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NATIONAL TREASURY

No. R. 1734

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**REGULATIONS IN TERMS OF THE PUBLIC FINANCE
MANAGEMENT ACT, 1999:
FRAMEWORK FOR SUPPLY CHAIN MANAGEMENT**

The Minister of Finance has, in terms of Section 76 (4) (c) of the Public Finance Management Act, 1999 (Act No. 1 of 1999 as amended by Act 29 of 1999) approved the Regulations in respect of the Framework for Supply Chain Management as set out in the Schedule.

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SCHEDULE

REGULATIONS IN TERMS OF THE PUBLIC FINANCE MANAGEMENT ACT, 1999: FRAMEWORK FOR SUPPLY CHAIN MANAGEMENT

Definitions

1. In these Regulations, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the Public Finance Management Act, 1999, has the same meaning as in that Act.

Application

2. This framework applies to all –

- (a) national and provincial departments and trading entities
- (b) constitutional institutions; and
- (c) public entities listed in Schedules 3A and 3C to the Public Finance Management Act, 1999 (Act No. 1 of 1999).

Supply chain management system

3. (1) The accounting officer or accounting authority of an institution to which these regulations apply must develop and implement in that institution an effective and efficient supply chain management system for –

- (a) the acquisition of goods and services; and
- (b) the disposal and letting of state assets, including the disposal of goods no longer required.

(2) A supply chain management system referred to in subregulation (1) must –

- (a) be fair, equitable, transparent, competitive and cost effective;
- (b) be consistent with the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000); and
- (c) provide for at least the following: –
 - (i) demand management;
 - (ii) acquisition management;

- (c) the selection of bid committee members;
 - (d) bidding procedures; and
 - (e) the approval of bid committee recommendations.
- (3) The accounting officer or accounting authority must ensure that –
- (a) bid documentation and the general conditions of a contract are in accordance with –
 - (i) the instructions of the National Treasury; or
 - (ii) the prescripts of the Construction Industry Development Board, in the case of a bid relating to the construction industry;
 - (b) bid documentation include evaluation and adjudication criteria, including the criteria prescribed in terms of the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);
 - (c) bids are advertised in at least the *Government Tender Bulletin* for at least 30 days before closure, except in urgent cases when bids may be advertised for such shorter period as the accounting officer or accounting authority may determine;
 - (d) awards are published in the *Government Tender Bulletin* and other media by means of which the bids were advertised;
 - (e) contracts relating to information technology are prepared in accordance with the State Information Technology Act, 1998 (Act No. 88 of 1998), and any regulations made in terms of that Act;
 - (f) Treasury Regulation 16 is complied with when goods or services are procured through public private partnerships or as part of a public private partnership; and
 - (g) instructions issued by the National Treasury in respect of the appointment of consultants are complied with.

(4) If in a specific case it is impractical to invite competitive bids, the accounting officer or accounting authority may procure the required goods or services by other means, provided that the reasons for deviating from inviting competitive bids must be recorded and approved by the accounting officer or accounting authority.

Disposal and letting of state assets

7. The accounting officer or accounting authority of an institution to which these regulations apply must –

- (a) in relation to the sale or other disposal of state assets, ensure that –
 - (i) immovable property is sold at market related prices, unless the relevant treasury determines otherwise;
 - (ii) movable assets are sold either by way of tender process, auction or at market related prices, whichever is the most advantageous to the state;
 - (iii) in the case of the disposal of computer equipment, the relevant department of education must first be approached to indicate whether any educational institutions are interested in the equipment, and, if so, to arrange for the transport of such equipment at its own cost to any such interested educational institutions;
 - (iv) in the case of the disposal of firearms, the National Conventional Arms Control Committee approves of any sale or donation of firearms to any person or institution within or outside the Republic; and
- (b) in relation to the letting of state assets –
 - (i) ensure that all immovable property, excluding state housing for state officials and political office bearers, is let at market related rates, unless the relevant treasury determines otherwise or approves the letting of property free of charge; and
 - (ii) annually review all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of state property.

