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Introduction

This is the second edition of our Guide to Government Contracting and Public Procurement in South Africa.

It is intended to answer some of the most frequently asked questions relating to public procurement, and to provide a concise overview of issues pertaining to government contracting and public procurement in the country.

In particular, this guide provides a broad overview of the legislative regime applicable to public procurement in South Africa, and considers the scope of its application to government entities, contracts, privatisations and public-private partnerships (PPPs).

It also provides an overview of the applicable procedures for public procurement, the evaluation and award of tenders, changes to existing contracts, and enforcement, as well as the reforms that are expected.

Claire Tucker
Head of Public Law and Regulatory

The contents of this guide are for reference purposes only and should not be considered to be a substitute for detailed legal advice. If you require further information or specific advice, please contact one of the key contacts listed at the end of this guide.
Overview

1. What legislative framework is applicable to government contracting and public procurement?

The principle piece of legislation that regulates public procurement is the Constitution of the Republic of South Africa, 1996 (Constitution). Section 217 of the Constitution requires that when an organ of state contracts for goods and services, it must do so in accordance with principles of fairness, equitability, transparency, competitiveness and cost-effectiveness.

This constitutional requirement is echoed in section 51(1)(a) of the Public Finance Management Act 1 of 1999 (PFMA), which states that an accounting authority for, among others, a national or provincial department or public entity must ensure that the particular department or entity has and maintains an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective. The PFMA is implemented through the regulations published under it, namely the National Treasury Regulations (Treasury Regulations).

The Constitution permits organs of state (such as departments of government and public entities) to implement a preferential procurement policy that advances persons previously disadvantaged by unfair discrimination. Section 217(3) of the Constitution provides for legislation that will prescribe a framework within which the policy must be implemented to be enacted. In line with section 217(3) of the Constitution, the Preferential Procurement Policy Framework Act 5 of 2000 (PPPFA) and the regulations published under it in 2017 (PPPFA Regulations) prescribe requirements regarding black economic empowerment (BEE) considerations for state tenders.

The Local Government: Municipal Systems Act 32 of 2000 and the Local Government: Municipal Finance Management Act 56 of 2003 (MFMA) regulate, among others, the manner in which municipal powers and functions are exercised and performed and the management of the financial affairs of municipalities and other institutions in the local sphere of government. These require that the entities to which they apply, adhere to the PPPFA.

South Africa is a founding member of the World Trade Organisation (WTO) and is classified as a developed country. Despite this, South Africa has been able to negotiate favourable conditions and extended implementation periods for some of its sensitive economic sectors in the General Agreement on Tariffs and Trade (GATT).

South Africa is also a signatory to the WTO Agreement on Government Procurement (GPA) with certain reservations.

2. Is there a regulatory authority that is responsible for public procurement?

No. There is no specific regulatory authority in respect of public procurement. Most government departments or public entities determine and regulate their procurement systems internally in accordance with the regulatory requirements for such systems. However, at provincial level there are buying offices in operation in certain areas. A draft Public Procurement Bill was published for initial public comment on 19 February 2020 and proposes to establish a Public Procurement Regulator within National Treasury which will be responsible for ensuring that institutions comply with procurement legislation (see Reform on page 18).

Public procurement is governed by the principles of administrative justice and an unfair decision can be taken on review to the High Court (see Enforcement on page 17).

3. What are the overriding principles applicable to public procurement?

The overriding principles applicable to public procurement are the constitutional requirements of: fairness, equitability, transparency, competitiveness, and cost-effectiveness. These five principles are the standard against which all procurement by an organ of state is measured.

Fairness and equitability require that a procurement process be procedurally fair and are concerned with the manner in which the process is conducted. For example, all participants must be given the same information and opportunities. Transparency requires openness and accountability. This means that the process must be conducted publicly and not behind closed doors. It means that procurement information must be generally available, procurement rules and practices should be standardised and made known, and information regarding government contracts and their award should be accessible.

Competitiveness and cost-effectiveness, which revolve around cost, require that an organ of state must, while taking into account the other principles, try to procure goods or services at the lowest possible cost and derive value for money.

While not inherently contradictory, there is a tension among the five principles and there may be circumstances where the achievement of one principle is not possible unless another is compromised. Therefore, when evaluating whether there has been compliance with section 217 of the Constitution, the five principles must be looked at as a whole rather than separately.

