

PUBLIC COMMENT SUBMISSION

Draft Procurement Methods, Requirements and Procedures

Draft General Public Procurement Regulations, 2026

Procurement Methods, Requirements and Procedures
Assessment against ss 24(1)(b), 24(1)(c) and 63(1)(a)(v) of
the Public Procurement Act 28 of 2024

Version 3.0

2026-06-04

GG No. 54528

16 April 2026

Shaun Scott

LEGAL FRAMEWORK

The enabling provisions

Methods, requirements and procedures fall within the “framework” section 24 of the Act:

24. (1) The Minister must prescribe a framework within which a procuring institution must develop and implement its procurement system, referred to in section 8(1)(b), which includes—

- (a) the pro
- (i) fo
- (ii) fo
- m
- (iii) fo
- (iv) to stimulate innovation,

63. (1) The Minister, by notice in the *Gazette*—

(a) must make regulations regarding—

(i) ~~any matter required by this Act to be prescribed;~~

(v) procedures for bid specification, invitation, submission, opening, evaluation, adjudication and awarding of bids and cancellation of procurement processes;

(vi) ~~procurement funded partially or in full by donor or grant funding;~~

- (b) types of procurement methods;
- (c) the requirements and procedure to be followed for each prescribed method;
and
- (d) the criteria for evaluation of bids, which must include, but are not limited to, cost-effectiveness, capability, functionality and technical requirements, with-
out limiting new entrants or emerging suppliers or both.

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LEGAL FRAMEWORK

The enabling provisions

Together these create a mandatory structure that Regulations 6–21 must satisfy.

s 24(1)(b)

Types of Procurement Methods

The Minister must prescribe a framework including **types of procurement methods**. This is a typology obligation.

Mandatory typological obligation

s 24(1)(c)

Requirements & Procedure per Method

For each method, the Minister must prescribe: (i) the conditions for use (requirements) [eligibility preconditions before a method may be selected]; and (ii) the procedures.

Mandatory two-part obligation per method

s 63(1)(a)(v)

All 8 'Phases' for All Methods

Regulations must prescribe the procedures across eight phases for every method: **specification, invitation, submission, opening, evaluation, adjudication, award, and cancellation**.

Mandatory: all 8 phases, procedures for all methods

OVERALL ASSESSMENT: Five Structural Problems

These problems are not confined to individual method regulations, they run through the entire set of methods.

1	Taxonomy (Reg 6(1) and 6(3)) conflates procedures with methods	HIGH
2	Conditions for method selection are incomplete & inconsistent	HIGH
3	s 63(1)(a)(v) on procedure not satisfied and depth varies widely	EXTREMELY HIGH
4	Threshold framework needed	MEDIUM
5	Specific “categories of procurement” entirely absent	EXTREMELY HIGH

Problem 1

Taxonomy conflates procedures with methods

6. Procurement methods and procedures

- (1) Procurement methods are –
 - (a) open competitive methods which are:
 - (i) the RFQ method referred to in regulation 7;
 - (ii) the RFB method referred to in regulation 8;
 - (iii) the RFP method referred to in regulation 9;
 - (iv) the competitive dialogue method referred to in regulation 12;
 - (v) the framework agreement method referred to in regulation 15;
 - (b) direct procurement referred to in regulation 14.

- (3) Procurement procedures include –
 - (a) the two-envelope procedure referred to in regulation 10;
 - (b) the two-stage bidding procedure referred to in regulation 11;
 - (c) competitive negotiation procedure referred to in regulation 13;
 - (d) procurement from manufacturers referred to in regulation 17;
 - (e) unsolicited bids referred to in regulation 18;
 - (f) transversal term contract referred to in regulation 16;
 - (g) electronic bidding referred to in regulation 17;
 - (h) pre-qualification procedure referred to in regulation 20;
 - (i) emergency procurement referred to in regulation 21.

