



NATIONAL TREASURY

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PRESS RELEASE

New tender procedures for municipalities

The Minister of Finance Mr Trevor A Manuel, MP, on 31 May 2005 tabled in Parliament new regulations on supply chain management processes for all municipalities and their entities.

The regulations spell out significant reforms for the procurement of goods and services in municipalities. This framework modernises financial governance in municipalities and improves accountability and transparency for the award of municipal bids. It further establishes key procedures to minimise fraud and corruption in the bidding process, and to prevent and minimise possible conflicts of interest.

For big tenders above a value of R200 000 ("competitive bids"), the regulations introduce a three-stage process, which requires separate specification, evaluation and adjudication committees. To further promote transparency, all bids must be published in a bid register and made available on the municipality's website. The new procedures also make it easier for municipalities (and their entities) to approve smaller bids below R200 000, as it differentiates between petty cash R2 000, written or verbal quotations R10 000 and formal written price quotations up to R200 000. These procedures should also reduce administrative and other compliance burdens for small enterprises and suppliers, who can apply to be listed as suppliers for bids below R200 000. It also aims to reduce the waiting period between the publication of tenders and the awarding thereof.

The new regulations also gives effect to section 117 of the Municipal Finance Management Act, which preclude councillors from participating in the operation of the

supply chain management system, being specifically excluded from being a member of, or even an observer on, any bid committee. Instead, the council must delegate supply chain management powers and duties to the Municipal Manager who is responsible for appropriate delegations within certain financial constraints, for the implementation of the policy.

The regulations also prohibit persons in the service of the state, like councillors and other elected representatives (members of provincial legislatures and national Parliament), full-time employees (national and provincial public servants, municipal officials) and directors of public or municipal entities from being eligible to bid or be awarded a contract to provide goods or services to a municipality. The prohibition will also apply to companies if an elected official, public employee or director of a public or municipal entity is an owner, director or principal shareholder. Awards to a close family member of an employee in the service of the state, or to a person who has left less than 12 months from an elected or employed position in any sphere of government, must also be disclosed in the annual financial statements of the municipality.

Tough provisions also apply to ensure that bidders do not corrupt supply chain officials, as their bids will be disqualified should they do. Officials who are responsible for procuring goods and services will need to comply with a strict code of ethics with regard to gifts and other inducements, and must immediately withdraw from the process if a family member has any interest in a bid. All bids must be opened in public and a register kept that is available for public inspection. Companies that supply goods or services must also disclose all sponsorships, and are obliged to declare any illegal gifts, rewards or favours to officials. Non-complying companies risk being placed on a list by the National Treasury that will prohibit them from doing business with the public sector.

Unsolicited bids are generally prohibited except where such good or service is demonstrably innovative, exceptionally beneficial to the municipality, and provided by a sole provider. Such bids cannot be secret, and must be transparent and made public as a municipality can only approve such a bid through a public process, which affords the public, potential rival suppliers and National Treasury the opportunity to submit comments, including assessing whether such bid is truly innovative exceptionally beneficial and whether there are no similar products available to open up the process to potential competitors.

Bidders whose tax matters or municipal service accounts are not in order, or who are in arrears to a municipality, may be disqualified, unless satisfactory payment arrangements have been made. Moreover, bidders are required to furnish information disclosing any non-compliance, non-performance and any dispute with any other municipality or organ of state.

The regulations also allow the municipality to better align and co-ordinate with other legislation, like the Preferential Procurement Policy Framework Act (PPPFA) and the Broad-Based Black Economic Empowerment Act (BBEAA). Council is expected to play an oversight role of the implementation of its supply chain policy.

Municipalities are further required to appoint an independent and impartial person to assist in the resolution of disputes with any bidder. It is envisaged that this will minimise the referral of disputes to a court of law.

The tabling of the *Municipal Supply Chain Management Regulations* in Parliament follows a period of extensive consultation and inputs from various stakeholders, when a gazette with draft regulations was published on 29 October 2004. 35 written submissions were received, as well as many more verbal and other less formal comments via workshops or discussions with officials, resulting in the draft being significantly revised since then. These regulations have also been agreed to by the Minister for Provincial and Local Government, Mr Sidney F Mufamadi.

Given that these regulations represent a major shift from current practices, the regulations are phased in for municipalities. Municipalities and municipal entities will be allowed between three to twelve months to implement the regulations, depending on their capacity - the proposed implementation dates will be 1 October 2005 for high capacity municipalities, 1 January 2006 for medium capacity municipalities and 1 July 2006 for low capacity municipalities. Training and support will be provided by the National Treasury. All Municipalities are, however, encouraged to implement these regulations as soon as possible, as they represent best practice in supply chain management. In order to assist municipalities, a draft policy guide is provided, for municipalities to use (or revise) as the supply chain policy of the municipality, to be adopted by the municipal council before these regulations take effect in a municipality. A more detailed guide will be made available shortly.

Copies of the regulations are available in Government Gazette 27636 or on www.treasury.gov/mfma and will be formally promulgated at the end of June 2005.

Comments on the model policy and guidelines, as well as on any other policy or technical matters, should be directed to mfma@treasury.gov.za

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