

# PREFERENTIAL PROCUREMENT AND ENTERPRISE DEVELOPMENT POLICY

PROMULGATED BY: CHIEF FINANCIAL OFFICER  
EFFECTIVE DATE: 09 FEBRUARY 2015  
ENQUIRIES: SENIOR MANAGER: PROCUREMENT  
APPLICABLE TO: ALL ATNS PERSONNEL

## 1. POLICY DECISION

The purpose of this policy is to provide guidelines for managing preferential procurement and enterprise development within ATNS. This framework including the principles of preferential procurement, forms the basis of a programme of procurement from enterprises owned and controlled by **previously** disadvantaged individuals.

## 2. POLICY OBJECTIVES

The object of this policy is to:

- 2.1 Increase participation of historically disadvantaged individuals in procurement opportunities;
- 2.2 Increase participation by small and medium enterprises (SME's);
- 2.3 Promote local labour;
- 2.4 Promote joint ventures and partnerships;
- 2.5 Encourage links between small and large enterprises;
- 2.6 Promote skills transfer and training of the historically disadvantaged;
- 2.7 Support the creation of employment.

## 3. DEFINITION

### 3.1 Disabled person:

An individual who has a disability and as a result suffers from loss or limitation of opportunity to take part equally with others in the context of any activity relating to the execution of a contract.

### 3.2 Exempted Micro Enterprise (EME)

Any enterprise with annual total revenue of R5 million or less, which shall be deemed to have BBEE status of "Level Four Contributor" having B-BBEE procurement recognition of 100%.

### 3.3 Generic/Large/Standard Enterprise

Any enterprise with annual revenue of above R35 million, which shall measure all the seven elements of the B-BBEE scorecard.

### 3.4 Previously Disadvantaged Individual (PDI)

Means an individual who, being a South African citizen, falls into a population group that had no franchise in national elections prior to the introduction of the 1984 constitution and the tricameral parliament system, subject to person who obtained South African citizenship after 2 February 1990 demonstrating traceable South African lineage. It is incumbent on individuals to demonstrate their claims to fall into such population groups on the basis of identification and association with and recognition by the members of such groups.

### 3.5 Local partner

Means company operating within the borders of South Africa where the contract is executed.

### 3.6 Preferential Procurement

The sourcing of content, goods and services from Black South African persons (as defined by the Department of Labour) who were disadvantaged by unfair discrimination on the basis of race, gender or disability amongst other things, with a view to equalizing market accessibility for them.

### 3.7 Qualifying Small Enterprise (QSE)

Any enterprise with an annual total revenue of between R5 million and R35 million.

### 3.8 Youth

Means persons aged between 18 and 35 years.

## 4. SCOPE

This policy shall apply to all levels of procurement of goods and services and the extent to which the goods and services are procured from empowered suppliers.

## 5. REGULATORY FRAMEWORK

The legislative framework which guides the implementation of this policy is as follows:

- Constitution of the Republic of South Africa, (Act No 108 of 1996, as amended)
- Preferential Procurement Policy Framework Act, (Act No 5 of 2000)
- Preferential Procurement Regulations, 2011
- Broad Based Black Economic Empowerment Act, Act No 53 of 2003
- The National Small Enterprise Act, Act No 102 of 1996
- The State Information Technology Agency (SITA) Act, Act No 88 of 1998, as amended
- Promotion of Access to Information Act (PIA), Act 2 of 2000.
- Promotion of Administrative Justice Act (PAJA), Act No 3 of 2000.
- The Competition Act, Act No 89 of 1998.
- The Protected Disclosures Act, Act No 26 of 2000.

## 6. PREFERENTIAL PROCUREMENT

### 6.1 Preference for suppliers

#### 6.1.1 Order of preference

ATNS shall deal with suppliers in accordance with the BBBEE Codes of Good Practice. In particular, **ATNS shall deal with local BBBEE suppliers with a B-BBEE contribution level 1 to level 4.**

Furthermore, **priority** shall be given to the following:

- Black Owned (→51%) Suppliers **and**
- Black Women Owned (→30%) Suppliers.

**Suppliers who do not meet the ownership requirements must partner with a B-BBEE compliant supplier that meets the preference requirements as stated above. The partnership must be in the form of joint ventures between BBBEE and non-BBBEE organisations and/or foreign suppliers in order to meet the policy requirements.**

#### 6.1.2 Support initiatives

- ATNS may assist BBBEE enterprises by setting tenders aside, either entirely or partially, for such enterprises.
- Joint ventures between BBBEE and non-BBBEE organisations will be actively encouraged so that the transfer of skills may be effected to BBBEE organisations, but only if such skill will be transferable i.e. the black partner must have the required level of education and/or aptitude.
- Joint ventures between BBBEE and foreign suppliers in CAPEX projects will be actively encouraged in order that the transfer of skills may be effected to BBBEE organisations but only if such skill will be transferable i.e. the black partner must have the required level of education and/or aptitude.
- Subcontracting and unbundling will also be utilised to assist BBBEE suppliers that lack capacity for the entire service required.

### 6.2 Supplier management/qualification of suppliers

6.2.1 ATNS shall maintain a comprehensive register of qualified suppliers. Qualification criteria shall, *inter alia*, include BBBEE ratings based on defined criteria.

6.2.2 Compliance with BBBEE constitutes a material condition of an ATNS contract and as such, implementation of BBBEE programmes and initiatives by suppliers shall be monitored and audited for compliance.