PROBLEM 2 OF 5 | CONDITIONS FOR METHOD SELECTION

Problem 2

Conditions for method selection are incomplete & inconsistent

Method	Conditions Framing	Justification?	Assessment
RFQ	"may only use if": 3 conditions (Reg 7(2))	Document justification (Reg 7(5))	Partially adequate
RFB	"may use if" and "must use if" (Reg 8(2)/(3))	Not explicitly required	Partially adequate
RFP	"may use if": 4 conditions (Reg 9(2))	Not explicitly required	Obligation for use
Two-stage bidding	"may use": 4 contexts (not conditions)	None	Contexts described, not conditions
Competitive dialogue	"may be used on complex projects if": 2 conditions	None	Obligation for use
Direct procurement	"must procure directly if": 4 conditions (Reg 14(1))	Approval & record required (Reg 14(4))	Reasonably complete but incorrectly classified as open
Framework agreement	"may use for recurrent needs": no conditions (Reg 15(2))	None	No conditions (discretionary) No variants (e.g. open frameworks)

PROBLEM 3 OF 5 | PROCEDURAL COMPLETENESS

Problem 3: EXTREMELY HIGH

s 63(1)(a)(v) on procedure not satisfied and depth varies widely

Section 63(1)(a)(v) requires regulations for all 8 phases of every method:

Specification

Invitation

Submission

Opening

Evaluation

Adjudication

Award

Cancellation

RFQ (Reg 7)

Most-used method. No minimum advertisement period, no mandatory document content, no standstill period, no cancellation procedure.

Pre-qualification (Reg 20)

Minimum supplier numbers unspecified; no methodology for rating applicants; no procedure for notifying unsuccessful applicants; no time limit.

Competitive negotiation

Listed as a 'procedure' yet given a dedicated regulation. Critically underspecified with no procedural framework for multi-round negotiation, no bid opening rules, no standstill.

STRUCTURAL NON-COMPLIANCE: Opening, submission mechanics, standstill periods, and cancellation are entirely unaddressed across most methods.

Problem 4

Threshold framework missing in method conditions -

The Core Problem

The Petty Cash / RFQ / RFB distinction which is the most fundamental day-to-day method choice (condition) across all procuring institutions is traditionally determined by a value threshold.

Threshold set by notice under section 24(2) of the Act. That threshold framework has not been published.

Differentiation power currently deferred, but regulations may provide an opportunity

Section 24(2) empowers the Minister to prescribe by notice in the *Gazette* different thresholds for different categories of procuring institution and categories of procurement.

A large national department and a small rural municipality cannot sensibly share the same Petty Cash/RFQ/RFB threshold.

Regulation threshold framework could recognize that the “financial thresholds [in future notice] for methods including Petty Cash and RFQs will serve as ‘requirements’ and require no further justification”

Thresholds are traditionally the central “condition / requirement” for justification of common “methods” such as Petty Cash and RFQs

PROBLEM 5 OF 5 | METHODS FOR CATEGORIES OF PROCUREMENT MISSING

Problem 5: EXTREMELY HIGH

Appropriate methods for different categories of procurement are entirely absent or incomplete

- **Low value, high volume methods:** e.g. Petty cash, P-cards...
- **Common methods:** e.g. Procurement agents...
- **Asset “disposal” methods:** e.g. Auctions, reverse of RFB, RFQ & RFP, Direct disposal, abandonment, recycle/reuse...
- **Asset allocation / leasing methods:** e.g. Beauty contests; First-come-first served (NERSA regs); Grandfathering (ports, airport slots); Legacy rights / historic rights (mining, municipal properties); concession...
- **Research and Development (R&D) methods:** e.g. Pre-Commercial Procurement (PCP), Public Procurement of Innovation (PPI); Innovation Partnership; Procurement for research...
- **Innovation / creativity methods:** e.g. Challenges, hackathons, crowd sourcing...
- **Infrastructure “methods”:** e.g. Design contest; Community procurement; Offtake agreements...
- **Electronic channel “methods”:** e.g. electronic catalogues; eMarketplace; Reverse auctions; ...

