

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



Verwysing  
Reference  
Isalathiso

File: PT 14/10

Navrae  
Enquiries  
Imibuzo

Name: N. Ebrahim / W. Phaswane

**TREASURY PROCUREMENT CIRCULAR PRACTICE NOTES NO. 16 /2007**

THE PREMIER

THE MINISTER OF AGRICULTURE  
THE MINISTER OF COMMUNITY SAFETY  
THE MINISTER OF CULTURAL AFFAIRS, SPORT AND RECREATION  
THE MINISTER OF EDUCATION  
THE MINISTER OF ENVIRONMENT, PLANNING AND ECONOMIC DEVELOPMENT  
THE MINISTER OF FINANCE AND TOURISM  
THE MINISTER OF HEALTH  
THE MINISTER OF LOCAL GOVERNMENT AND HOUSING  
THE MINISTER OF SOCIAL SERVICES AND POVERTY ALLEVIATION  
THE MINISTER OF TRANSPORT AND PUBLIC WORKS

For information

ALL MEMBERS OF PARLIAMENT (EXCLUDING PREMIER AND MINISTERS)

THE SPEAKER: PROVINCIAL PARLIAMENT  
THE DEPUTY SPEAKER: PROVINCIAL PARLIAMENT

THE ACCOUNTING OFFICER: VOTE 1: PREMIER (DR GA LAWRENCE)  
THE ACCOUNTING OFFICER: VOTE 2: PROVINCIAL PARLIAMENT (MR R HINDLEY) (ACTING)  
THE ACCOUNTING OFFICER: VOTE 3: PROVINCIAL TREASURY (DR JC STEGMANN)  
THE ACCOUNTING OFFICER: VOTE 4: COMMUNITY SAFETY (MR O VALLEY) (ACTING)  
THE ACCOUNTING OFFICER: VOTE 5: EDUCATION (MR RB SWARTZ)  
THE ACCOUNTING OFFICER: VOTE 6: HEALTH (PROF KG HOUSEHAM)  
THE ACCOUNTING OFFICER: VOTE 7: SOCIAL SERVICES AND POVERTY ALLEVIATION (MS VL PETERSEN)  
THE ACCOUNTING OFFICER: VOTE 8: LOCAL GOVERNMENT AND HOUSING (MS S MAJIET)  
THE ACCOUNTING OFFICER: VOTE 9: ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING (MR T TOLMAY)  
THE ACCOUNTING OFFICER: VOTE 10: TRANSPORT AND PUBLIC WORKS (MR T MANYATHI)  
THE ACCOUNTING OFFICER: VOTE 11: AGRICULTURE (MS J ISAACS) (ACTING)  
THE ACCOUNTING OFFICER: VOTE 12: ECONOMIC DEVELOPMENT AND TOURISM (MR B ROBERTS)  
THE ACCOUNTING OFFICER: VOTE 13: CULTURAL AFFAIRS AND SPORT (DR L PLATZKY) (ACTING)

THE CHIEF FINANCIAL OFFICER: VOTE 1: PREMIER (MR H ARENDSE)  
THE CHIEF FINANCIAL OFFICER: VOTE 2: PROVINCIAL PARLIAMENT (MS A SMIT) (ACTING)  
THE CHIEF FINANCIAL OFFICER: VOTE 3: PROVINCIAL TREASURY (MR A GILDENHUYS)  
THE CHIEF FINANCIAL OFFICER: VOTE 4: COMMUNITY SAFETY (MR D ODENDAAL)  
THE CHIEF FINANCIAL OFFICER: VOTE 5: EDUCATION (MR L ELY)  
THE CHIEF FINANCIAL OFFICER: VOTE 6: HEALTH (MR A VAN NIEKERK)  
THE CHIEF FINANCIAL OFFICER: VOTE 7: SOCIAL SERVICES AND POVERTY ALLEVIATION (MR JO SMITH)  
THE CHIEF FINANCIAL OFFICER: VOTE 8: LOCAL GOVERNMENT AND HOUSING (MR PAE BREDEKAMP)  
THE CHIEF FINANCIAL OFFICER: VOTE 9: ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING (MR AA GAFFOOR)  
THE CHIEF FINANCIAL OFFICER: VOTE 10: TRANSPORT AND PUBLIC WORKS (MR CR ISMAY)  
THE CHIEF FINANCIAL OFFICER: VOTE 11: AGRICULTURE (MR F HUYSAMER)  
THE CHIEF FINANCIAL OFFICER: VOTE 12: ECONOMIC DEVELOPMENT AND TOURISM (MS M ABRAHAMS)  
THE CHIEF FINANCIAL OFFICER: VOTE 13: CULTURAL AFFAIRS AND SPORT (MR A ASSIM)

