

**PROVINSIALE TESOURIE • PROVINCIAL TREASURY •
UNONDYEBO WEPHONDO**



Verwysing Reference Isalathiso T7/2/PROC
Navrae Enquiries Imibuzo LJOSIAS

TREASURY CIRCULAR NO. 46/2009

THE PREMIER

THE MINISTER OF AGRICULTURE
THE MINISTER OF COMMUNITY SAFETY
THE MINISTER OF CULTURAL AFFAIRS AND SPORT
THE MINISTER OF EDUCATION
THE MINISTER OF FINANCE, ECONOMIC DEVELOPMENT AND TOURISM
THE MINISTER OF HEALTH
THE MINISTER OF HOUSING
THE MINISTER OF LOCAL GOVERNMENT, ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING
THE MINISTER OF SOCIAL DEVELOPMENT
THE MINISTER OF TRANSPORT AND PUBLIC WORKS
THE SPEAKER: PROVINCIAL PARLIAMENT
THE DEPUTY SPEAKER: PROVINCIAL PARLIAMENT

} For information

ALL OTHER MEMBERS OF PARLIAMENT

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THE ACCOUNTING OFFICER: VOTE 2: PROVINCIAL PARLIAMENT (MR P WILLIAMS)
THE ACCOUNTING OFFICER: VOTE 3: PROVINCIAL TREASURY (DR JC STEGMANN)
THE ACCOUNTING OFFICER: VOTE 4: COMMUNITY SAFETY (DR GA LAWRENCE)
THE ACCOUNTING OFFICER: VOTE 5: EDUCATION (MR RB SWARTZ)
THE ACCOUNTING OFFICER: VOTE 6: HEALTH (PROF KG HOUSEHAM)
THE ACCOUNTING OFFICER: VOTE 7: SOCIAL DEVELOPMENT (MS K LUBELWANA)
THE ACCOUNTING OFFICER: VOTE 8: LOCAL GOVERNMENT AND HOUSING (MR DP DANIELS) (ACTING)
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THE ACCOUNTING OFFICER: VOTE 12: ECONOMIC DEVELOPMENT AND TOURISM (MR B ROBERTS)
THE ACCOUNTING OFFICER: VOTE 13: CULTURAL AFFAIRS AND SPORT (MR B WALTERS) (ACTING)

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THE CHIEF FINANCIAL OFFICER: VOTE 2: PROVINCIAL PARLIAMENT (MS A SMIT)
THE CHIEF FINANCIAL OFFICER: VOTE 3: PROVINCIAL TREASURY (MR A GILDENHUYS)
THE CHIEF FINANCIAL OFFICER: VOTE 4: COMMUNITY SAFETY (MR M FRIZLAR)
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THE CHIEF FINANCIAL OFFICER: VOTE 8: LOCAL GOVERNMENT AND HOUSING (MR D BASSON)
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THE SENIOR MANAGER: LOCAL GOVERNMENT FINANCE (GROUP ONE) (MR G PAULSE)
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THE SENIOR MANAGER: IMMOVEABLE ASSET MANAGEMENT (MR NB LANGENHOVEN)
THE SENIOR MANAGER: MOVEABLE ASSET MANAGEMENT (MS N EBRAHIM)
THE SENIOR MANAGER: SUPPORTING AND INTERLINKED FINANCIAL SYSTEMS (MR A BASTIAANSE)
THE HEAD: OFFICE OF THE MINISTRY (MS J DAVIDS)

THE PROVINCIAL AUDITOR
MASTER RECORDS OFFICIAL: FINANCIAL MANAGEMENT

PROCUREMENT THROUGH THE STATE INFORMATION TECHNOLOGY AGENCY (SITA) AND ACCOUNTABILITY OF ACCOUNTING OFFICERS

1. PURPOSE

- 1.1. The purpose of this circular is to inform departments of the National Treasury's Practice Note 5 of 2009/2010 which refers to procurement through the State Information Technology Agency (SITA) as well as to highlight to Accounting Officers the prescribed Supply Chain Management (SCM) processes to be followed by SITA when they procure on behalf of departments.