REGULATION 6(2)

**“6(2) The methods referred to in subregulation (1) may –
(a) be adapted or modified depending on circumstances or conditions;
(b) comprise a combination of methods and procedures tailored to the specific requirements of that procurement.”**

Not in compliance with PPA s 24(1)(b)-(c)

Is this provision not consistent with 24(1)(b) and (c) Act?

Section 24(1)(b) requires the Minister to prescribe specific 'types of procurement methods.'

Section 24(1)(c) requires the prescription of *'the requirements and procedure to be followed for each prescribed method.'* 24(1)(c) is the set of mechanisms by which method selection is controlled and rendered justifiable

These provisions contemplate prescribed methods with defined conditions, not an open-ended discretion to adapt, modify, or combine them?

Recommendation

Prescribe a “Competitive Flexible Method”

Use the UK’s “Competitive Flexible Procedure” as an example. Must take note of the challenges experienced in the UK.

This may also reduce the need for many of the missing methods.

RECOMMENDATIONS 1–3

Overarching Recommendations (1–3 of 6)

Rec 1

Add Definitions to Regulation 2

Insert definitions of 'procurement method', 'procurement procedure', and 'requirements' (in the context of s 24(1)(c)) into Regulation 2 before any other amendment. Without agreed definitions, the taxonomy confusion in Regulation 6 cannot be resolved and individual method critiques cannot be applied against a consistent standard.

Rec 2

Restructure the Regulation 6 Taxonomy

Regulation 6 must clearly separate: (a) procurement methods; (b) procedures; (c) administrative mechanisms (pre-qualification, EOI); (d) circumstance triggers (emergency); and (e) contracting methods (transversal term contracts). Competitive negotiation and two-stage bidding must be reclassified as methods.

Rec 3

Prescribe uniform conditions for use across all methods

Every method must have clearly prescribed conditions for use, framed as conditions precedent ('a procuring institution may only use this method if'), covering the circumstances, thresholds, or characteristics that must be present before the method may be selected.

RECOMMENDATIONS 4–6

Overarching Recommendations (4–6 of 6)

Rec 4

Insert new regulation with the unified procedural framework

Insert new regulation to give effect to s 63(1)(a)(v). It must: address all eight mandatory phases; provide the RFB procedure as the default where method-specific regulations are silent; impose a standstill period as the universal floor across all methods; and require a documentary record of all phases. Individual method regulations must then specify any variations from this default.

Rec 5

Publish Section 24(2) Threshold Framework Before Commencement

The s 24(2) notice determining Petty Cash/RFQ/RFB threshold framework

Rec 6

Include missing methods

Add a set of addition methods. These methods must have their own regulations (parallel in structure to Regs 9 and 12) setting out conditions for use, solicitation rules, IP and risk-sharing provisions, and phased evaluation procedures.

RECOMMENDATION 1

Add Definitions to Regulation 2

Procurement method

Procurement Method

...a way of conducting procurement, as contemplated in section 24(1)(b) of the Act, that is subject to a set of prescribed conditions for use, and that is governed by procedures for specification, invitation, submission, opening, evaluation, adjudication, award, and cancellation.

Procedure

Procedures

...the prescribed set of activities to be carried out within a selected procurement method, covering, as mandated by section 63(1)(a)(v) of the Act, the procedures for bid specification, invitation, submission, opening, evaluation, adjudication, and awarding of bids, and the cancellation of procurement.

Requirements

Requirements

...the prescribed conditions in the context of section 24(1)(c) of the Act, for use of a procurement method i.e. the specific circumstances, thresholds, or characteristics that must be present before that method may be selected and employed

PROCEDURAL FRAMEWORK

Specification

Invitation

Submission

Opening

Evaluation

Adjudication

Award

Cancellation

The Procedure Circumstances

- Specification in the Act: “a clear, accurate and complete description of the goods, services, infrastructure or capital assets to be procured” is not a starting point for many methods
- Some phases are not appropriate for some methods, e.g. Direct has no “Opening”
- Additional phases may be needed such as Early Market Engagement for RFP or Competitive Dialogue

Recommendation

- Define a "**Requirements description**" means a document prepared by a procuring institution that describes the public need to be met, the functional or performance outcomes required of the goods, services, infrastructure or capital assets to be procured, and any constraints, standards, or conditions that the solution must satisfy, expressed in terms sufficient to enable prospective suppliers to understand the nature of the need and propose responsive solutions, without requiring the procuring institution to specify the particular solution, technology, or design to be employed.

