

**NATIONAL ASSEMBLY
QUESTION FOR WRITTEN REPLY
QUESTION NUMBER: 2878 [NW3428E]
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2878. Mr I M Ollis (DA) to ask the Minister of Finance:

(a) Which organs of state has the National Treasury exempted in terms of section 3 of the Preferential Procurement Policy Framework Act, Act 5 of 2000, and (b)(i) when and (ii) why was each of these organs exempted?

NW3428E

REPLY:

(a) Only three (3) organs of state, namely, the Passenger Rail Agency of SA (PRASA), PetroSA, and the Department of Public Works (DPW), have been granted exemption from the Preferential Procurement Policy Framework Act (PPPFA) and its associated regulations in terms of Section 3 of the Preferential Procurement Policy Framework Act, Act No. 5 of 2000.

(b)(i) When was the exemption granted?

The exemptions were granted on the 26 April 2012, 19 July 2012 and 03 September 2013 respectively.

Section 3 of the PPPFA prescribes that the Minister of Finance may, on request, exempt an organ of state from any or all the provisions of the Act. Such exemption can be considered if it is in the interest of national security, the tenderers are international suppliers or it is in the public interest to grant such exemption.

(b)(ii) Why was each of these organs exempted?

1. Passenger Rail Agency SA (PRASA)

PRASA was granted an exemption for the purpose of the Rolling Stock Fleet Renewal and Depot infrastructure procurement programme only. Suppliers in this industry are international companies. The project provided an opportunity for sustainable participation of BBEE entities in the rolling stock industry. This was to be addressed by setting and evaluating the set targets during the project's lifetime. The exemption was granted on the following conditions;

- a) The affordability level of the project be pegged at R40 billion in 2012 prices over the 10 year period of the project;
- b) The all-inclusive risk premium be set at 15 per cent of the affordability level;
- c) No special purpose vehicle would be put in place to ensure the development of the industry in South Africa.

- d) A clear plan to be put in place to ensure that the targets of the forward-looking Black Economic Empowerment and Local content aspect are met; and
- e) The evaluation criteria for the programme are developed in consultation with the National Treasury: PPP Unit, and the evaluation criteria to take into account the objectives of the new growth path and the social economic objectives of Government.

2. Petro South Africa (PetroSA)

PetroSA was granted exemption in respect of international trade business with suppliers who do not have legal representation in South Africa.

To qualify for funding PetroSA is required to set-aside certain contracts for suppliers from countries with an Export Credit Agency. The international trade profit margin that PetroSA generates from trading its finished product is only 2% per cent per cargo, therefore any premium paid in excess of 2% per cent would impact on its bottom line.

PetroSA sometimes approaches commercial lenders for funding through an Export Credit Agency in order to remain self-sustainable. Again the compliance with tax clearance certificate requirements becomes impossible to apply in respect of international trade with suppliers that have no footprint in South Africa.

All these contradicted the principles of the Preferential Procurement Policy Framework act, Act No.5 of 2000 and its associated regulations and, as a result, the Institutions were granted exemption.

3. Department of Public Works (DPW)

The DPW was granted exemption to allow the department to apply a negotiated procurement process as an interim solution to renew expired leases.

The department has a high number of expired leases and it has become difficult to follow the normal competitive bidding process to rectify the situation.

To fast track the process of renewing the lease agreements, a negotiated procurement process was the only suitable option available, hence the request for exemption.

The exemptions granted to these institutions are not extended to the rest of the goods and services procured under normal circumstances.