



national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

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**All Accounting officers
All Accounting Authorities
All Chief Financial Officers
All Heads of Provincial Treasuries
All Provincial Accountants-General**

NATIONAL TREASURY PRACTICE NOTE 6 OF 2007/2008

PROCUREMENT OF GOODS AND SERVICES BY MEANS OTHER THAN THROUGH THE INVITATION OF COMPETITIVE BIDS

1. PURPOSE

The purpose of this practice note is to regulate the environment within which accounting officers and accounting authorities may procure goods and services by means other than through the invitation of competitive bids and to introduce reporting measures related thereto.

2. PROCURMENT OF GOODS AND SERVICES

- 2.1 Section 217 of The Constitution of the Republic of South Africa, 1996, prescribes that goods and services must be contracted through a system that is *fair, equitable, transparent, competitive and cost-effective*. This prescript stipulates how Government's supply chain management (SCM) system should be managed and it also confers a constitutional right on every potential supplier to offer goods and services to the public sector when needed.
- 2.2 The SCM process of procuring goods and services by means of public advertisement, including its publication in the Government Tender Bulletin, gives effect to The Constitution's prescripts that all potential suppliers should be afforded the right to compete for public sector business through competitive bidding.
- 2.3 It is, however, recognized that there will be instances when it would be impractical to invite competitive bids. In this regard, Treasury Regulation 16A6.4 provides for such instances where accounting officers or accounting authorities are allowed to dispense with competitive bidding processes to procure goods and services by other means. This provision is intended for cases of emergency where immediate action is necessary or if the goods and services required are produced or available from

sole service providers. The reasons for such action must be recorded and approved by the accounting officer or accounting authority.

- 2.4 Despite Treasury Regulation 16A6.4 being intended for cases of emergency or where goods and services are available from sole service providers, it has come to light that institutions are deliberating utilizing this provision to circumvent the required competitive bidding process in order to, among others, enter into contractual commitments or incur expenditure at the end of a financial year with the view to avoiding the surrender of unspent voted funds to the National / Provincial Revenue Funds.
- 2.5 An effective system of supply chain demand management requires an accounting officer or accounting authority to ensure that the resources required to support the strategic and operational commitments of an institution are properly budgeted for and procured at the correct time. Planning for the procurement of such resources must take into account the period required for competitive bidding processes. It must therefore be emphasized that a lack of proper planning does not constitute a reason for dispensing with prescribed bidding processes.
- 2.6 Accounting officers or accounting authorities may also put in place their own control measures to deal with foreseeable cases of emergency that occur within their area of functionality. These measures may include the arrangement of strategic or specific term contracts with suitable service providers with a view to ensuring that the required goods or services are available immediately when cases of emergency occur.
- 2.7 Taking cognizance of the above, accounting officers and accounting authorities are directed to ensure that Treasury Regulation 16A6.4 is utilized strictly to procure goods and services of critical importance and only in specific cases when it is impractical to invite competitive bids. Treasury Regulation 16A6.4 should therefore under no circumstances be used as a vehicle to minimize unspent funds at the end of a financial year.
- 2.8 Transfer payments and conditional grants as articulated in Treasury Regulations 8.4 and 8.5 respectively, should also not be utilized to enter into contractual commitments or incur expenditure at the end of a financial year to avoid the surrender of unspent funds to the National / Provincial Revenue Funds.

3. REPORTING OF GOODS AND SERVICES PROCURED IN TERMS OF TREASURY REGULATION 16A6.4

- 3.1 With effect from the date on which this practice note takes effect, accounting officers and accounting authorities are required to report within ten (10) working days to the relevant treasury and the Auditor-General, all cases where goods and services above the value of R 1 million (VAT included) were procured in terms of Treasury Regulation 16A6.4.

- 3.2 The report must include the description of the goods or services, the names of the suppliers, the amounts involved and the reasons for dispensing with the prescribed competitive bidding processes.
- 3.3 The procurement of goods and services may not be deliberately split into parts or items of lesser value merely to avoid this reporting requirement.
- 3.4 The relevant treasury and the Auditor-General will consider the report and take appropriate actions if and when necessary.

4. DISSEMINATION OF INFORMATION CONTAINED IN THIS PRACTICE NOTE

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

5. CONTACT PERSON

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6. EFFECTIVE DATE

This practice note takes effect from 01 April 2007.



FREEMAN NOMVALO
ACCOUNTANT-GENERAL
DATE: 18 April 2007