4. Are any industries subject to specific regulation?

There is no industry-specific procurement legislation. However, there are some government policies relating to procurement within certain industries. For example, the Defence Industrial Participation (DIP) Policy is mandatory for the Department of Defence and organs of state in the defence industry.

This policy is a form of countertrade or offset which uses purchases and leases by organs of state in the defence industry as leverage to oblige a foreign seller of defence commodities or services to do defence-related business in South Africa. It is also now compulsory to procure routine goods and services through the centrally negotiated contracts in place. The process is managed through the gCommerce procurement portal which automates ordering and allows for bulk discounts. The automation process is expected to reduce corruption by reducing the risk of human intervention to override established protocols.

5. What role does local content play in the procurement process, if any?

There has been an increased focus on local content in public procurement. This saw the signing of the Local Procurement Accord on 31 October 2011 under the New Growth Path adopted by the Government. The Accord is targeting 75% of public and private procurement to accelerate job creation and the attaining of the goals of the Industrial Policy Action Plan.

The PPPFA provides that there could be specific local content requirements in a tender where it must be met for the tender to qualify for competitive adjudication. These will be set out in the request for proposal (RFP) document.

6. Is there a procurement portal and is it accessible?

In April 2015 a single eTender portal and central supplier database was launched. Operated by National Treasury (see www.etenders.gov.za), it aims to simplify, standardise and automate the procurement process. The portal carries tender advertisements, accompanied by official tender documents and relevant terms of reference or other descriptions of functionality as applicable, and award notices. The portal is accessible to the public.

All entities that wish to do business with Government must be registered on the central supplier database for transactions with national and provincial government and their entities, as well as municipalities.

It is also now compulsory to procure routine goods and services through the centrally negotiated contracts in place. The process is managed through the gCommerce procurement portal which automates ordering and allows for bulk discounts. The automation process is expected to reduce corruption by reducing the risk of human intervention to override established protocols.
Scope of Application

1. Which entities must comply with the procurement rules? Are there any exemptions?

Entities Covered

In terms of section 217 of the Constitution, all organs of state in the national, provincial and local spheres of government or any other institution identified in national legislation must comply with the five principles for public procurement.

On the national level: the PFMA gives effect to the five principles and applies to specific institutions including:

- National and provincial state departments as defined in the Public Service Act 103 of 1994;
- Listed major public entities, national government business enterprises and other public entities; and
- Listed constitutional institutions.

On the local level: the MFMA gives effect to the five principles and applies to the following:

- All municipalities;
- All municipal entities; and
- National and provincial organs of state to the extent of their financial dealings with municipalities.

The PPPFA Regulations are applicable to organs of state defined as including:

- National and provincial departments;
- Municipalities;
- Constitutional institutions;
- Parliament; and
- Provincial legislatures; and
- Other organs of state that are included in section 239 of the Constitution and recognised by the Minister of Finance as institutions to which the PPPFA applies (no such other organs of state have been recognised by the Minister of Finance).

The PPPFA also applies to the specific institutions listed in the PFMA.

Exemptions

There are no particular exemptions from procurement rules but there is a measure of flexibility. For example, an organ of state may request an exemption from any of the provisions of the PPPFA for reasons including that tenderers are likely to be international suppliers, among others.

This exemption provision is designed to work on a case-by-case basis and exempts the organ of state from provisions of the PPPFA in respect of a specific tender, rather than generally. Many of the public entities listed in the PFMA were specifically exempted from the provisions of the PPPFA until 7 December 2012, after which the exemption lapse.

Section 92 of the PFMA allows the Minister of Finance to exempt entities from specific provisions of the PFMA or the Treasury Regulations, while section 177 of the MFMA allows the Minister of Finance to exempt any municipality or municipal entity from specific provisions of the MFMA.

2. What contracts do procurement rules cover? Are there any specific thresholds?

Contracts Covered

Public procurement rules apply to commercial contracts by organs of state for the:

- Acquisition of goods and services;
- Disposal and letting of state assets, including the disposal of goods no longer required; and
- Conclusion of PPPs.

Access to state regulated assets is regulated through PPP agreements or through the regulations which are applicable in the specific sector. For example, in the minerals and petroleum sector applications to exploit such assets are governed by sector specific legislation.

There are no generally prescribed minimum value thresholds that determine whether a contract is subject to procurement regulation. Furthermore, procurement regulations do not prescribe the precise format for procurement. For example, open tendering is not required if there are compelling reasons not to conduct the process in this manner.