All role players to comply to ethical standards

8. (1) All officials and other role players in a supply chain management system must comply with the highest ethical standards in order to promote –

- (a) mutual trust and respect; and
- (b) an environment where business can be conducted with integrity and in a fair and reasonable manner.

(2) The National Treasury's Code of Conduct for Supply Chain Management Practitioners must be adhered to by all officials and other role players involved in supply chain management.

(3) A supply chain management official or other role player –

- (a) must recognise and disclose any conflict of interest that may arise;
- (b) must treat all suppliers and potential suppliers equitably;
- (c) may not use their position for private gain or to improperly benefit another person;
- (d) must ensure that they do not compromise the credibility or integrity of the supply chain management system through the acceptance of gifts or hospitality or any other act;
- (e) must be scrupulous in their use of public property; and
- (f) must assist accounting officers or accounting authorities in combating corruption and fraud in the supply chain management system.

(4) If a supply chain management official or other role player, or any close family member, partner or associate of such official or other role player, has any private or business interest in any contract to be awarded, that official or other role player must –

- (a) disclose that interest; and
- (b) withdraw from participating in any manner whatsoever in the process relating to that contract.

Avoiding abuse of supply chain management system

9. (1) The accounting officer or accounting authority of an institution to which these regulations apply must –

- (a) take all reasonable steps to prevent abuse of the supply chain management system;

- (b) investigate any allegations against an official or other role player of corruption, improper conduct or failure to comply with the supply chain management system, and when justified –
 - (i) take steps against such official or other role player and inform the relevant treasury of such steps; and
 - (ii) report any conduct that may constitute an offence to the South African Police Service;
 - (c) check the National Treasury's database prior to awarding any contract to ensure that no recommended bidder, nor any of its directors, are listed as companies or persons prohibited from doing business with the public sector;
 - (d) reject any bid from a supplier who fails to provide written proof from the South African Revenue Service that that supplier either has no outstanding tax obligations or has made arrangements to meet outstanding tax obligations;
 - (e) reject a proposal for the award of a contract if the recommended bidder has committed a corrupt or fraudulent act in competing for the particular contract; or
 - (f) cancel a contract awarded to a supplier of goods or services –
 - (i) if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract; or
 - (ii) if any official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of that contract that benefited that supplier.
- (2) The accounting officer or accounting authority –
- (a) may disregard the bid of any bidder if that bidder, or any of its directors –
 - (i) has abused the institution's supply chain management system
 - (ii) has committed fraud or any other improper conduct in relation to such system; or
 - (iii) has failed to perform on any previous contract; and
 - (b) must inform the relevant treasury of any action taken in terms of paragraph (a).

(3) The National Treasury and each provincial treasury must establish a mechanism:-

- (a) to receive and consider complaints regarding alleged non-compliance with the prescribed minimum norms and standards; and
- (b) to make recommendations for remedial actions to be taken if non-compliance of any norms and standards is established, including recommendations of criminal steps to be taken in the case of corruption, fraud or other criminal offences.

National Industrial Participation Program

10. (1) An accounting officer or accounting authority must obtain clearance for a recommended bidder from the Department of Trade and Industry, in respect of contracts which are subject to the National Industrial Participation Program of that Department.

Reporting of supply chain management information

11. (1) The accounting officer or accounting authority of an institution to which these regulations apply must submit to the relevant treasury such supply chain management information as that treasury may require.

(2) A provincial treasury must submit to the National Treasury such supply chain management information as the National Treasury may require.

(3) Information referred to in subregulation (1) or (2) must be submitted to a relevant treasury in such format and at such intervals as that treasury may require.

Interim arrangements

12. If an institution to which these regulations apply lacks the capacity to fully comply with these regulations, that institution may continue to make use of existing procurement processes through the relevant Tender Boards or other provincial procurement authorities, subject to any instructions of the relevant treasury.

Date of commencement

13. These Regulations take effect from 5 December 2003.
