



national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

PFMA SCM INSTRUCTION NO. 09 OF 2022/2023

**PUBLIC FINANCE MANAGEMENT ACT
(ACT 1 OF 1999)**

MANDATORY UTILISATION OF THE E-TENDER PORTAL FOR PUBLICATION OF BID OPPORTUNITIES, BID AWARDS AND ANY BID RELATED NOTIFICATIONS

TO ALL:	ACCOUNTING OFFICERS OF DEPARTMENTS ACCOUNTING OFFICERS OF CONSTITUTIONAL INSTITUTIONS ACCOUNTING AUTHORITIES OF SCHEDULE 2 AND 3 PUBLIC ENTITIES HEAD OFFICIALS OF PROVINCIAL TREASURIES
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1. PURPOSE

The purpose of this Instruction is to prescribe the mandatory utilisation of the e-Tender Portal for the publication of—

- a) open competitive bids;
- b) amendments¹ to advertised bids;
- c) cancellations of bids; and
- d) notifications of final awards of bids,

by departments, constitutional institutions, public entities listed in Schedules 2 and 3 of the Public Finance Management Act, 1999 (Act No. 1 of 1999- “the PFMA).

2. BACKGROUND

2.1. Section 217(1) of the Constitution of the Republic of South Africa, 1996 states that “when an organ of state in the national, provincial or local sphere of government, or any other institution identified in national legislation, contracts for goods and services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost-effective.”

2.2. Treasury Regulation 16A6.3(c) prescribes that “the accounting officer or accounting authority must ensure that bids are advertised in at least the

¹ This may include change of bid closing date and change of bid conditions and specifications.

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Government Tender Bulletin for a minimum period of 21 days before closure, except in urgent cases when bids may be advertised for such shorter period as the accounting officer or accounting authority may determine.”

- 2.3. Treasury Regulation 16A6.3(d) prescribes that “the accounting officer or accounting authority must ensure that awards are published in the Government Tender Bulletin and other media by means of which the bids were advertised.”
- 2.4. National Treasury Instruction No. 1 of 2015/2016 prescribes the mandatory advertisement of bids and the publication of awards on the e-Tender Portal by departments, constitutional institutions and public entities listed in Schedules 2 and 3 to the PFMA with effect from 1 May 2015. This requirement was in addition to the utilisation of the Government Tender Bulletin for the advertisement of bids, and publication of awards.
- 2.5. In February 2021, the Government Printing Works (GPW), which publishes the Government Tender Bulletin (GTB), suffered technical difficulties and in March 2021, and the e-Tender Portal also suffered a fatal crash. The National Treasury then approved a departure from the publication of bid advertisements and bid awards in the GTB and the e-Tender Portal.
- 2.6. The National Treasury then initiated the overhaul of the e-Tender Portal to serve as a transparency platform which caters for advertisement of bids and publication of awards, and with the added functionality for submission and publication of procurement plans, list of bids received and contracts register.
- 2.7. The eTender Portal is a mechanism that promotes transparency and open public procurement, which allows the relevant treasury as well the public to monitor the procurement processes and outcomes of institutions.
- 2.8. The publication of procurement plans and the concluded contracts on the contract register will be dealt with in separate directives, hence the utilisation of the e-Tender Portal for these publications will not be compulsory until such directives are issued by the National Treasury.

3. PUBLISHING BID INFORMATION ON E-TENDER PORTAL

- 3.1. Accounting officers and accounting authorities must publish open competitive bids (including the complete set of bid documents), amendments to advertised open competitive bids, cancellations of open competitive bids and notifications of open competitive bid awards, on the e-Tender Portal, for at least 21 days, except in urgent cases when bids may be advertised for such shorter period as the accounting officer or accounting authority may determine, or unless for such period as provided for in the SCM Policy of the institutions to which Treasury Regulation 16A6.3(c) and (d) did not apply.
- 3.2. The publications mentioned in 3.1 is not compulsory in the case of procurement through price quotations and procurement through other means such as deviation from inviting competitive bids. Institutions² may, at their own discretion, utilise the e-Tender Portal to publish such procurement, including associated notifications on the e-Tender Portal.
- 3.3. Institutions must capture the following information on e-Tender Portal as per online form requirements:
 - a) Bid Information;
 - b) bidders list within 10 working days of open competitive bid closing date;
 - c) award information within 10 working days of successful bidder accepting the bid award;
 - d) bid cancellation information; and
 - e) bid amendments at least 10 working days before the bid closes.
- 3.4. Institutions may upload any clarification requests that have been received and the responses provided on the e-Tender Portal as a measure to ensure transparency in the bid process.
- 3.5. The awarding of a bid is complete when the successful bidder accepts the award. The period referred to in paragraph 3.3. (c) commences from the date when the successful bidder accepts bid award in writing.