THE HEAD OFFICIAL: PROVINCIAL TREASURY (DR JC STEGMANN)  
THE HEAD: RESOURCE MANAGEMENT (MS SMA ROBINSON)  
THE HEAD: ASSET MANAGEMENT (MR TD PILLAY)  
THE HEAD: FINANCIAL GOVERNANCE (MR TC ARENDSE)  
THE HEAD: PUBLIC FINANCE (MR H MALILA)  
THE CHIEF FINANCIAL OFFICER (MR A GILDENHUYS)  
THE SENIOR MANAGER: HUMAN RESOURCE MANAGEMENT (MS C PAUL)  
THE SENIOR MANAGER: ACCOUNTING (MR A REDDY)  
THE SENIOR MANAGER: NORMATIVE FINANCIAL MANAGEMENT (MS L MTUNZI)  
THE SENIOR MANAGER: RISK MANAGEMENT AND GOVERNANCE SYSTEMS (MR L NENE)  
THE CHIEF AUDIT EXECUTIVE (MS R JAFTHA)  
THE SENIOR MANAGER: ECONOMIC ANALYSIS (MS B BOQWANA)  
THE SENIOR MANAGER: FISCAL POLICY (MR A PHILLIPS)  
THE SENIOR MANAGER: BUDGET OFFICE (MS AJ HICKEY) (ACTING)  
THE SENIOR MANAGER: PROVINCIAL GOVERNMENT FINANCE (MR DG BASSON)  
THE SENIOR MANAGER: LOCAL GOVERNMENT FINANCE (MR G PAULSE)  
THE SENIOR MANAGER: PHYSICAL (FIXED) ASSETS AND PPPs (MR NB LANGENHOVEN)  
THE SENIOR MANAGER: SUPPLY CHAIN MANAGEMENT (MR L MUNSAMY)  
THE SENIOR MANAGER: SUPPORTING AND INTERLINKED FINANCIAL SYSTEMS (MR A BASTIAANSE)  
THE HEAD: OFFICE OF THE MINISTRY (MS N MGAYIYA)

THE PROVINCIAL AUDITOR

MASTER RECORDS OFFICIAL: FINANCIAL MANAGEMENT

**STANDARD BIDDING DOCUMENT: DECLARATION BY BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES****1. PURPOSE**

- 1.1 The purpose of this document is to request Departmental Accounting Officers and Chief Financial Officers to note the National Treasury's concerns and implement the requirements as indicated in Practice Note 5 of 2006 attached herewith as Appendix A.

**2. COMMENTS**

- 2.1 National Treasury Regulations 16A9 (in terms of the PFMA) prescribes that Accounting Officers / Authorities must take reasonable steps to prevent the abuse of the institutions Supply Chain Management (SCM) system.
- 2.2 The Accounting Officers / Authorities are empowered to disregard the bid of any bidder if that bidder or any of its directors have:
- Abused the institution's supply chain management system,
  - Committed fraud or any other improper conduct in relation to such system, or
  - Failed to perform on any previous contract
- 2.3 A new standard bidding document referred to as WCBD 8 is provided to assist Accounting Officers / Authorities to assess cases of abuse against the SCM system. This document may be customised and provided to all potential bidders for the supply of goods and services or disposal.
- 2.4 Bidders will be requested to complete the WCBD 8, sign the declaration and submit the said document with each bid.
- 2.5 Accounting Officers / Authorities are required to inform the relevant Treasury of any action taken in terms of National Treasury Regulations 16A9.2(a) which states that

**"The Accounting Officers / Authorities –**

**(a) may disregard the bid of any bidder, or any of its directors-"**

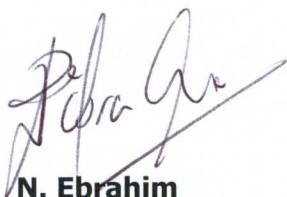
**(i) have abused the institution's supply chain management system,**

**System, or  
(iii) Failed to perform on any previous contract"**

- 2.6 Accounting Officers / Authorities are requested to note item 4.2 of the new bid document, which refers to the "Register of Tender Defaulters". This database is hosted on National Treasury's website, which must be referred to when assessing the information on the new bid document and when evaluating / adjudicating a bid.
- 2.7 Reference to the new standard bid document (SBD 8) as issued by the National Treasury is changed to align with the references of Western Cape's bid documents and is hereby issued as WCBD 8 (attached as Appendix B)

**3. REQUEST**

- 3.1 Accounting Officers / Accounting Authorities are requested to note and adhere to the requirements of National Treasury Practice Note Number SCM 5 of 2006 and those indicated above. The Accounting Officer / Authority must ensure that the Accounting Officers or Authorities System is updated accordingly. The above-mentioned requirements effective with immediate affect.
- 3.2 Accounting Officers / Accounting Authorities are also requested to share this information with the Public Entities linked to their Departments.