Specific Thresholds

There are, however, value thresholds that determine what type of procurement process is appropriate to use. Generally, the higher the contract value, the more robust the tender procedure will be. National Treasury Practice Note No 2 of 2021/2022 prescribes the procurement process (i.e., petty cash, verbal or written price quotations or competitive bids) applicable at national or provincial level, according to transaction value.

Procuring institutions may use petty cash for contracts with a value of up to ZAR 2 000. For contracts from ZAR 2 000 to ZAR 1 000 000, the procuring institution should call for written quotations. Contracts with a value above ZAR 1 000 000 must undergo a competitive tender process.

At the municipal procurement level procuring institutions may use petty cash for contracts with a value of up to ZAR 2 000. Written quotes are required for contracts from ZAR 10 000 to ZAR 200 000, and contracts from ZAR 200 000 upwards must undergo a competitive bidding process (Regulation 12(1)(c) and (d) of the Municipal SCM Regulations). The threshold values may be lowered, but not increased.

A procuring institution must ensure that the procurement thresholds are strictly adhered to.

3. Are privatisations and PPPs subject to the procurement regime?

Privatisations

There are various provisions across public procurement legislation detailing how organs of state must dispose of public assets to private entities. The National Treasury has made regulations relating to how departments, constitutional institutions, and certain public entities should alienate, let or otherwise dispose of state assets.

Regulation 16A.7 of the Treasury Regulations states that disposal of assets must be at a market-related value and can be done by quotations, competitive bids or auction; whichever is the most advantageous for the state. The disposal of assets must be approved by the relevant treasury in accordance with regulation 19.6 of the Treasury Regulations.

The Municipal Asset Transfer Regulations, published under the MFMA, regulate how municipalities and municipal entities must dispose of state assets. A public participation process is required where the assets are of high value, to allow the municipal council to make determinations. The municipal council must approve the disposal of the asset. In reaching the decision to approve the disposal of an asset, the municipal council must take into account a considerable number of factors listed in regulation 7, including:

- The risks and rewards associated with the operation or control of the asset;
- The views and recommendations of National and the relevant provincial treasury;
- The interests of any affected organs and the local community; and
- Compliance with the legislative regime that applies to the disposal.
In the context of national or provincial government departments, PPPs are regulated by regulation 16 of the Treasury Regulations which states that PPP agreements must be procured in accordance with applicable procurement legislation. The Treasury Regulations deal with how PPPs must be implemented and set out the steps to be followed.

The principles in section 217 of the Constitution apply to PPPs when they perform a public function on behalf of an organ of state in terms of a PPP agreement.

Regulation 16 of the Treasury Regulations provides for strict national or provincial treasury supervision of PPP transactions. These take the form of approvals, based on listed criteria that must be obtained from the National and Provincial Treasury.

PPPs entered into by municipalities are regulated by section 120 of the MFMA and its Public-Private Partnership Regulations. These Regulations provide for how municipalities must go about concluding PPPs. This involves:

- Conducting feasibility studies;
- Soliciting the views and recommendations of the National and Provincial Treasury regarding the PPP; and
- Complying with section 33 (i.e. regarding contracts having future budgetary implications) and 120(6) (i.e. regarding the actions to be undertaken after a feasibility study has been completed) of the MFMA.
Applicable Procedures

1. What procedures do regulated entities use when carrying out procurements? When is it appropriate to use each procedure?

Available Procedures

The internal Supply Chain Management Policy of each department or entity must be followed. Treasury Guidelines, Instructions, Practice Notes and Circulars constrain the contents of these policies and the Treasury Regulations also impose specific requirements on certain entities.

For certain value thresholds there are prescribed procedures. This includes quotations or bidding procedures.

The legislative regime allows for a degree of flexibility and for exemptions to be granted if these can be justified. Any exemption granted must, in any event, adhere to the constitutional principles of fairness, equitability, transparency, competitiveness and cost-effectiveness.

Competitive Tendering

An open, competitive tender process is generally considered most likely to meet the requirements of the Constitution but, depending on the circumstances, it may not be required by law.

The Supreme Court of Appeal has stated that fairness is inherent in an open, competitive tender procedure, the very purpose of which is to ensure cost-effectiveness and competitiveness in a transparent manner. It is for this reason that a public tender process is generally considered to be the most suitable method, as the constitutional requirements permeate the entire procedure for awarding or refusing tenders.

