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Bidding Documents and Contractual Provisions regarding inclusion of SMEs in PPPs

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Increasingly PPP contracts and bidding documents are incorporating clauses to promote the use of SMEs as contractors or as part of the supply chain. Such clauses often impose a minimum percentage of the project value that must be allocated to small and medium enterprises (SMEs). They may also create incentives to include existing operators into a new scheme, such as in the case of urban transport, to ensure that such small business owners are not crowded out by the PPP project. More examples of policies that incorporate existing operators in new PPPs can be found on [this page](#).

Contracts may also be used to promote certain policy goals relating to SMEs owned by people of color or minorities (M&O contract of the Skukuza Airport in South Africa) and of Disadvantaged and Small Business Enterprises (Eagle Project in Denver).

Australia

Reference: [Victorian Industry Participation Policy \(VIPP\) Model Clauses for Request for Tender and Contract documents](#)

These sample provisions are for use by the public sector in tender documents and contracts where the [Victorian Industry Participation Policy \(VIPP\)](#) is applicable. They are not meant to be followed exactly, but to be adjusted according to the needs of the specific circumstances.

The model clauses cover several aspects of in projects such standard VIPP projects or those that have been categorized as strategic by the policy. This document for instance:

- Request for Tenders;
- Contracts: Definitions and interpretations; VIPP Plan compliance, revision, reporting, schedule; and
- Annexes: VIPP monitoring tables and declarations.

Honduras

Reference: [Buses Terminal and Municipal Market of Danlí- El Paraíso](#)

This relates to a public-private partnership for the design, financing, construction and transfer of the updates to the Danlí- El Paraíso Bus Terminal and Municipal Market space, including 600 commercial market stalls and 20 bus terminals.

This contract encourages the participation of SMEs by providing that the market stalls shall be sold to SMEs at prices pre-set in the contract upon construction by the private partner for their own commercial profit. The private partner may also rent to SMEs who are not able to purchase the real estate. Once the project is finished the public entity will keep the operation and maintenance of the common areas (Clause XXXI).

South Africa

Reference: [Standardised Public-Private Partnerships Provisions](#)

This document compiles the main issues that usually appear in different PPP projects, and sets out guidelines on how to address them within the PPP contract.

The provisions also explain how to reflect the legal requirement under South African to have black participation in projects, regarding the participation of black enterprises at the subcontractor level, the participation by black people in the management control of the subcontractors, employment equity, skills development and procurement opportunities for SMEs.

Reference: [Public-Private Partnership Agreement for the Management and Operation of the Skukuza Airport in the Kruger National Park](#)

This agreement gives the private party the right to operate and manage the Skukuza Airport and in exchange receive all landing charges, parking charges and passenger service charges.

Conforming the [Black Economic Empowerment Act \(BEE\)](#), this contract includes several clauses for its compliance such as preferential procurement with SMEs or BEE compliant suppliers. Likewise, the contract includes indicators and milestones that should be achieved in different stages of the contract, such as Enterprise Development that is measured by “Enhanced revenue and/or cost savings and/or twinning initiatives facilitated for black owned SMMEs, as a percentage of revenue.”

Reference: [Guidance Document for the Calculation of Local Content](#)

As the introduction of the document indicates, “This guideline provides tenderers with a detailed description of how to calculate local content of products (goods, services and works) by components/material/services and enables them to keep an updated record for verification requirements”.

Reference: [Declaration Certificate for Local Production and Content for Designated Sectors](#)

This declaration certificate forms part of the package of standard bidding documents as prescribed in the Preferential Procurement Regulations, which promotes local production and content in designated sectors.

Reference: [Bid for Procurement of Services to Manufacture, Supply and Maintain 174 Buses](#)

This document is a bid notice and invitation to bidders for manufacturing, supplying and maintaining 174 busses. The notice requires that proposals incorporate local labor and maximize the local labor content during the manufacturing, supply and maintenance of the bus fleet (Section 6.13).

Likewise, the document establishes that “only tenders that have a higher than the stipulated minimum threshold for local content as stipulated (80%) (on the procuring documents) ... will be eligible for further evaluation.”

United States

Reference: Eagle Project Concession Agreement between the Regional Transportation District (RTD) and Denver Transit Partners (DTP)

This is a concession and lease agreement for (i) the design and construction of the Commuter Rail Projects and the Commuter Rail Maintenance Facility, (ii) the procurement and installation of the DUS Systems, (iii) the procurement of the Rolling Stock, (iv) the operation of the Commuter Rail Services and the operation and maintenance of the Commuter Rail Network and the Rolling Stock and (v) the grant by RTD of a concession and lease in relation to dispatch of all Heavy Rail Movements (the Eagle Project) by a private sector party.

This contract provides the obligation to subcontract disadvantaged business enterprises and small and medium enterprises (DBE/SBE Requirements 22.4; SBE Requirements 29.23). The [Attachment 15 denominated Specified Requirements](#) covers every aspect of this obligation from the definitions to minimum thresholds.

Related Content

- [SMEs and PPPs](#)
- [Promotion of SME Participation in PPP Laws and Regulation](#)
- [Promotion of SMEs/Local Content in Public Procurement Laws and Regulation](#)
- [Sector-Specific Laws and Regulations Promoting SMEs/Local Content](#)
- [Examples of Policies of International Contractors Promoting SMEs](#)
- [Examples of Policies that Incorporate Existing Operators into New PPPs](#)

- [Further Reading in SMEs and PPPs](#)

Additional Resources

- [Sub-national and Municipal PPPs](#)
- [Gender Equality & PPPs](#)
- [How to foster a more inclusive environment for SMEs in PPPs?](#)

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