

NATIONAL TREASURY

FROM THE OFFICE OF THE CHIEF PROCUREMENT OFFICER

9 JUNE 2021: UPDATE ON AFRIBUSINESS NPC V THE MINISTER OF FINANCE

(CASE NO. 1050/2019) [2020] ZASCA 140 (2 NOVEMBER 2020)

Please note that the Minister of Finance has applied for leave to appeal the judgment and the matter was heard in the Constitutional Court on 25 May 2021. Arguments were heard and judgment has been reserved. In the meantime, the status quo remains.

Since the declaration of invalidity is suspended for a period of 12 months from the date of judgment (2 November 2020), the current Preferential Procurement Regulations, 2017, are still in effect (including regulation 4 and 9) and therefore tenders that are going to be advertised will be subjected to the PPR, 2017, until such time that they are repealed or the SCA decision is overturned, or the period for suspending the declaration of invalidity is over.

As such, procurement processes may continue using the Preferential Procurement Regulations, 2017 until further notice. The judgment does not affect current contracts; they continue until their expiry. The declaration of invalidity does not apply retrospectively. Therefore, any tender advertised utilising the provisions of the PPR 2017 while they were still in effect, may be finalised under the processes prescribed by these regulations.



national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

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