Nevertheless, there may be sufficient and justifiable grounds to support a deviation from a public tender process. A sole source procurement may be justified with reference to the business needs of the entity or department and the practical problems that a public tender process would present in the circumstances.

Further, National Treasury Instruction Note 3 of 2016/2017 on Preventing and Combating Abuse in the Supply Chain Management System (SCM Instruction Note 3 of 2016/17), which applies to all departments, public entities and constitutional institutions, provides that an emergency procurement may occur when there is a serious and unexpected situation that poses an immediate risk to health, life, property or environment which calls an agency to action and there is insufficient time to invite competitive bids.

The Courts have clarified that alternative procurement processes must still be assessed according to the five principles, which are not rigid and should be applied holistically, based on the particular circumstances of each case.

2. Can an entity cancel a tender before awarding it to a tenderer?

Regulation 13(1) of the PPPFA Regulations provides that an organ of state may, prior to the award of a tender, cancel the tender if:

- due to changed circumstances, there is no longer a need for the goods or services specified in the tender invitation;
- funds are no longer available to cover the total envisaged expenditure;
- no acceptable tenders are received; or
- there is a material irregularity in the tender process.

The Constitutional Court has interpreted the list of cancellation grounds to be a closed one.

The Supreme Court of Appeal has held that the decision to cancel a tender prior to its award is not administrative action where the reasons for the tender cancellation are related to executive policy and cannot be challenged on review by a tendering party in such circumstances. However, it would be possible for the cancellation of a tender prior to its award to constitute administrative action where the reason for cancellation is not related to policy or where the tender is cancelled after it has been awarded.

In cancelling a tender, an entity is generally considered to be required to act in a manner that is procedurally fair. This includes giving adequate notice of the intention to cancel the tender which indicates the main considerations for the contemplated action giving the affected parties the right to make representations.
Evaluation and Award

1. Are there any requirements concerning technical specifications of tenders?

The evaluation criteria for measuring technical specifications of tenders, referred to as ‘functionality’ in the PPPFA Regulations, must be objective and must be specified clearly in the tender documents.

A minimum qualifying score for functionality must be indicated and a tender is regarded as unacceptable if this score is not achieved. Tenders that have achieved this minimum score are then evaluated comparatively on BEE and price.

2. What are the requirements relating to contract award criteria?

Where the PPPFA applies, contracts are awarded based on a preferential points system. Under the preferential points system, points are allocated as follows:

- Contracts with a value between ZAR 30 000 and ZAR 50 million: 80 points are allocated for price and functionality and the remaining 20 points for BEE.
- Contracts above ZAR 50 million: 90 points are allocated for price and functionality and 10 points for BEE.

The PPPFA has been aligned with the Broad-Based Black Economic Empowerment Act 53 of 2003 (BBBEE Act), so that a tenderer that has achieved level 1 status in terms of the BBBEE Act can earn the maximum points for BEE under the preference point system. (It should be noted that from May 2015, a new method of calculating the BEE status level of an enterprise under the BBBEE Act applied, which has made it harder to attain a ‘good’ BEE status level.)

Generally, a tender is awarded to the overall highest point scorer unless there are objective criteria that justify the award to another tenderer.

Where two tenders have equal scores, the one with the highest BEE rating must be awarded the contract and where the BEE ratings are also equal, the one with the highest functionality points must be awarded the contract (unless there are objective criteria that justify the award to another tenderer).

However, an organ of state may decide to apply pre-qualifying criteria to advance certain designated groups, in which case it should be specified clearly in the tender advertisement that any tender which fails to meet the pre-qualifying criteria specified in the tender documents is an unacceptable tender.

In November 2020, the Supreme Court of Appeal declared the PPPFA Regulations to be inconsistent with the PPPFA and invalid. Among others, this was on the basis that:

- points should be allocated to bidders in accordance with the preference point system set out in the PPPFA (determination of the highest point scorer followed by a consideration of objective criteria that may justify an award to a lower scorer);
- the PPPFA does not allow for the preliminary disqualification of tenderers without any consideration of the tender as contemplated by the regulations setting out discretionary pre-qualification criteria;
- the PPPFA Regulations fail to provide a framework to guide organs of state in the exercise of their discretion to apply pre-qualification criteria, and this may lend itself to abuse; and
- the discretionary prequalification criteria do not meet the objective of advancing the procurement principles of fairness, equitability, transparency, competitiveness and cost-effectiveness in section 217(1) of the Constitution.