2. PROCUREMENT THROUGH SITA

- 2.1 In terms of the SITA Act, 2002 and its Regulations the responsibility for the procurement of ICT related goods and services vest with the respective Accounting Officer. Furthermore, the PFMA also requires that Accounting Officers be responsible for the procurement of the department's goods and services in a manner that is fair, equitable, transparent, competitive, and cost effective.
- 2.2 The National Treasury has ascertained that there are Accounting Officers that are not clear on or are not ensuring compliance to the requirements for the procurement of ICT goods and services.
- 2.3 The National Treasury has therefore issued the practice note, herewith attached as Annexure A, to address and assist with the difficulties experienced by departments.
- 2.4 Accounting Officers and relevant officials within departments are required to acquaint themselves with the contents of the practice note. For the purpose of this circular the Provincial Treasury wishes to highlight the following issues within the practice note:
 - (a) Paragraph 3.2: Mandatory services provided to national and provincial departments by SITA;
 - (b) Paragraph 3.3: that deals with service level agreements and SITA's involvement as an agent to acquire goods and services on behalf of the department;
 - (c) Paragraph 3.4: Adherence to National Treasury Regulation 17.3
 - (d) **"institutions *may not amend existing or institute new computerized systems***

that will affect financial administration without the prior written approval of the National Treasury”,

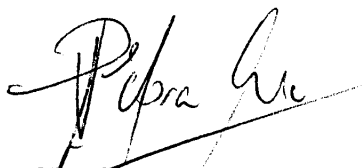
- (e) Paragraph 3.5: Non-mandatory services provided by SITA (on behalf of departments);
- (f) Paragraphs 3.7 and 3.8 which deals with the requirements for deviations; and
- (g) Paragraph 4: Summary of prescribed procedures relating to the procurement of goods and services.

2.5 Departments are also required to note paragraph 4.1.1 of the practice note, which indicates the threshold value (R 500 000) for procuring ICT goods and services. This threshold is however **NOT** applicable to Western Cape Departments which must procure goods and services (construction and related excluded) in terms of the SCM thresholds as stipulated in chapter 16A2 of the Provincial Treasury Instructions dated 29 April 2008.

3. REQUEST

3.1 Accounting Officers are hereby requested to:

- (a) note and comply with the requirements of the attached National Treasury practice note 5 of 2009 / 2010 as well as this Provincial Treasury Circular, and
- (b) ensure that the contents of the National Treasury practice note Provincial Treasury circular are brought to the attention of relevant personnel and any institution under their control in terms of the PFMA.



SENIOR MANAGER: MOVABLE ASSET MANAGEMENT

DATE: 28 JULY 2009

**national treasury**

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

TO ALL : ACCOUNTING OFFICERS OF DEPARTMENTS AND CONSTITUTIONAL INSTITUTIONS
: ACCOUNTING AUTHORITIES OF PUBLIC ENTITIES LISTED IN SCHEDULES 3A AND 3C TO THE PFMA
: HEAD OFFICIALS OF PROVINCIAL TREASURIES

NATIONAL TREASURY PRACTICE NOTE NUMBER 5 OF 2009/2010**PROCUREMENT THROUGH THE STATE INFORMATION TECHNOLOGY AGENCY (SITA) AND ACCOUNTABILITY OF ACCOUNTING OFFICERS / AUTHORITIES****1. PURPOSE**

- 1.1 The purpose of this practice note is to provide guidance to accounting officers of departments and constitutional institutions and to accounting authorities of public entities listed in Schedules 3A and 3C to the Public Finance Management Act (PFMA), 1999 on the procedures to be followed when procuring ICT related goods and/or services through SITA.
- 1.2 The practice note also aims to alert the aforementioned accounting officers and accounting authorities of the prescribed supply chain management (SCM) processes to be followed by SITA on behalf of departments, constitutional institutions and 3A and 3C public entities.
- 1.3 Departments, constitutional institutions and Schedule 3A and 3C public entities shall hereafter be referred to as institutions in this practice note.

2. BACKGROUND

- 2.1 In terms of the State Information Technology Amendment Act, 2002 and its subordinate regulations (hereafter referred to as prescribed legislation), accountability for decisions related to the procurement of ICT related goods and/or services is vested with the respective accounting officer or accounting authority. This is further emphasised in the PFMA which requires that accounting officers and accounting authorities be responsible

for the effective, efficient, economical and transparent use of their institution's resources.