**N. Ebrahim**

**Acting Senior Manager:Movable Asset Management**

**DATE:** 21/05/2007



**NATIONAL TREASURY  
REPUBLIC OF SOUTH AFRICA**

Private Bag X115, Pretoria, Tel: +27 12 315-5919, Fax: +27 12 315 5355

Enquiries: Jan Breytenbach

Ref: 3/4/3/2/10

Tel: (012) 315 5342

Fax: 012 326 5445

e-mail: [jan.breytenbach@treasury.gov.za](mailto:jan.breytenbach@treasury.gov.za)

TO ALL  
ACCOUNTING OFFICERS: NATIONAL DEPARTMENTS  
HEADS: PROVINCIAL TREASURIES  
CHIEF FINANCIAL OFFICERS: PROVINCIAL DEPARTMENTS  
CHIEF EXECUTIVE OFFICERS / CHIEF FINANCIAL OFFICERS:  
CONSTITUTIONAL INSTITUTIONS / PUBLIC ENTITIES

**Supply Chain Management Office  
Practice Note Number SCM 5 of 2006**

1. **RESTRICTION OF SUPPLIERS**
2. **AUGMENTATION OF GENERAL CONDITIONS OF CONTRACT**

This practice note is applicable to all national and provincial departments, constitutional institutions and public entities as defined in schedule 3A and 3C of the Public Finance Management Act, Act 1 of 1999 (as amended by Act 29 of 1999). All accounting officers of national departments and heads of provincial treasuries are required to disseminate the contents of this circular to all chief financial officers of departments and public entities that fall under their jurisdiction.

1. **RESTRICTION OF SUPPLIERS**

- 1.1 The Preferential Procurement Regulations, 2001, pertaining to the Preferential Procurement Policy Framework Act, Act 5 of 2000, give the Accounting Officer/Authority the power to restrict a supplier from doing business with the public sector if such a supplier obtained preferences fraudulently or if such supplier failed to perform on a contract based on the specified goals.

1.2 Paragraph 15 of the Preferential Procurement Regulations reads as follows:

"15(1) An organ of state must, upon detecting that a preference in terms of the Act and these regulations has been obtained on a fraudulent basis, or any specified goals are not attained in the performance of the contract, act against the person awarded the contract.

(2) An organ of state may, in addition to any other remedy it may have against the person contemplated in sub-regulation (1) –

(a) recover all costs, losses or damage it has incurred or suffered as a result of that person's conduct;

(b) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;

(c) impose a financial penalty more severe than the theoretical financial preference associated with the claim which was made in the tender; and

(d) restrict the contractor, its shareholders and directors from obtaining business from any organ of state for a period not exceeding 10 years."

2. To give effect to the remedies provided for in regulation 15 of the Preferential Procurement Regulations, 2001, the following directives should be followed:

2.1 Before action is taken in terms of regulation 15, the Accounting Officer / Authority must issue a final notification to the contractor by registered mail indicating the action to be taken in accordance with the contract conditions unless he / she complies with the contract conditions and delivers satisfactory supplies or services within a specified reasonable time. (Such time limit should be decided upon by the Accounting Officer / Authority and should not be less than seven (7) and not longer than fourteen (14) calendar days.) If the contractor still does not perform satisfactorily despite this final notification, the Accounting Officer / Authority may, in addition to any other remedy it may have against the supplier, opt to follow any or all of the actions stipulated in paragraph 15(2) of the Preferential Procurement Regulations, 2001.

2.2 Should the Accounting Officer / Authority opt to restrict the contractor and / or any other person(s) from obtaining business with the public sector, the Accounting Officer / Authority must:

(a) inform the contractor or person(s) by registered mail or by delivery of the notice by hand of the intention to impose the restriction, provide the reasons for such decision and the envisaged period of restriction;

(b) allow the contractor and / or person(s) fourteen (14) calendar days to provide reasons why the envisaged restriction should not be imposed;

- (c) consider any reasons submitted by the contractor and / or person(s) in terms of paragraph (b) above;
  - (d) impose the restriction or amended restriction; and
  - (e) inform the National Treasury within five working days of such imposition of the name of the restricted person(s); the reason for restriction, the period of restriction and the date of commencement of the restriction.
- 2.3 Any restriction imposed on any person by the Accounting Officer / Authority will, at the discretion of the Accounting Officer / Authority, also be applicable to any other enterprise or any partner, manager, director or other person who wholly or partly exercises or exercised or may exercise control over the enterprise of the first-mentioned person, and with which enterprise or person the first-mentioned person, is or was in the opinion of the Accounting Officer / Authority actively associated.
- 2.4 Based on sound reasons, the Accounting Officer / Authority is empowered to amend / uplift any restriction imposed by him / her and must inform the National Treasury accordingly.
- 2.5 A contractor or any other person restricted by an Accounting Officer / Authority has a right to contest this restriction in a Court of Law, and the Accounting Officer / Authority who imposed the relevant restriction will be responsible and accountable for the Court proceedings.
- 2.6 According to Treasury Regulations 16A9.1(c) an Accounting Officer/ Authority must check the National Treasury's database prior to awarding any contract to ensure that no recommended bidder or any of its directors are listed as companies or persons prohibited from doing business with the public sector.