² 'Institution' means an institution mentioned in section 3(1) of the Public Finance Management Act, 1999

3.6. If the e-Tender Portal is not available for a period exceeding than two working days, the accounting officers/authorities must utilise any of the following media:

- a) own institutional websites; or
- b) any other media, which can be accessed nationally (printed media and /or electronic media),

to publish bid advertisements, bid awards and related notifications, until such time that the e-Tender Portal has been restored. The downtime must be immediately communicated to the National Treasury's SCM ICT Unit on the following email: etenders@treasury.gov.za.

4. PUBLICATION OF BID INFORMATION ON OTHER MEDIA

4.1. In addition to publishing bid information on e-Tender Portal, accounting officers/authorities may advertise bids on other media, including the Government Tender Bulletin, should they deem it necessary.

4.2. Accounting officers and accounting authorities must ensure that the information published in any other media is consistent with the information published on the e-Tender Portal.

5. ACCESS TO E-TENDER PORTAL

5.1. Accounting officers and accounting authorities must designate officials that will be responsible for the publication of advertisements of open competitive bid opportunities, amendments to advertised bid opportunities, cancellations of bid opportunities, publication of bidders' list and notifications of final awards of bids on the e-Tender Portal.

5.2. In order for officials mentioned in paragraph 5.1. to be provided with access to the e-Tender Portal, the officials must complete a User Account Application Form accessible from the OCPO website (<http://ocpo.treasury.gov.za>) under the buyer's area, and the form must be approved by the accounting officer/accounting authority/ delegated authority. The completed approved User Account Application form must be submitted to the OCPO using the following email address etenders@treasury.gov.za.

5.3. Departments, constitutional institutions and public entities listed in Schedules 2 and 3 to the PFMA who were using the previous e-Tender Portal must complete and submit a user account Application Form envisaged in paragraph 5.2.

6. APPLICABILITY

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

7. EFFECTIVE DATE

This Instruction takes effect on 01 November 2022.

8. DISSEMINATION OF INFORMATION CONTAINED IN THIS INSTRUCTION

8.1. Accounting officers of departments and constitutional institutions must bring the contents of this 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. Head Officials of Provincial Treasuries must bring the contents of this Treasury Instruction to the attention of accounting officers of their provincial departments and accounting authorities of the provincial public entities with the request that the information contained herein be disseminated to all chief financial officers, heads of supply chain management and supply chain management officials of their respective institutions.

9. REPEAL OF NATIONAL TREASURY INSTRUCTION

This Instruction repeals the following National Treasury Instructions or specific paragraphs of Instructions:

- a) Paragraph 7.2 of Practice Note Number SCM 3 of 2004 and the Monthly Reporting questionnaire (to be completed for each contract awarded);

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- b) National Treasury Instruction No. 1 of 2015/2016: Advertisement of Bids and the Publications of Awards on the e-Tender Publication Portal;
- c) SCM Instruction No. 01 of 2021/2022: Departure from Publication of Bids, Bid awards and Related Notifications in the Government Tender Bulletin and the e-Tender Portal.

10. AUTHORITY FOR THIS INSTRUCTION

This Instruction is issued in terms of section 76(4)(c) and (g) of the PFMA.

11. CONTACT INFORMATION

Enquiries related to this Treasury Instruction may be directed to:

SCM ICT

E-mail: etenders@treasury.gov.za

WILLIE MATHEBULA

ACTING CHIEF PROCUREMENT OFFICER

DATE: