



national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

TO ALL : ACCOUNTING OFFICERS OF DEPARTMENTS AND CONSTITUTIONAL INSTITUTIONS

: ACCOUNTING AUTHORITIES OF PUBLIC ENTITIES LISTED IN SCHEDULES 2 AND 3 TO THE PFMA

: HEAD OFFICIALS OF PROVINCIAL TREASURIES

NATIONAL TREASURY INSTRUCTION NO. 09 OF 2017/2018

TAX COMPLIANCE STATUS VERIFICATION

1. PURPOSE

The purpose of this Treasury Instruction is to provide guidance to accounting officers of departments and constitutional institutions and accounting authorities of public entities listed in Schedule 2 and 3 to the Public Finance Management Act (PFMA), Act No.1 of 1999, on the implementation of the revised South African Revenue Service (SARS) system for the management of tax compliance and the introduction of a revised Standard Bidding Document 1 (SBD 1) to give effect to the tax compliance status system.

2. BACKGROUND

- 2.1 Government is committed to increasing the degree of compliance with supply chain management prescripts and ensuring that persons conducting or intending to conduct business with the State have no scope to abuse the Supply Chain Management system.
- 2.2 It is therefore essential to ensure that persons conducting business with the State are tax compliant at the time of the awarding of price quotations or competitive bids. No price quotations or competitive bids shall be awarded to businesses or persons who are not tax compliant.
- 2.3 On 18 April 2016, SARS introduced an enhanced tax compliance status system on eFiling aimed at improving tax compliance and making it easier for taxpayers to manage their tax affairs.
- 2.4 In terms of the legislative requirements, the new tax compliance status impacts on supply chain management processes and documentation as the South African Revenue Service has discontinued the issuance of tax clearance certificates.

Tax compliance status verification

- 2.5 National Treasury issued National Treasury SCM Instruction No. 7 of 2017/2018 wherein approved methods of verifying a bidder's tax compliance status was communicated. Subsequent to the issuance of the aforementioned Treasury Instruction, numerous queries were received from organs of state relating to interpretation of the following issues:
- a) The process followed by SARS to confirm the tax compliance status of foreign bidders prior to award.
 - b) What time period would be regarded as reasonable for the supplier to rectify their non-compliant status?
 - c) Whether or not organs of State are required to verify if a directive has been issued by SARS regarding the withholding of payments to suppliers.
- 2.6 It therefore became necessary to review National Treasury SCM Instruction No. 7 of 2017/2018 to amend the unclear provisions and to communicate the revised amendments on how SARS will be confirming the tax compliance status of foreign recommended bidders along with the implementation thereof.

3. IMPLEMENTATION OF THE TAX COMPLIANCE STATUS SYSTEM

- 3.1 In order to comply with the provisions indicated in paragraph 2 above and the condition that successful bidder's taxes must be in order, accounting officers and accounting authorities of all PFMA compliant institutions must:
- a) Designate officials, preferably from the Supply Chain Management Unit, whose function will be to verify the tax compliance status of a bidder on the South African Revenue Service's Tax Compliance Status system housed on eFiling. Guidance on the functionality of the Tax Compliance Status system on eFiling is available on the South African Revenue Service website www.sars.gov.za;
 - b) Utilise the SBD1 issued with this Treasury Instruction when inviting bids;
 - c) As a bid condition, accounting officers and accounting authorities must request bidders to register on Government's Central Supplier Database and to include in their bid their Master Registration Number (Supplier Number) in order to enable the institution to verify the supplier's tax status on the Central Supplier Database;
 - d) Utilise the tax compliance status PIN or the Central Supplier Database Master Registration Number (MAAA number) to verify the bidders' tax compliance status; and
 - e) In the case of foreign recommended bidders, with neither South African tax obligation nor history of doing business in South Africa, the foreign recommended bidder's completed SBD 1 must be submitted to the South African Revenue Service to issue the Confirmation of Tax Obligations letter in terms of paragraph 3.6 below.
- 3.2 The Central Supplier Database and the tax compliance status PIN are the approved methods of verifying the tax compliance status of a bidder. The South African Revenue Service does not issue Tax Clearance Certificates anymore but has introduced an online provision via eFiling, for bidders to print their own Tax Clearance Certificates which they can submit with their bids or price quotations.