The declaration of invalidity is suspended for 12 months from the date of the court order. The matter has in any event been taken on appeal and so the declaration is suspended pending the determination of the appeal.

The Minister of Finance can exempt certain organs of state from the provisions of the PPPFA on request. Certain procurement processes obtain standalone exemption (such as the Independent Power Producer Programmes of the Department of Energy).
Changes to an Existing Contract

1. Does an extension or amendment of an existing contract require a new procurement procedure?

SCM Instruction Note 3 of 2016/17 prescribes value thresholds for the extension or amendment of contracts post-award. Contracts may not be varied by more than 20% or ZAR 20 million (including all applicable taxes) for construction-related goods, works and/or services, and by 15% or ZAR 15 million (including all applicable taxes) for all other goods and/or services of the original value of the contract, whichever is the lower amount.

Deviations in excess of the aforementioned thresholds will only be allowed in exceptional cases subject to the prior written approval of National Treasury.

An extension or an amendment of an existing contract may require a new procurement procedure depending on, among others:

- The terms of the original agreement;
- The extent of the extension or amendment; and
- The consequences for the contractor and other tenderers.

The courts have held that where a public procurement agreement has a provision for renewal, the contract can be extended on the same terms without the need for a new procurement procedure.

However, where an amendment or extension of a procurement contract departs from what was originally put out to tender to the extent that the contractor benefits significantly or other tenderers may have tendered differently, a new procurement procedure may be required.

Enforcement

1. Who can bring a claim for non-compliance with procurement legislation?

The decision to award a contract to a particular party will, in most circumstances, constitute administrative action on the part of the organ of state. The Promotion of Administrative Justice Act 3 of 2000 (PAJA) has broad ‘standing’ rules and effectively allows anyone to institute proceedings before the High Court for the review of administrative action.

2. What are the available review procedures?

The Draft Procurement Bill (Draft Bill) proposes introducing an internal dispute resolution mechanism which would enable an aggrieved party to apply for the ‘reconsideration’ of a procurement decision initially by the procuring institution, failing that, by the relevant provincial treasury or the Procurement Regulator, and, failing that, the procurement decision may be taken on review to the newly established Public Procurement Tribunal.

These internal remedies must be exhausted by the aggrieved party before such party is legally entitled to challenge decision in judicial review proceedings before the High Court. These provisions are still under consideration. In the interim, and in most instances, an aggrieved party must have the procurement decision set aside by a Court.

A party can apply for, and be granted, an injunction (interdict) from the court to stop the organ of state from contracting with another party or to prevent the implementation of the contract, pending the review of the decision to grant the contract. To succeed, such action must be launched without any delay. One of the factors the court will consider is whether there is a prima facie basis for the reviewing party to succeed on review.

In many circumstances, if it is found that there has been non-compliance with procurement legislation, the court is likely to set the contract aside and may refer the procurement decision back to the regulated authority to re-open the procurement procedure. However, this would depend on the consequences of this for the delivery of the relevant service by the state.

The court cannot review an administrative decision until all internal remedies provided for under the applicable legislation have been exhausted. There are few appeal mechanisms provided for in the procurement context.

A couple of state-owned entities have complaint mechanisms, but these may not amount to an appeal and preclude the institution of litigation and must be considered on an individual basis. An internal complaint mechanism is provided for in the municipal sector in the regulations under the MFMA however this provision does not prevent resort to the Courts as it is not an appeal per se. The regulated authority concerned will have to be a party to the litigation.

In the provincial and national sphere there are no special authorities that review claims of non-compliance with procurement legislation although National Treasury, the Auditor-General and the Public Protector can all investigate such claims and may assist in resolving queries but do not have the power to overturn the decision taken.

3. Are there any associated time periods?

Any application for judicial review brought in terms of PAJA must be made as soon as possible and at most within 180 days from the date the person was informed of the decision, or the date on which any internal procedures are concluded (the 180-day limit may be extended). The review of a tender can take on average from six months to two years.
1. Are there any proposals for reform of the procurement legislation? If so, when are they likely to be implemented?

After being in the pipeline for many years, the Draft Bill, which proposes to consolidate the fragmented legal and regulatory landscape, align preferential procurement with section 217 of the Constitution and modernise procurement rules, was published for initial public comment.

