



national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

Private Bag X115, Pretoria, 0001 • Tel: (+27 12) 315 5111 • Fax: (+27 12) 326 5445

Enquiries: G.F Jacobson

Ref: 3/4/3/2/10

Tel: 315 5233

Fax: 326 5445

e-mail: george.jacobson@treasury.gov.za

**TO ALL :ACCOUNTING OFFICERS OF DEPARTMENTS AND CONSTITUTIONAL INSTITUTIONS
:HEAD OFFICIALS OF PROVINCIAL TREASURIES
:ACCOUNTING AUTHORITIES OF PUBLIC ENTITIES LISTED IN SCHEDULES 3A & 3C TO THE PFMA**

SUPPLY CHAIN MANAGEMENT

CHECKING THE PROHIBITION STATUS OF RECOMMENDED BIDDERS PRIOR TO AWARDING ANY CONTRACT

1 The purpose of this circular is to:

- (i) provide clarity on the List of Restricted Suppliers and the Register for Tender Defaulters that are managed by the National Treasury; and
- (ii) draw the attention of accounting officers / authorities to the fact that they are compelled to check the prohibition status of recommended bidders prior to awarding any contract.

2. LEGISLATIVE FRAMEWORK AND CHECKING PROCEDURES FOR THE LIST OF RESTRICTED SUPPLIERS AND THE REGISTER FOR TENDER DEFAULTERS

The National Treasury is mandated to maintain and manage the following databases of companies or persons prohibited from doing business with the public sector:

2.1 List of Restricted Suppliers

2.1.1 Treasury Regulation 16A9.1(c) prescribes that accounting officers / authorities must check the National Treasury's database (List of Restricted Suppliers) prior to awarding any contract, to ensure that no recommended bidders or any of its directors are listed as companies or persons prohibited from doing business with the public sector.

- 2.1.2 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.
- 2.1.3 It should be noted that confirmation of the prohibition status of a recommended bidder in terms of this list is made available to accounting officers / authorities on request and is not made available to the public due to the sensitive and confidential nature of the information embodied therein.
- 2.1.4 Accounting officers/authorities 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 Supply Chain Management Office Practice Note Number SCM 5 of 2006 issued by the National Treasury on 9 October 2006. Any restriction imposed by an accounting officer/authority must be forwarded to the National Treasury for loading onto the central List of Restricted Suppliers.

2.2 Register for Tender Defaulters

- 2.2.1 The Prevention and Combating of Corrupt Activities Act, Act No. 12 of 2004 prescribes that the National Treasury must establish, maintain and manage a Register for Tender Defaulters.
- 2.2.2 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.
- 2.2.3 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 endorsed on the Register.
- 2.2.4 During the period determined, the convicted company or person would be prohibited from doing business with the public sector. The Act prescribes that the Register for Tender Defaulters must be made available to the public.

2.3. Checking Procedures

- 2.3.1 In order to ensure that the checking of the prohibition status of recommended bidders in terms of both the List of Restricted Suppliers and the Register for Tender Defaulters is efficiently dealt with, prior to the award of any contract, accounting officers/authorities are required to:

- (i) Forward requests to the National Treasury for confirmation whether the names of any recommended bidders or its directors appear in the List of Restricted Suppliers as companies or persons that are prohibited from doing business with the public sector. Such requests must be forwarded by e-mail to restrictions@treasury.gov.za. The National Treasury will normally respond to such requests within one (1) working day.
- (ii) Confirm whether any company or person has been prohibited from doing business with the public sector in terms of the Prevention and Combating of Corrupt Activities Act by accessing the Register for Tender Defaulters on the website of the National Treasury, address www.treasury.gov.za. (Click on "Register for Tender Defaulters" at the bottom of the web-page under Treasury Link).


2.3.2 It should be noted that compliance to the checking requirements of the List of Restricted Suppliers and the Register for Tender Defaulters will form part of the audit approach by the Auditor-General.

3. DISSEMINATION OF INFORMATION

- 3.1 Heads of Provincial Treasuries are requested to please bring the contents of this circular to the attention of accounting officers of their provincial departments.
- 3.2 Accounting officers of national and provincial departments are requested to bring the contents of this circular to the attention of accounting authorities of Schedule 3A and 3C public entities reporting to their respective executive authorities.

4. CONTACT

- 4.1 Any enquiries regarding this matter may be directed to Mr D Naidoo or Mr GF Jacobson of the National Treasury on telephone number (012)315 5348 or (012) 315 5233, respectively.


JAN BREYTENBACH
CHIEF DIRECTOR: NORMS AND STANDARDS
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