6.2.3 ATNS may, at its discretion on approval by the Chief Financial Officer, or Senior Manager: Procurement remove a supplier from the supplier database if the supplier:

- has been proved on a balance of probabilities to be a front;
- gives false declarations in order to gain some advantage;
- does not fulfil his promises of transferring skills to the satisfaction of ATNS;
- becomes insolvent;

- behaves unethically from a business perspective in its operations or to the detriment of ATNS (obligatory removal);
- does not perform in respect of contracts awarded;
- is found to have been performing an unfair labour practices;
- the supplier is an employee of ATNS or a close relative (i.e. parent, spouse, lifelong partner and child) of an ATNS employee;
- is blacklisted by an organ of the state;
- has unfairly influenced the process of award and has been found guilty of improper conduct, on a balance of probability;
- has been convicted for fraud or corruption during the past 5 years;
- has neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years;
- has been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act No 12 of 2004.

6.2.4 The guilty Supplier and or any of its members in the above cases will be blacklisted and ATNS may refuse to register any new companies in which they are involved.

6.2.5 If a supplier is to be removed from the list, the supplier shall be given written notice of the proposed removal together with reasons thereof. The supplier may, at the sole discretion of ATNS, be given an opportunity to justify its actions before being removed from the database.

6.2.6 Where an application for qualification is refused, the reasons for the refusal and the action required in order to qualify will be given to the supplier in writing.

6.2.7 ATNS may, from time to time, publish advertisements inviting suppliers to register with ATNS and thereby be included on the supplier database.

6.2.8 Should a supplier with whom orders have been placed employ sub-contractors, that supplier shall comply with ATNS' BBBEE guidelines in respect of the appointment of such sub-contractors who in turn must conform in like manner.

### **6.3 Tender bidding by business development**

6.3.1 In terms of sourcing of local partners in the country requesting proposals will be based on the recommendation of local or international partners.

6.3.2 The process to identify possible equipment suppliers will be on the basis of MOU's/partnering agreements that are in place with implementing partners.

## **7. ENTERPRISE DEVELOPMENT**

ATNS recognises that the implementation of an Enterprise Development (ED) Policy is an essential mechanism to meet and embrace the objectives set out in the Broad-Based BEE Act 53 of 2003 and will enable ATNS to fulfil its commitment to BBBEE. Enterprise Development measures initiatives implemented with the intention of assisting and accelerating the development and sustainability of qualifying black owned enterprises, thereby facilitating economic participation in the economy by black people, women and people with disabilities.

## 7.1 Context of Enterprise Development

Enterprise development in the ATNS procurement context would refer to the following initiatives:

- 7.1.1 ATNS will offer assistance to B-BBEE accredited companies offering Communication, Navigation and Surveillance related goods and services through skills transfer, infrastructure support, and giving technical and administrative support and assistance.
- 7.1.2 Through supplier summits and forums, matchmaking of B-BBEE and traditional suppliers of similar services will be encouraged. Where matchmaking has been initiated for a joint venture, consortium and/or partnerships for B-BBEE, Supplier Management will ensure sustainability of the new B-BBEE status and assist with funding where required through the Business Development department.
- 7.1.3 Commodity units will ensure that skills are transferred to **EME's and QSE's** in the respective areas.
- 7.1.4 Outsourcing opportunities will be pro-actively identified to develop new enterprises where feasible.
- 7.1.5 ATNS does not acquire equity share in any business or provide loans.

## 7.2 Support Initiatives

- 7.2.1 Arrange for early payments to be made to identified beneficiaries (Micro suppliers). Formal agreements should be put in place.
- 7.2.2 Identify suppliers providing goods and services in Communication, Navigation and Surveillance (CNS) through the Request for Information (RFI) process. RFI's are issued to determine availability of products or services in the market place as well as to determine the budgeting price. RFI's may also be used to pre-screen suppliers for purposes of creating a list of preferred suppliers or issuing an RFQ RFP/RFB.
- 7.2.3 Suppliers identified through the RFI process must be captured on the Preferential Procurement and Enterprise Development Supplier Database. These suppliers will be made available to foreign suppliers that are appointed through the procurement process for the purpose of partnering with them to deliver on CNS projects.
- 7.2.4 Any assistance provided to the service provider should be deemed to be reasonable assistance. This assistance should not conflict and compromise ATNS' overall objectives
- 7.2.5 The assistance provided can only be given where B-BBEE suppliers meet certain criteria which shall be defined in the Corporate Procurement Procedures, e.g. well established B-BBEE suppliers would not qualify for some of the assistance.

7.2.6 The following additional assistance will also be provided: -

- Financial assistance, through the supplier development initiatives or any other initiative aimed at providing assistance to Black Suppliers.
- Training.
- Investment in the Enterprise Development programme (Programmes providing monetary and non-monetary support to beneficiaries contributing to the development of the beneficiary towards becoming financially and operationally independent).

## 8. RESPONSIBILITY, MEASUREMENT AND REPORTING

- 8.1 The responsibility for the implementation of this policy rests with the Chief Financial Officer.
- 8.2 Each existing supplier and/or potential supplier will be required to submit proof of their BEE status and it is the responsibility of the supplier to ensure that this information is up to date.
- 8.3 Preferential Procurement and Enterprise Development performance must be reported monthly to the Transformation Committee and included in the B-BBEE monthly report.
- 8.4 Procurement Spend in terms of this policy will be measured annually in line with ATNS' financial year.
- 8.5 All ATNS employees who engage directly with suppliers are required to abide by this policy.

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**CHIEF FINANCIAL OFFICER**

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**DATE**