METHOD, REQUIREMENTS AND PROCEDURE FRAMEWORK: RFB

Specification

Invitation

Submission

Opening

Evaluation

Adjudication

Award

Cancellation

Request For Bid (RFB)

- Don't make RFB the default that require justification if the "default" not used
 - Included basic RFB "conditions"
- Ensure RFB can be used for set-asides and pre-qualifying conditions
- Have not included Bid Committees in the procedure framework so we do not get into SOP level procedures (who does what)
- Make the RFB procedures the model
- Other methods only need to describe new procedures or changes to RFB procedures

Procedure Framework Recommendation

- Procedure framework option 1:
 - Description of each "phase" with start and end points
 - Allow additional phases
 - Allow sub-set of phases if not appropriate
 - "Phase description" in methods
- Procedure framework option 2:
 - List the "procedures" for each method, but not at SOP level

METHOD, REQUIREMENTS AND PROCEDURE FRAMEWORK: RFB

Request For Bid (RFB)

8(1) A request for bid (RFB) is an open competitive procurement method in which a procuring institution publicly advertises an invitation to bid, receives bids from any willing and qualified bidder and awards the contract to the responsive bidder that achieves the highest score calculated in accordance with the prescribed evaluation criteria, in which cost-effectiveness is the dominant criterion.

Requirements:

8(2) A procuring institution may use the RFB method if:

- (a) the estimated value of the procurement equals or exceeds the threshold determined by notice in terms of section 24(2) of the Act;
- (b) the specification can be expressed as a clear, accurate and complete descriptions of the goods, services, infrastructure or capital assets to be procured; and
- (c) the market for the subject matter of the procurement is competitive, with at least two potential suppliers reasonably expected to be able to meet the specifications.

Request For Bid (RFB)

8(3) Specification:

Before publishing an invitation to bid, a procuring institution must:

- (a) prepare a complete statement of requirements;
- (b) ensure specifications comply with applicable national or international standards;
- (c) determine and fix the evaluation criteria and their relative weightings;
- (d) determine the conditions of contract; and
- (e) The specification function must be performed in accordance with Regulation 34(1)(a).

Request For Bid (RFB)

8(4) Invitation:

- (a) A procuring institution must publish an invitation to bid on the prescribed government procurement publication platform for a minimum period of 15 days before the bid submission deadline.
- (b) A procuring institution may, in addition to publication under paragraph (a), publish the invitation in any other appropriate medium.
- (c) The period referred to in paragraph (a) may be reduced where urgent circumstances exist that make the prescribed period impracticable, subject to the approval of the accounting officer or accounting authority and may not in any case be less than five days.
- (d) The invitation to bid must include at minimum:
 - (i) ... (viii)
- (e) Any clarification must be communicated simultaneously to all prospective bidders without identifying the source of the query.

METHOD, REQUIREMENTS AND PROCEDURE FRAMEWORK: RFB

Request For Bid (RFB)

8(5) Submission:

- (a) Bids must be submitted in the required medium and received by the deadline.
- (b) Late bids must be returned unopened.
- (c) Received bids must be held securely until opening.
- (d) Bid security requirements, if any, must be specified in the invitation.

8(6) Opening:

- (a) Bids must be opened promptly after the deadline by at least two authorised officials.
- (b) Opening is public and open to bidder representatives.
- (c) Name, bid security status, and bid price of each bid must be announced and recorded.
- (d) A full record of all bids opened must be prepared.
- (e) No bid may be rejected at opening; rejection for non-compliance occurs only after responsiveness examination.