Tax compliance status verification

- 3.3 Accounting officers and accounting authorities are therefore required to accept printed or copies of Tax Clearance Certificates submitted by bidders and to verify their authenticity on eFiling. The verification result recorded as per paragraph 3.1 of this Treasury Instruction must be filed for audit purposes.
- 3.4 Where a bidder does not submit a tax compliance status PIN but provides a Central Supplier Database Number, accounting officers and accounting authorities must utilise the Central Supplier Database Number via the Central Supplier Database website www.csd.gov.za to access the supplier records and to verify the bidder's tax compliance status. A printed screen view at the time of verification must be attached to the supplier's records for audit purposes.
- 3.5 Where goods and services are procured from foreign suppliers with tax obligations in South Africa, proof of their tax compliance status must be obtained from the supplier.
- 3.6 Foreign suppliers with neither South African tax obligations nor history of doing business in South Africa must complete the questionnaire on the SBD1. Where a recommendation for award of a bid has been made to a foreign bidder, accounting officers and accounting authorities must submit the bidder's completed SBD1 to the South African Revenue Service at the following email address: GovernmentInstitute@sars.gov.za. The South African Revenue Service will issue a confirmation of tax obligations letter to the accounting officer or accounting authority confirming whether or not the foreign entity has tax obligations in South Africa.
- 3.7 There is no need to require proof of a suppliers tax compliance status where goods and services are procured by institutions such as South African Embassies and Missions or any other South African office outside the borders of South Africa for use outside the country.

4. APPLICATION DURING SUPPLY CHAIN MANAGEMENT PROCESS

- 4.1 Designated employee(s) must verify the bidder's tax compliance status prior to the awarding of price quotations or competitive bids.
- 4.2 Where the recommended bidder is not tax compliant, the bidder must be notified in writing of their non-compliant status and the bidder must be requested to submit written proof from SARS of their tax compliance status or proof that they have made an arrangement to meet their outstanding tax obligations within 7 working days. The bidder should thereafter provide the accounting officer or accounting authority with proof of their tax compliance status which should be verified via the Central Supplier Database or eFiling.
- 4.3 Should the recommended bidder fail to provide written proof of their tax compliance status in terms of paragraph 4.2 above, accounting officers and accounting authorities must reject the bid submitted by the bidder.
- 4.4 Where goods or services have been delivered satisfactorily without any dispute, accounting officers and accounting authorities must not delay the processing of payments as a result of outstanding tax matters.
- 4.5 In all instances, accounting officers and accounting authorities must ensure that systems are in place in their respective institutions to ensure that all invoices are paid within 30 days from receipt of an invoice, unless determined otherwise in a contract or other agreement.

5. APPLICABILITY

This Treasury Instruction applies to all departments, constitutional institutions and public entities listed in Schedules 2 and 3 to the PFMA.

6. EFFECTIVE DATE

This Treasury Instruction takes effect from the date of issue.

7. REPEAL OF NATIONAL TREASURY SCM INSTRUCTION NO. 7 OF 2017/2018

7.1 This Treasury Instruction repeals:

- a) National Treasury SCM Instruction No. 7 of 2017/2018; and
- b) SBD 1 that was issued with National Treasury SCM Instruction No. 7 of 2017/2018.

8. DISSEMINATION OF INFORMATION CONTAINED IN THIS TREASURY INSTRUCTION

8.1 Accounting officers of national departments and constitutional institutions must bring the contents of this Treasury Instruction to the attention of:

- a) Chief financial officers, heads of supply chain management and supply chain management officials of their respective institutions; and
- b) All accounting authorities of public entities reporting to the executive authority of their respective departments.

8.2 Heads Officials of Provincial Treasuries are requested to bring the contents of this Treasury Instruction to the attention of all accounting officers of their provincial departments with the request that the information contained therein be disseminated to all chief financial officers, heads of supply chain management and supply chain management officials in their respective departments.

8.3 Accounting authorities of public entities must bring the contents of this Treasury Instruction to the attention of chief financial officers and supply chain management officials of their respective public entities.

9. AUTHORITY FOR THIS INSTRUCTION

This National Treasury Instruction is Issued in terms of section 76(4)(g) of the Public Finance Management Act.

Tax compliance status verification

10. CONTACT INFORMATION

Enquiries related to this Treasury Instruction may be directed to:

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ACTING ACCOUNTANT - GENERAL

DATE: *5 April 2018*

ⁱ The Accountant-General is responsible for the issuing of all Treasury Instructions at the National Treasury to ensure that such is issued from a central point. The contents of this Treasury Instruction is, however, the responsibility of the Office of the Chief Procurement Officer and is issued on behalf of that Office.