



TAX COMPLIANCE STATUS

PURPOSE

The purpose of this Circular is to provide information to Accounting Officers of municipalities and municipal entities regarding the implementation of a revised tax management system applicable to supply chain management processes and introduces a revised Municipal Bidding Document 1 (MBD) to give effect to the new Tax Clearance System (TCS) as a way of verifying the tax compliance status of bidders. This circular also updates the information on tax clearance certificates contained in MFMA Circular 29.

BACKGROUND

Government is committed to reducing supply chain related fraud and ensuring that persons conducting business with the State are not afforded any scope to abuse the supply chain management system.

It is therefore essential to ensure that persons conducting business with the State are tax compliant when participating in tenders or other bidding processes. On 18 April 2016, the South African Revenue Service (SARS) introduced an enhanced TCS system aimed at improving compliance and making it easier for taxpayers to manage their tax affairs.

Section 112(1)(l)(iii) of the Municipal Finance Management Act, 2003 (Act 56 of 2003) (MFMA) read together with Regulation 43 of the Municipal SCM Regulations, prohibits municipalities or municipal entities from awarding bids to persons whose tax matters have not been cleared by SARS.

Therefore, the new TCS impacts on SCM processes and documentation that must be submitted as SARS no longer issues tax compliance certificates.

IMPLEMENTATION OF THE TAX COMPLIANCE STATUS SYSTEM

In order to comply with the new TCS system and the condition of bids that a successful bidder's tax matters must be in order, Accounting Officers of all municipalities and municipal entities should:

- Designate officials, preferably from the supply chain management unit, whose function will be to verify the tax compliance status of a taxpayer and to manage the TCS system on the SARS website and have the functionality to verify the tax compliance status of a taxpayer on the SARS' e-Filing system. Guidance to the Tax Compliance functionality on eFiling is available on the SARS website www.sars.gov.za.
- Utilise the Municipal Bid Document 1 (MBD1) issued with this circular when inviting bids.
- As a bid condition, request bidders to register on government's Central Supplier Database (CSD) and include in their quotations or bids, their Master Registration Number or tax compliance status PIN to enable the municipality to verify the bidder's tax compliance status.

- Utilise the Master Registration Number or tax compliance status PIN to verify bidders' tax compliance status.
- Print the tax compliance status screen view or letter with the result of the bidder's status at the date and time of verification to file with the bidder's bid documents for audit purposes.

The CSD and tax compliance status PIN are the approved methods to be used to prove tax compliance as the SARS no longer issues Tax Clearance Certificates but has made provision online, via e-Filing, for bidders to print their own Tax Clearance Certificates which they can submit with their bids or price quotations.

Accounting Officers may therefore, accept printed or copies of Tax Clearance Certificates submitted by bidders and verify them on e-Filing. The verification result should be filed for audit purposes.

Where a supplier does not submit a tax compliance status PIN but provides a CSD number, the accounting officer should utilise the CSD number via its website www.csd.gov.za to access the supplier records and verify tax compliance status. A printed screen view at the time of verification should then be attached to the supplier's records for audit purposes.

Where goods and services are procured from foreign suppliers with tax obligations in South Africa, proof of tax compliance status should be obtained from the supplier.

Foreign suppliers with neither South African tax obligations nor history of doing business in South Africa should complete a pre-award questionnaire on the MBD 1 for their tax obligation categorisation. Where a recommendation for award of a bid has been made to a bidder who is a foreign supplier and who completed the pre-award questionnaire on the MBD 1, the Accounting Officer must submit a copy of the completed MBD 1 received from the bidder to SARS on the following email address: GovernmentInstitute@sars.gov.za. SARS will issue a letter to the procuring entity confirming whether or not the foreign supplier has tax obligations in South Africa.

Where goods and services are procured from foreign suppliers with no tax obligation in South Africa, there is no need to request proof of tax compliance status.

Where goods and services are imported, all custom related taxes shall be applied as prescribed by SARS.

It is recommended that municipalities and municipal entities discontinue using MBD 2 as there is no longer a use for it within the current tax compliance system.

APPLICATION DURING SCM PROCESS

The designated official(s) should verify the bidder's tax compliance status prior to the finalisation of the award of the bid or price quotation.

Where the recommended bidder is not tax compliant, the bidder should be notified of their non-compliant status and the bidder must be requested to submit to the municipality or municipal entity, within 7 working days, written proof from SARS of their tax compliance status or proof from SARS that they have made an arrangement to meet their outstanding tax obligations. The proof of tax compliance status submitted by the bidder to the municipality or municipal entity must be verified via the CSD or e-Filing.

The accounting officer should reject a bid submitted by the bidder if such a bidder fails to provide proof of tax compliance status within the timeframe stated above.

Where goods or services have been delivered satisfactorily without any dispute, accounting officers should not delay processing payment of invoices due to outstanding tax matters. Municipalities and municipal entities are advised to update their current SCM policies to ensure alignment with the new TCS.

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