Request For Bid (RFB)

8(7) Evaluation:

- (a) Examine each bid for responsiveness before comparative evaluation.
- (b) A bid is responsive if: submitted in required form; satisfies qualification requirements; contains no material deviation.
- (c) Non-responsive bids must be excluded; material deviations may not be corrected after submission.
- (d) Evaluate all responsive bids against disclosed criteria and weightings only.
- (e) No undisclosed criterion may be applied.
- (f) A written evaluation report must be prepared and retained.
- (g) The evaluation function must be performed in accordance with Regulation 34(1)(b) and Regulations 23–25.

METHOD, REQUIREMENTS AND PROCEDURE FRAMEWORK: RFB

Request For Bid (RFB)

8(8) Adjudication:

- (a) The adjudication function must be performed in accordance with Reg 34(1)(c).
- (b) The standstill period of 10 days must be observed after notifying all bidders of the intended award.
- (c) The standstill period does not apply where only one bid was received or emergency circumstances were approved under regulation 21.

8(9) Award:

- (a) Award to the responsive bidder with the highest score in accordance with Regulations 23–25.
- (b) Following standstill:
 - (i) notify successful and all unsuccessful bidders in writing with scores and reasons;
 - (ii) publish the award including name, contract value and date; and
 - (iii) conclude a written contract before commencement of performance.
- (c) No commencement of performance before a written contract is signed.

Request For Bid (RFB)

8(10) Cancellation:

(a) An RFB may only be cancelled where:

(i) no bids were received;

(ii) all bids were non-responsive;

(iii) all bids exceeded available budget and revision is impracticable;

(iv) requirements have materially changed;

(v) the process was compromised and the defect cannot be remedied; or

(vi) it is otherwise in the public interest, with specific reasons recorded.

(b) A procuring institution must not cancel solely to avoid awarding to the highest-scoring bidder.

(c) Upon cancellation: notify all bidders with reasons; and publish the cancellation with reasons.

PUBLIC COMMENT SUBMISSION

Criteria for Evaluation of Bids Regulations 23, 24 & 25

Draft General Public Procurement Regulations, 2026

Criteria for Evaluation of Bids
Assessment against section 63(1)(a)(ix) of the Public
Procurement Act 28 of 2024

Version 3.0
2026-06-04

GG No. 54528
16 April 2026

Shaun Scott

The Enabling Provision

The criteria provision falls within the “framework” section 24 of the Act:

- 24. (1) The Minister must prescribe a framework within which a procuring institution must develop and implement its procurement system, referred to in section 8(1)(b), which includes—**
- (a) the promotion of strategic procurement—** 25
 - (i) for procurement in other countries for use in those countries;
 - (ii) for infrastructure, capital assets and goods or services related to maintenance of infrastructure and capital assets;
 - (iii) for the disposal and letting of assets; and
 - (iv) to stimulate innovation; 30
 - (b) types of procurement methods;**
 - (c) the requirements and procedure to be followed for each prescribed method; and**
 - (d) the criteria for evaluation of bids, which must include, but are not limited to, cost-effectiveness, capability, functionality and technical requirements, without limiting new entrants or emerging suppliers or both.** 35

(2) The Minister may determine

Regulations 23, 24, 25 & Annexure 1

Regulations 23(1) and (2) appear acceptable and not onerous:

Part 9

Criteria for evaluation of bids

[section 24(1)(d) of the Act]

23. General requirements relating to evaluation criteria

- (1) The evaluation criteria –
 - (a) applies to all procurement methods;
 - (b) must be –
 - (i) clearly stated in bid documents; and
 - (ii) applied consistently.
- (2) Bidders must be evaluated on their compliance with the evaluation criteria and no criterion may be applied that is not stated in the bid documents.

