



Supply Chain Management: Checking the prohibition status of recommended bidders

It has come to our attention that Accounting Officers are not necessarily adhering to the requirements for checking the prohibition status of bidders prior to the awarding of bids and therefore are failing to comply with the legislation.

An integral strategy towards effective supply chain management is not to award contracts to persons with a history of abuse of the supply chain management system. Prior to awarding any contract, the Accounting Officer of a municipality or municipal entity is required to check the prohibition status of the recommended bidder and if they are listed then the contract cannot be awarded. The purpose of this circular is to:

- provide clarity on the *List of Restricted Suppliers* and the *Register for Tender Defaulters* that are managed by the National Treasury
- remind Accounting Officers that they are compelled to check the prohibition status of all recommended bidders prior to awarding any contract.

List of Restricted Suppliers

Municipal Supply Chain Management Regulation 38(1)(c) requires a supply chain management policy to provide measures for combating abuse of the supply chain management system, and must enable the accounting officer to check the National Treasury's database prior to awarding any contract. This is to ensure that no contract is entered into with a bidder, or any of its directors, listed as a company or person prohibited from doing business with the public sector. This list is also known as the *List of Restricted Suppliers*.

To this end, a central *List of Restricted Suppliers* has been established containing details of companies or persons that have been restricted from doing business with the public sector if the company or person obtained preferences fraudulently or failed to perform on a contract.

Checking the List of Restricted Suppliers

Accounting Officers are required to email the details of the recommended bidder to the National Treasury prior to awarding a contract. A response will be provided generally within one (1) working day confirming whether the name provided has been listed as a person or company prohibited from doing business with the public sector. This is not a public service so the request must be emailed from a person authorised by the Accounting Officer. All requests must be forwarded by e-mail to restrictions@treasury.gov.za.

Adding persons or companies to the *List of Restricted Suppliers*

In addition, Accounting Officers are empowered to restrict companies or persons from doing business with the public sector for a period not exceeding 10 years if such companies or persons have obtained preferences fraudulently or failed to perform on a contract based on the specified goals. The procedures to be followed when contemplating and imposing such restrictions are contained in MFMA Circular No. 43 available on the National Treasury website. Any restriction imposed by an Accounting Officer must be forwarded to the National Treasury for loading onto the central *List of Restricted Suppliers*.

Register for Tender Defaulters

Municipal Supply Chain Management Regulation 38(1)(g) requires a supply chain management policy to provide measures for combating of abuse of the supply chain management system, and must enable the Accounting Officer to reject any bid if that bidder or any of its directors has been listed in the *Register for Tender Defaulters* in terms of section 29 of the Prevention and Combating of Corrupt Activities Act, No. 12 of 2004.

This Act prescribes that the National Treasury must establish, maintain and manage a public *Register for Tender Defaulters*.

This Register will contain particulars of companies or persons that have **been convicted by a court of law** for having engaged in corrupt activities relating to contracts, procuring and withdrawal of tenders as contemplated in sections 12 and 13 of the Act.

The Act prescribes that a court may, in addition to sentencing, order that the particulars of the persons or enterprises and other related offenders should be endorsed on the Register. The National Treasury is to determine the period (which may not be less than five years or more than 10 years) for which the convicted persons or enterprises must be prohibited from doing business with the public sector. The prohibition period will form part of the particulars that will be disclosed on the Register.

During the period determined, the convicted company or person would be prohibited from doing business with the public sector.

Checking the *Register for Tender Defaulters*

The *Register for Tender Defaulters* is a public document by law and available on the National Treasury website www.treasury.gov.za (on the home page click on “*Register for Tender Defaulters*” at the bottom under the heading “*Treasury Links*” and will be updated on a regular basis).

Conclusion

Accounting Officers are requested to ensure that the procedures contained in this circular are implemented and acted upon. This is a national initiative and in terms of intergovernmental cooperation the Auditor-General will include, as part of the annual audit, confirmation that municipalities and municipal entities are performing the checks required of the *List of Restricted Suppliers* and the *Register for Tender Defaulters*.

Please bring the contents of this circular to the attention of senior management, supply chain management practitioners and members of bid committees in the municipality or municipal entity.

Contact

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