## 2. AUGMENTATION OF GENERAL CONDITIONS OF CONTRACT

Paragraph 23 of the General Conditions of Contract is hereby augmented by the insertion of the following sub-paragraphs:

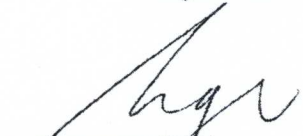
- 23.3 Where the purchaser terminates the contract in whole or in part, the purchaser may decide to impose a restriction penalty on the supplier by prohibiting such supplier from doing business with the public sector for a period not exceeding 10 years.
- 23.4 If a purchaser intends imposing a restriction on a supplier or any person associated with the supplier, the supplier will be allowed a time period of not more than fourteen (14) days to provide reasons why the envisaged restriction should not be imposed. Should the supplier fail to respond within the stipulated fourteen (14) days the purchaser may regard the intended penalty as not objected against and may impose it on the supplier.
- 23.5 Any restriction imposed on any person by the Accounting Officer / Authority will, at the discretion of the Accounting Officer / Authority,

also be applicable to any other enterprise or any partner, manager, director or other person who wholly or partly exercises or exercised or may exercise control over the enterprise of the first-mentioned person, and with which enterprise or person the first-mentioned person, is or was in the opinion of the Accounting Officer / Authority actively associated.

- 23.6 If a restriction is imposed, the purchaser must, within five (5) working days of such imposition, furnish the National Treasury, with the following information:
- (i) the name and address of the supplier and / or person restricted by the purchaser;
  - (ii) the date of commencement of the restriction
  - (iii) the period of restriction; and
  - (iv) the reasons for the restriction.

These details will be loaded in the National Treasury's central database of suppliers or persons prohibited from doing business with the public sector.

- 23.7 If a court of law convicts a person of an offence as contemplated in sections 12 or 13 of the Prevention and Combating of Corrupt Activities Act, No. 12 of 2004, the court may also rule that such person's name be endorsed on the Register for Tender Defaulters. When a person's name has been endorsed on the Register, the person will be prohibited from doing business with the public sector for a period not less than five years and not more than 10 years. The National Treasury is empowered to determine the period of restriction and each case will be dealt with on its own merits. According to section 32 of the Act the Register must be open to the public. The Register can be perused on the National Treasury website.

  
C. W. KRUGER  
DEPUTY DIRECTOR-GENERAL: SPECIALIST FUNCTIONS  
DATE: 9/10/2006.

Jan907(b)(2)

**DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES**

- 1 This Standard Bidding Document must form part of all bids invited.
- 2 It serves as a declaration to be used by institutions in ensuring that when goods and services are being procured, all reasonable steps are taken to combat the abuse of the supply chain management system.
- 3 The bid of any bidder may be disregarded if that bidder, or any of its directors have-
  - a. abused the institution's supply chain management system;
  - b. committed fraud or any other improper conduct in relation to such system; or
  - c. failed to perform on any previous contract.
- 4 **In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**

Item	Question	Yes	No
4.1	Is the bidder or any of its directors listed on the National Treasury's database as companies or persons prohibited from doing business with the public sector? <b>(Companies or persons who are listed on this database were informed in writing of this restriction by the National Treasury after the <i>audi alteram partem</i> rule was applied).</b>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.1.1	If so, furnish particulars:		
4.2	Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)? <b>To access this Register enter the National Treasury's website, <a href="http://www.treasury.gov.za">www.treasury.gov.za</a>, click on the icon "Register for Tender Defaulters" or submit your written request for a hard copy of the Register to facsimile number (012) 3265445.</b>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.2.1	If so, furnish particulars:		
4.3	Was the bidder or any of its directors convicted by a court of law (including a court outside of the Republic of South Africa) for fraud or corruption during the past five years?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.3.1	If so, furnish particulars:		
4.4	Was any contract between the bidder and any organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.4.1	If so, furnish particulars:		



CERTIFICATION

I, THE UNDERSIGNED (FULL NAME).....  
CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION  
FORM IS TRUE AND CORRECT.

I ACCEPT THAT, IN ADDITION TO CANCELLATION OF A CONTRACT,  
ACTION MAY BE TAKEN AGAINST ME SHOULD THIS DECLARATION  
PROVE TO BE FALSE.

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of Bidder