Regulations 23, 24, 25 & Annexure 1

Regulation 24(1)(a) lists the criteria referred to in section 24(1)(d) of the Act and specific Preferential Procurement provisions;

s17(5): “A bid set-aside in terms of subsection (1) must be evaluated in terms of the prescribed criteria”

s18(6): “A procuring institution must, in addition to the measures stipulated in subsections (1) to (6), evaluate the bid, referred to in subsection (1), in terms of the prescribed criteria.”

s19(6): similar provision as for 18(6)

B-BBEE 9(1)(b): “qualification criteria for preferential purposes for procurement and other economic activities”

s20(8): similar provision as for 18(6)

24. Evaluation criteria

(1) Subject to subregulation (2), evaluation criteria –

(a) must include –

- s 24(1)(d) of the Act*
- (i) cost-effectiveness, taking into account lifecycle costs, value for money, and affordability;
 - (ii) capability and capacity to deliver, taking into account organisational experience, resources, and performance record;
 - (iii) functionality and technical requirements, taking into account responsiveness to specifications, innovation, and operational performance;
 - (iv) criteria prescribed under sections 17(5), 18(6), 19(6) of the Act;
 - (v) any other qualification criteria included in any code of good practice issued in terms of section 9(1)(b) of the Broad-Based Black Economic Empowerment Act; and
 - (vi) local production and content criteria contemplated in section 20(8) of the Act; and

(b) may include criteria based on measures

PLAIN READING | WHAT THE DRAFT REGULATIONS PROPOSE

Regulations 23, 24, 25 & Annexure 1 (second part)

2	Evaluation Category	Description	Max Score	Minimum Threshold	Bidder Score	Qualifies? (Yes/No)	
2.1	Functionality / Technical Merit	Compliance with specifications, design, quality, sustainability of solution	A score to be determined in terms of regulation 25(2)	70% of that score			
2.2	Cost-effectiveness	Value for money over contract lifecycle, pricing clarity, risk transfer	A score to be determined in terms of regulation 25(2)				
2.3	Measures	Sustainable	A score	70%			
2.3		Measures contemplated in sections 21-23 of the Act ¹			Sustainable development		
2.4	Innovation	Alignment with strategic objectives, demonstrating a	A score to be determined in	None			
2.5	Capability / Capacity to Deliver	Organisational experience, team qualifications, previous performance, project plan	A score to be determined in terms of regulation 25(2)	70% of that score			
2.6	A bidder who does not meet the minimum threshold for categories 2.1, 2.3 and 2.5 is to be considered non-responsive, irrespective of the total score achieved, and must be disqualified. Is the bidder responsive?					Yes	No
2.7	TOTAL SCORE					100	
		sustainability, inclusivity)					

CENTRAL FINDING | COLLAPSE OF EVALUATION / AWARD DISTINCTION

Finding 1 — Critical Error

The Collapse of the Evaluation / Award Distinction

Evaluation Criteria — the correct test

"Is this bidder qualified and is this bid responsive?"

Pass/fail gates applied sequentially before comparative ranking begins. A bidder failing an evaluation criterion is disqualified. They answer: YES or NO — before any award comparison begins.

Award Criteria — the correct test

"Among all qualifying bids, which represents best value?"

Rank rather than disqualify. Apply comparatively ONLY among bidders who passed the evaluation stage.

Conflating the two produces double-counting, distorts competition, and makes award outcomes legally vulnerable.

What the Draft Regulations Actually Do:

Three scoring criteria: 'functionality' (70% threshold), 'capability' (70% threshold), and sections 21–23 measures (70% threshold), applied simultaneously disqualify AND score. They perform the evaluation function (disqualification) and the award function (comparative ranking) at the same time. This double-counting is not a technical error, it is the single most significant structural deficiency in Regulations 23–25 and requires correction before promulgation.

**This is not just an international requirement it is an intuitive one:
first determine the shortlist, then decide the winner from the shortlist.**

FINDING 2 | CONFLATION OF FUNCTIONALITY AND TECHNICAL REQUIREMENTS

Finding 2 — Substantive Statutory Error

Conflation of Functionality and Technical Requirements

Section 24(1)(d) mandates four separate and distinct evaluation criteria. Regulation 24(1)(a)(iii) collapses two into one: *"functionality and technical requirements, taking into account responsiveness to specifications, innovation, and operational performance."* **Is this a substantive drafting error?**

"Functionality" (noun) — Correct

Section 24(1)(d) deliberately used the noun "functionality" (not the adjective "functional").