2.2 It has, however, come to light that in some instances accounting officers and accounting authorities are not ensuring strict compliance with the prescribed legislation when procuring ICT related goods and/or services through SITA.

2.3 Based on enquiries directed to the National Treasury, it would appear as though some accounting officers and accounting authorities and their designated SCM practitioners are experiencing difficulties with interpretation of the prescribed legislation. This practice note attempts to summarise and clarify the regulations as issued in terms of both the SITA Act and the PFMA.

3. SUMMARY OF SITA SERVICES:

3.1 In terms of the SITA Act, a distinction is made between certain services that **must** be provided by SITA and certain services that **may** be provided by SITA.

Mandatory ("must") services that are to be provided by SITA

3.2 SITA **must** provide the following services to national and provincial departments:

- provide or maintain a private telecommunication network or a value added network;
- provide and maintain transversal or departmental specific information systems;
- provide data-processing or associated services for transversal or departmental specific information systems;
- provide IT (Information Technology) for Government;
- set standards for interoperability;
- set standards for ISS (information security standards);
- set standards for Certification of IT acquisition;
- certify all acquisitions for standard compliance;
- eliminate duplication; and
- leverage economies of scale.

3.3 Departments are required to acquire these services from SITA in accordance with business and service level agreements. Should SITA indicate in writing that it is unable to provide the service itself, SITA will act as the procurement agent to acquire such services on behalf of departments.

3.4 Accounting officers are, however, required to take note that in terms of Treasury Regulation 17.3, departments and constitutional institutions may not amend existing or institute new computerised systems that will affect financial administration without the **prior written approval** of the National Treasury.

Non-mandatory (“may”) services that may be provided by SITA

3.5 In addition to the mandatory services as listed above, SITA may, on behalf of a department, provide the following services:

- Training in IT or information systems;
- application software development;
- maintenance of software and infrastructure;
- data process for department specific applications or systems;
- technology or business advice for IT;
- research and development;
- management services for IT; and
- sell or provide authentication products.

3.6 Schedule 3A and 3C public entities may at their own discretion acquire any of the abovementioned mandatory or non-mandatory services from SITA.

3.7 In instances where SITA acts as the procurement agent on behalf of an institution, SITA must facilitate the procurement process strictly in terms of the prescribed legislation. SITA will make a recommendation to the accounting officer or accounting authority on a preferred bidder(s). The accounting officer or accounting authority, however, retains the right to accept or reject SITA's recommendation.

3.8 In the event of the accounting officer or authority rejecting SITA's recommendation, the reasons for such rejection must within 10 working days be submitted in writing to the relevant treasury and the Auditor-General.

4. SUMMARY OF PRESCRIBED PROCEDURES

4.1 The following procedures to procure ICT related goods and/or services through SITA are summaries of the prescribed legislation and Treasury Regulations and these procedures must be strictly adhered to:

4.1.1 Procurement on quotation basis, not exceeding R 500 000.

- to provide context*
- (a) SITA must compile and maintain a list of prospective suppliers from which ICT related goods and/or services may be procured directly

by institutions. This list must be established through a public invitation to be listed as a potential supplier, in accordance with evaluation criteria reflected in the bid documents. SITA must conduct a standard certification in respect of the goods and/or services in question before finalizing the list of prospective suppliers;

- (b) The institution must obtain at least three quotations per purchase on a rotational basis depending on the number of listed suppliers and the frequency of purchase;
- (c) In the event that it is not practical to obtain three quotations or to select suppliers on a rotational basis, the reasons for deviation must be approved by the relevant accounting officer or accounting authority and recorded for auditing purposes;
- (d) If none of the suppliers on the list are able to provide the goods and/or services, the institution may obtain quotations from other suppliers and must accordingly inform SITA in writing; and
- (e) SITA must update the list of prospective suppliers for quotations at least on a quarterly basis.

4.1.2 Institutional specific contracts

- (a) An institutional specific contract relates to:
 - (i) specific ICT related information systems and goods and/or services required;
 - (ii) a request for information (RFI); or
 - (iii) a request for proposals (RFP).
- (b) This may include bids for services that SITA is unable to render and for which the institution resolved to procure the requirements through SITA, who will facilitate the arrangement of a contract as a procurement agent. For such purchases, SITA is empowered to appoint consultants, including auditors if required, to provide technical advice.
- (c) The accounting officer or accounting authority must appoint a specific official within his or her institution to administer the contract and such an official shall be known as the designated official. As the contact person, the designated official is responsible for preparing the business case, obtaining approval from the accounting officer or accounting authority for the business case,

compilation of specifications, obtaining approval for the bid documents and appointing officials for the bid evaluation process.