Among other things, the Draft Bill proposes to establish the office of the Public Procurement Regulator and give the holder of this office various powers and functions, such as:

• ensuring that institutions comply with procurement legislation;
• reconsidering decisions of institutions where necessary;
• establishing and maintaining registers for bidders and suppliers debarred from participating in procurement processes; and
• issue binding instructions.

In addition to the establishment of the Public Procurement Regulator, the Draft Bill also contains provisions relating to:

• different methods of procurement;
• framework for preferential procurement;
• functions of Provincial Treasuries;
• maintaining the integrity of the procurement process through sanctions in the form of debarment and criminal offences;
• framework for supply chain management; and
• dispute resolution mechanisms to resolve disputes expeditiously and to limit the need to litigate in the courts, such as a standstill period, review within an institution, by the Public Procurement Regulator, Provincial Treasuries, and an independent Tribunal.

The Draft Bill is at an early stage of consideration and still has a long road to travel before it can be passed into law. Initial public comments are being processed and deliberations on the draft are taking place. Several gaps in the Draft Bill have been identified and these will need to be addressed before the Draft Bill can be certified, formally introduced in Parliament and published as a Bill (rather than a draft) for further public comment and participation.
Our Firm

We help our clients overcome legal complexity and unlock opportunity in Africa.

Our track record of providing specialist legal services in the fields of corporate law, banking and finance law and dispute resolution, spans over a century.

With eight offices in six African countries and over 400 specialist lawyers, we draw on our unique knowledge of the business and socio-political environment to advise clients on a wide range of legal issues.

Everywhere we work, we offer clients a service that uniquely blends expertise in the law, knowledge of the local market, and an understanding of their businesses. Our aim is to assist them to achieve their objectives as smoothly and efficiently as possible while minimising the legal and regulatory risks.

Our clients include corporates, multinationals and state-owned enterprises across a range of industry sectors as well as financial institutions and governments. Our expertise is frequently recognised by independent research organisations. Most recently, Mergermarket identified us as the number one legal adviser for Africa by number of completed deals in 2020.

At the African Legal Awards (2020), we won awards in three categories and were highly commended in a further four categories including African Law Firm of the Year - Large Practice.

We received awards in three out of four categories at the Dealmakers East Africa Awards (2019): top legal adviser in the M&A Category for both deal flow and deal value and advised on the Deal of the Year. In the Dealmakers South Africa Awards (2020), we were placed third for both transaction value and transaction volume in the General Corporate Finance Category and fourth for both deal value and deal volume in the M&A Category.

Our Footprint in Africa

We are present in six countries in Africa: Kenya (Nairobi), Mauritius (Moka), South Africa (Cape Town, Durban, Johannesburg), Tanzania (Dar es Salaam), Uganda (Kampala) and Zambia (Lusaka).

We work closely with our alliance firms in Ethiopia (Aman Assafa & Associates Law Office) and Nigeria (Udo Udoma & Belo-Osagie). These are two of the leading corporate and commercial law firms in their jurisdictions.

We have developed best friends relationships with PFI Partnerships in Malawi and Taciana Peñó Lopes & Advogados Associados in Mozambique, and regularly work with leading law firms in other countries such as Angola, Botswana, Ghana, Ivory Coast, Namibia, Rwanda, South Sudan and Zimbabwe.

We have a comprehensive database of all the law firms we work with in the rest of Africa covering such countries as Algeria, Egypt, Morocco and French-speaking West Africa.

We are representatives of Lex Mundi, a global association with more than 160 independent law firms in all the major centres across the globe. Lex Mundi gives us the ability to connect our clients with the best law firms in each of the countries represented.
Our Government Contracting and Public Procurement Service Line

Fairness, equity, transparency, competitiveness and cost-effectiveness are the guiding principles, required by the Constitution in relation to all public procurement in South Africa.

We have had many successes in guiding both public and private sector clients through the complex regulatory regime of public procurement processes.

On the public sector side, we assist with the design and implementation of fair tender processes that meet the stipulated constitutional principles.

On the private sector side we advise clients on the procurement of goods and services by organs of state and assist with challenging tender processes which do not meet constitutional standards.

We advise corporate clients and government bodies on the application and interpretation of laws and on administrative action. We also regularly represent clients in proceedings before statutory bodies that regulate diverse areas of economic and social activity. Our collective expertise in constitutional and administrative law makes us leading practitioners in judicial review proceedings.

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