Functionality (noun) = the degree to which a solution actually performs its intended function, assessed against criteria during the evaluation of bids. It is an evaluation and award concept applied after specifications are written and bids submitted.

This is what the Act requires as a distinct evaluation criterion.

"Functional" (adjective) — What the Reg Does

"Functional" modifies a noun — "functional requirements" describe a specification methodology in which requirements are expressed in terms of what a good must do. This is a specification concept (CIDB SFU s4.4.6.1), not an evaluation concept.

By coupling functionality with technical requirements, the Regulation treats the noun as though it were an adjective: a grammatical and legal error that renders one of the Act's four mandatory criteria redundant?

STATUTORY INTERPRETATION: The Act used the noun form deliberately. The Regulation's compound formulation is a grammatical and legal error that must be corrected.

Finding 3 — Local Content Gap

The Local Content Gap — Internal Inconsistency

Regulation 24(1)(a)(vi): prescribes local production and content criteria as **mandatory in all bid evaluations.**

Annexure 1: the mandatory matrix that all institutions must use, **contains no provision for local content whatsoever.**

Institutions cannot comply with both simultaneously.

The correct approach: local content should be a Gate 1 pass/fail compliance condition applicable only in sectors where a designation under section 20(8) of the Act exists and not a universal mandatory scored criterion.

FINDINGS 4 | COMPLEXITY AND TIME CONSUMING

Finding 4 — Complexity and time consuming

The Significant Complexity and Effort of the Criteria Approach

Previous PPPFA System (25 years of practitioner familiarity):

- ✓ Has the bidder met the functionality threshold (if prescribed)? YES or NO.
- ✓ Calculate price score: 90 or 80 points (formula-driven from lowest price).
- ✓ Add preference points: 10 or 20.
- ✓ Highest total wins, unless objective criteria ...
- ✓ Clear rules when bidders scores were tied.

Draft Regulations — Replace PPPFA With:

- ✗ Apply 6 mandatory criteria from Regulation 24, each with its own regulatory basis and conditions.
- ✗ Apply 3 different 70% disqualification thresholds within the scoring matrix - - one view is that all will still have to be scored.
- ✗ Simultaneously treat those same 3 criteria for award ranking.
- ✗ Determine weights with no prescribed minimums, maximums, or method-specific guidance.
- ✗ No 2(1)(f) equivalent.
- ✗ No rule for equal scores.

This is not a manageable increase in complexity and time. It is a multi-criterion discretionary system requiring levels of procurement expertise and extra time many institutions do not currently possess.

PROPOSED SOLUTION | DISTINCT EVALUATION & AWARD FRAMEWORK

Proposed Evaluation and Award Approach

Resolves all findings simultaneously. Consistent with s 24(1)(d), UNCITRAL Arts 9 & 11, and EU Directive 2014/24/EU Arts 58 & 67.

STAGE 1 — Evaluation & Shortlisting (Sequential Pass/Fail Gates)

Gate	Criterion	Applies To
Gate 1	Mandatory compliance: debarment, exclusion, empowerment (ss 17–19)	All methods above petty cash
Gate 2	Responsiveness: bid complete, submitted on time, no material deviations	All methods above petty cash
Gate 3	Local content: meets designation threshold (s 20(8))	Designated sectors ONLY
Gate 4	Preferential Procurement s 17, 18 and 19 of the Act	All methods above petty cash where applicable
Gate 5	Mandatory criteria (Functionality; Technical; Capability (Part 1 of Annex 1))	All methods above petty cash
Gate 6	Scoring criteria: <ul style="list-style-type: none"> Functionality Technical Capability } Must be weighted if not in Gate 5 Section 21 measures Section 22 measures Section 23 measures } Can be zero weighted unless s17, 18 and 19 do not apply Short-listing rule (not only minimum score)	Method dependent: RFP, two-stage, competitive dialogue, innovation. NOT applied to RFB or RFQ Complex, high-risk, or long-duration. NOT routine standardised goods