- (d) The institution must determine the need for the ICT related goods and/or services and must compile the business plan and specifications. The institution may, at its own cost, request SITA to assist with the compilation of the business plan and specifications.
- (e) SITA must compile the required bid documentation, subject to the prescribed legislation, the Preferential Procurement Regulations and National Treasury requirements related to tax clearance certificates and submit the final bid documentation to the accounting officer or accounting authority for approval.
- (f) SITA must advertise the bid in at least the Government Tender Bulletin, on SITA's website and in other appropriate media. When the goods and/or services, RFI or RFP are required by a provincial department or by a national department within a specific province, the bid must also be advertised in that province.
- (g) The bids must close at an office prescribed by SITA in the bid documents. The bids must be opened in public and the names of the bidders, and if possible, the total bid prices must be read out.
- (h) The accounting officer or accounting authority must appoint an official from the institution as the chairperson of the Bid Evaluation Committee (BEC). In addition, the accounting officer or accounting authority must appoint other officials of the institution to serve as members of the BEC. The designated official may, however, not serve on the BEC. SITA must also appoint their relevant officials to serve as members of the BEC and these officials will also provide the administrative support to the Committee.
- (i) SITA must ensure that the goods and/or services offered adhere to the prescribed certification standards and the BEC must evaluate the bid in accordance with the evaluation criteria captured in the bid documents. The BEC must also conduct risk analyses of the preferred bidder(s) and must compile a recommendation to the relevant accounting officer or accounting authority for the award.
- (j) A Recommendation Committee (RC) comprising officials only from SITA must verify that the procurement process complied with the prescribed legislation, the Preferential Procurement Regulations and National Treasury requirements. The RC must also conduct its own risk analysis and must, on behalf of SITA, submit a

recommendation to the accounting officer or accounting authority on the award of the bid.

- (k) Upon receipt of the recommendations from the BEC and the RC, the accounting officer or accounting authority must make the final award and inform the successful bidder(s) and SITA of the award. The accounting officer or accounting authority may award the bid to a bidder other than the bidder(s) indicated in the recommendation(s) received and in such instances the reasons for deviating from the recommendations must within 10 working days be submitted in writing to the relevant treasury, SITA and the Auditor-General.
- (l) SITA must arrange for the publication of the award in the Government Tender Bulletin and on SITA's website.
- (m) The accounting officer or accounting authority may delegate the decision-making process on the award of the bid to the relevant Bid Adjudication Committee (BAC).

4.1.3 Cancellation of Bid

- (a) A bid may be cancelled if:
 - (i) prior to its award, it is determined that the need for the commodity no longer exists;
 - (ii) the envisaged expenditure exceeds the available funds, and
 - (iii) no acceptable bids were received.
- (b) Bids may only be cancelled in exceptional circumstances since cancellations may result in fruitless and wasteful expenditure for both Government and the prospective suppliers. If the need for the commodity no longer exists, available funds are insufficient or no acceptable bids are received, it reflects negatively on the demand management and strategic sourcing processes that have been followed.

4.2 Transversal Term Contracts

4.2.1 The following represent the two types of transversal term contracts that are available for ICT related procurement, namely:

- (a) transversal framing term contracts where the ICT related goods and/or services may be procured by means of quotations from pre-identified potential suppliers whose products meet the standard certification; and

- (b) transversal term contracts which provide for the supply of ICT related goods and/or services at contracted prices.

