

NATIONAL COUNCIL OF PROVINCES

QUESTION FOR WRITTEN REPLY

QUESTION NUMBER 198

DATE OF PUBLICATION: 28 MAY 2010

Mr T D Harris (DA-WC) to ask the Minister of Finance:

Whether he will introduce legislation that will prohibit municipal and other government officials from entering into contracts with municipalities; if not, why not; if so, what are the relevant details?

CW259E

REPLY:

The National Treasury has issued the Municipal Supply Chain Management Regulations, enabled through the Municipal Finance Management Act (Act 56 of 2003), which prohibits municipalities from awarding contracts to persons who are in the service of the state. Regulation 44 provides that municipalities may not make any award to a person "who is in the service of the state, if that person is not a natural person, of which any director, manager, principle shareholder or stakeholder is a person in the service of the state or who is an advisor or consultant contracted with the municipality or municipal entity."

'In the service of the state' is defined in the Regulations as a member of any municipal council, provincial legislature or the National Assembly or National Council of Provinces; a member of the board of directors of any municipal entity; an official of any municipality or municipal entity; an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the PFMA; a member of the accounting authority of any national or provincial public entity; or an employee of Parliament or a provincial legislature.

Based on the above legal framework, it is clear that municipal and other government officials are prohibited from doing business with municipalities; therefore, no further legislation is required.