RECOMMENDATIONS | IN PRIORITY ORDER

Seven Recommendations in Priority Order

1

Restore the Evaluation / Award Distinction [CRITICAL]

2

Return the Threshold Criteria to the Evaluation Stage and Avoid a One-Size-Fits-All Threshold [HIGH]

3

Retain Cost-Effectiveness, Preference (and Innovation) as Award Criteria [HIGH]

4

Fix the Local Content Gap [HIGH]

5

Remove Innovation from the Universal Mandatory Matrix [HIGH]

6

Prescribe Method-Specific Weighting Guidance [HIGH]

7

Amend Annexure 1 to Reflect the Two-Stage Structure [HIGH]

PUBLIC COMMENT SUBMISSION

Bid Validity Regulation 26

Draft General Public Procurement Regulations, 2026

Bid Validity against section 63(1)(a)(ix) of the Public Procurement Act 28 of 2024

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The enabling provision in the Act

The two obligations:

- 1. Completing the process within the validity period*
- 2. Extending the period to prevent undue delays or unjustified cancellations*

63. (1) The Minister, by notice in the *Gazette*—

(a) must make regulations regarding—

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(i) ~~any matter required by this Act to be prescribed;~~

(viii) ~~circumstances and procedures for pre-qualification of bidders,~~

(ix) the completion of the procurement process during the bid validity period and the extension of the period to prevent undue delays or unjustified cancellations;

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The Regulation 26

26. Bid validity period

[section 63(1)(a)(

(1) A bid validity period

(a) must be –

(i) determined
of the bid

(ii) clearly stated

(b) must be long

(2) Subject to subregulation

(a) on the expiry

(b) if earlier, on the award of the bid.

(3) A bidder is bound

(a) until its expiry

(b) for any further

(c) if successful,

(4) If a bidder applies

under section 47

is finalised.

(5) A procuring institution

in subregulation

(6) If a procuring institution decides to extend a bid validity period in terms of subregulation (5), it must –

(a) permit bidders to consent to the extension and to submit revised written proposals on price together with any justification; and

(b) notify the bidders at least five days before the expiry of the bid validity period of –

(i) the period within which a bidder may consent in writing; and

(ii) the period of the extension, the extension of which must be longer than 14 days.

(7) A bid no longer qualifies for further consideration in the procurement process if the bidder fails –

(a) to consent to the extension contemplated in subregulation (6);

(b) to justify any revised price referred to in subregulation 6(a).

ASSESSMENT

Six High Priority Issues

1 Imposes no obligation on the institution to act timeously within it

HIGH

2 No consequence for expiry without award (Reg 26(2))

HIGH

3 21-day min has no statutory basis, is too long & too short (Reg 26(1)(b))

HIGH

4 Five-day notice for extension will be insufficient for some (Reg 26(6)(b))

HIGH

5 Does not state consent must be received before expiry

HIGH

6 Unrestricted price revision creates new-offer risk (Reg 26(6)(a))

HIGH

RECOMMENDATIONS

Seven Recommendations

1

Sub-regulation requiring the procuring institution to actively manage and conclude the procurement process before the expiry of the validity period

2

Clearly state the institution may not award or take further steps; and must, if the need persists, initiate a new open process.

3

Minimum validity periods matched to procurement method and complexity

4

Replace the five-day notice minimum with: five-days for standard procurements and 15 days for high-value or complex procurements

5

Limit permissible price revision to cost escalation documented by reference to CPI or a sector-specific price index

6

Replace the undefined "good grounds" standard with: Court/Tribunal order; a declared state of disaster or force majeure; and unanticipated technical complexity

7

Add a new sub-regulation: the grounds on which a procurement process may be cancelled during the validity period (procedures); obligation to notify all bidders