4.2.2 General

- (a) The Department of Public Service and Administration (DPSA) or any other department as the Minister of the Public Service and Administration wishes to select, must act as the designated department or public body.
- (b) The accounting officers or accounting authorities of the participating institutions must in writing delegate the power to award the bid on their behalf to the accounting officer or accounting authority of the designated institution.
- (c) The designated institution must establish a committee consisting of delegated representatives of the participating institutions to determine the user requirements, compile the business case and specifications and to approve the business case after consultation with the Government Information Technology Officer (GITO) Council.
- (d) An employee from SITA must chair the BEC meetings which must be constituted from employees of the client institutions and from SITA.
- (e) The BEC must submit their recommendations to the RC who will conduct their prescribed processes and will submit a recommendation for the award to the accounting officer or accounting authority of the designated institution. The accounting officer or accounting authority will then award the bid to the relevant preferred bidder(s) after considering the reports received from the BEC and RC.
- (f) Upon awarding of the relevant bid by the designated institution, SITA must, after consultation with the GITO Council, conclude the necessary transversal term contracts with the successful bidder(s).

4.2.3 Procurement from a transversal framing term contract

- (a) Transversal framing term contracts enable institutions to procure ICT related goods and/or services by means of quotations from pre-identified potential suppliers whose products meet the standard certification.
- (b) With regard to procurement from a transversal framing contract:
 - (i) SITA must make available a value proposal for the transversal framing term contract to every prospective institution;

- (ii) the institution may engage directly with the prospective suppliers based on the approved user requirement specification;
- (iii) Suppliers must submit quotes based on the user requirement specification;
- (iv) the institution must select the specific supplier; place orders with the selected supplier(s), forward copies of the orders to the relevant contract manager at SITA and make payments in respect of goods and / or services rendered directly to the supplier; and
- (v) if the transversal framing contract requires a specific formal agreement, such agreement must be concluded between the institution and the supplier. The institution may request SITA to assist with the management of such agreement.

4.2.4 Procurement from a transversal goods or services term contract.

- (a) Transversal goods and services term contracts enable the institutions to procure ICT related goods and/or services at contracted prices obtained through a competitive bidding process.
- (b) With regard to procurement from a transversal goods or services term contract:
 - (i) SITA must make available a value proposal for the transversal framing term contract to every prospective department or public body;
 - (ii) the institution must place the order directly with the supplier and furnish a copy of the relevant order to the relevant contract manager of SITA; and
 - (iii) the institution must make payment in respect of the order directly to the supplier.

5. DATABASE MAINTAINED BY SITA

5.1 SITA must maintain a database on its website of all existing transversal term contracts, which must at least include the following:

- (a) The contract number;
- (b) The contract title and a short description;
- (c) The suppliers;
- (d) The names and contact details of the contract managers of the suppliers;
- (e) The price list of goods and services, if applicable, and the last date when updated; and

- (f) The names and contact details of SITA's contract manager for the specific transversal term contracts.
- 5.2 Any changes to the information referred to in 5.1 must be updated immediately on SITA's website.

6. PROHIBITION TO CALL FOR BIDS

- 6.1 The following prohibitions apply when inviting bids:
- (a) during the tenure of a transversal term contract, an institution may not invite a bid for goods and/or services that are the subject matter of that contract; and
 - (b) an institution, which resolved to procure such goods and/or services through SITA, may procure such goods and/or services only from the relevant supplier(s) under that contract.

7. PUBLIC PRIVATE PARTNERSHIPS

- 7.1 The following is applicable to ICT related procurement through public private partnership (PPP) agreements:
- (a) if a department wishes to acquire ICT related goods and/or services in terms of a PPP agreement, such an acquisition must take place in accordance with Treasury Regulation 16, issued in terms of the PFMA; and
 - (b) SITA must appoint a representative on the relevant PPP project task team to arrange standard certification of all ICT related goods and/or services acquired for such a PPP.

8. APPLICABILITY

This practice note applies to all national and provincial departments, constitutional institutions and public entities listed in Schedules 3A and 3C to the PFMA.

9. DISSEMINATION OF INFORMATION CONTAINED IN THIS PRACTICE NOTE

- 9.1 Heads Officials of provincial treasuries are requested to bring the contents of this practice note to the attention of accounting officers of their respective provincial departments.
- 9.2 Accounting officers of national and provincial departments are requested to bring the contents of this practice note to the attention of accounting

authorities of public entities listed in Schedules 3A and 3C reporting to their respective executive authorities.

10. EFFECTIVE DATE

This practice note is issued in terms of section 76(4)(c) of the PFMA, and takes effect from the date of issuance.

11. CONTACT PERSON

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**S F NOMVALO
ACCOUNTANT-GENERAL**

DATE: 3 July 2009

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