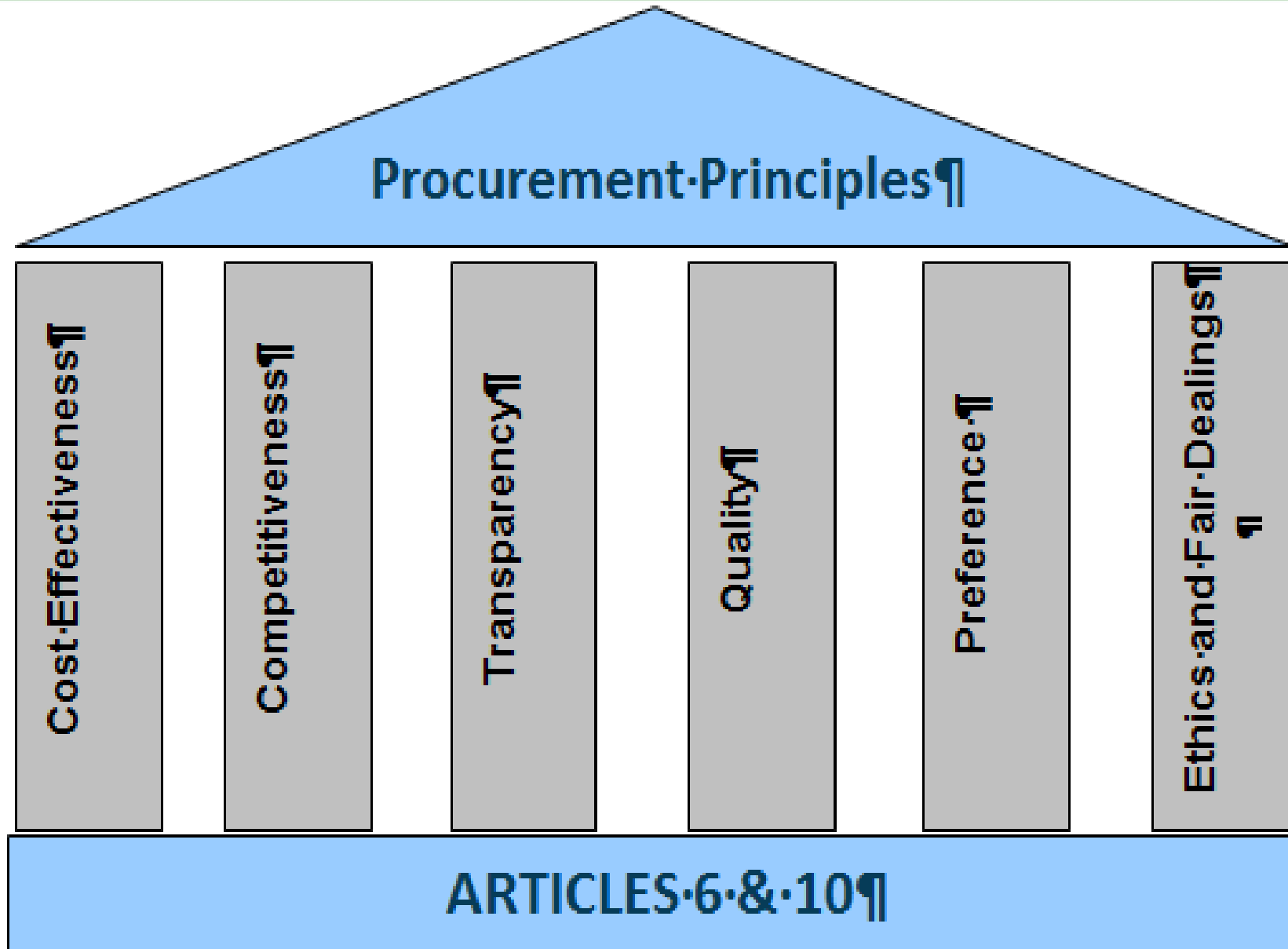
To minimize the utilization of imported goods, skills and labour.

To maximize skills & technology transfer

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Procurement Principles



CONTRACTOR PROCUREMENT FRAMEWORK

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ROLES AND RESPONSIBILITIES



- **Employer (LHDA): Sets Policies and Strategy**
- **Consultants: Design & Construction Monitoring**
- **Contractor: Construction to Design Specification & Quality and on time**
- **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 consultants may manage one or more construction Contracts**
- The LHDA Procurement Policy **Limits the number and the 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 Contractor Registered in Lesotho and RSA Only

MAIN WORKS & OTHER

- Polihali Dam
- Polihali Transfer Tunnel
- Major Bridges

No restriction 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

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PREFERENCE SCORING



OWNERSHIP/JV PARTICIPATION

Lesotho & RSA Registered Companies (Including Black Owned)

EMPLOYMENT

Basotho and RSA Black People – As % of Total Man Hours/days/months

PROCUREMENT

Goods & Services from Lesotho & 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

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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 2 yrs. & 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 & 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 CIDB Designation | Approximate Public Work categories for 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 |

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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 1-5 scale

- **POOR = 1 POINT**
- **WEAK = 2 POINTS**
- **ADEQUATE = 3 POINTS**
- **GOOD = 4 POINTS**
- **OUTSTANDING = 5 POINTS**

TENDERER 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 Companies = 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.
- 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 = 1 point 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 = 1 point 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 unweight points for Price

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STEP 3 – WEIGHTING OF POINTS



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

Where :

- 80% weight is for Price and 20% weight is for Preference

The 90:10 Principle will apply for Contracts of with an estimated value < LSL 100 million:

Where :

- 90% weight is for Price and 10% weight is for Preference

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CONCLUDING REMARKS

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- **This is not a Tender Briefing Session**
- **Read Instructions To Tenderers & Contract Provisions**
- **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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