



**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 3A AND 3C TO THE PFMA**  
**: HEAD OFFICIALS OF PROVINCIAL TREASURIES**

## **NATIONAL TREASURY PRACTICE NOTE NUMBER 7 OF 2009/2010**

### **SUPPLY CHAIN MANAGEMENT: DECLARATION OF INTEREST: AMENDMENT AND AUGMENTATION OF STANDARD BIDDING DOCUMENT (SBD 4)**

#### **1 PURPOSE**

1.1 The purpose of this practice note is to provide guidance to accounting officers of departments and constitutional institutions and to accounting authorities of public entities listed in Schedules 3A and 3C to the Public Finance Management Act (PFMA), 1999 on how to regulate the environment within which bids<sup>1</sup> should be considered when such bids are submitted by persons employed by the state or by persons connected with or related to persons employed by the state.

#### **2 BACKGROUND**

2.1 Sections 30 and 31 of Chapter VII of the Public Service Act, 1994 (Act 103 of 1994) stipulate the following regarding employees of the state who are performing other remunerative work:

“No employee shall perform or engage himself or herself to perform remunerative work outside his or her employment in the relevant department, except with the written permission of the executive authority of the department. If any remuneration, allowance or other reward, is received by an employee otherwise than in accordance with the Public Service Act, that employee shall pay into revenue an amount equal to the amount of any such remuneration, allowance or reward.”

2.2 The Treasury Regulations prescribe the following regarding compliance with ethical standards and avoiding abuse of the supply chain management system:

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<sup>1</sup> Includes price quotations, advertised competitive bids, limited bids and proposals.

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- “16A8.4      If a supply chain management official or other role player, or any close family member, partner or associate of such official or other role player, has any private or business interest in any contract to be awarded, that official or other role player must –
- (a)      disclose that interest; and
  - (b)      withdraw from participating in any manner whatsoever in the process relating to that contract.
- 16A8.5      An official in the supply chain management unit who becomes aware of a breach of or failure to comply with any aspect of the supply chain management system must immediately report the breach or failure to the accounting officer or accounting authority, in writing.
- 16A9.2      The accounting officer or accounting authority –
- (a)      may disregard the bid of any bidder if that bidder, or any of its directors –
    - (i)      have abused the institution’s supply chain management system
    - (ii)     have committed fraud or any other improper conduct in relation to such system; or
    - (iii)    have failed to perform on any previous contract; and
  - (b)      must inform the relevant treasury of any action taken in terms of paragraph (a).”
- 2.3      To give effect to the above, the National Treasury issued a standard bidding document (SBD 4) “*Declaration of Interest*” on 5 December 2003 as part of Supply Chain Management (SCM) Practice Note Number SCM 1 of 2003. In terms of this document, accounting officers and accounting authorities are required to customize and utilize the form as part of their bidding documents so that bidders or their authorized representatives could declare their position in relation to any person employed by the principal institution.
- 2.4      This was intended to counter corruption or any allegations of favouritism, should the resulting bid or part thereof, be awarded to persons employed by the institution, or to persons connected with or related to them.

**3 AUDITOR GENERAL’S FINDINGS**

The following came to light in the Auditor-General’s reports on performance audits of entities that are connected with government employees and doing business with various government institutions:

**3.1 Employees or their spouses doing business with the state**

3.1.1 Employees who are directors, shareholders or members of companies or close corporations are doing business with institutions without obtaining the necessary approval to perform other remunerative work;

3.1.2 Employees who are directors, shareholders or members of companies or close corporations are doing business with institutions where they are employed and / or with institutions other than where they are employed; and

3.1.3 Employees spouses who are directors, shareholders or members of companies or close corporations are doing business with government institutions.

**3.2 Standard bidding document (SBD 4): Declaration of interest**

3.2.1 The scope of the declaration of interest in the SBD 4 issued on 5 December 2003 is limited only to a declaration if the bidder has a relationship with a person employed by the principal. The principal refers to the institution that invited the bid. In other words, if an employee of an institution is a director, shareholder or member of a company or close corporation and that company or close corporation conducts business with an institution other than the one at which he or she is employed, there is no obligation to disclose his or her own or his or her spouse’s interest in the company or close corporation. The word “principal” should, therefore, be replaced with the word “state” so that declaration of any interest is broadened to all state institutions.

3.2.2 The SBD 4 is not being utilized by institutions in documentation relating to invitation for price quotations and / or applications by service providers to be registered as potential or prospective suppliers for goods and services obtained by means of verbal or written quotations. This results from the fact that the form makes specific reference to declaration of interest in respect of “bids” and not in respect of “price quotations, competitive bids, limited bids and proposals”.

3.3 **Code of Conduct**

Although officials and other role players involved in the SCM process are required to adhere to the institution's Codes of Conduct for SCM practitioners and Bid Adjudication Committee members, there is no formal requirement for SCM officials to sign the relevant Code of Conduct. Institutions generally do not compel officials to formally sign such Codes with an undertaking to adhere to its requirements.

4 **MEASURES TO ADDRESS AUDITOR-GENERAL'S FINDINGS**

Accounting officers and accounting authorities are required to implement the following measures in order to address the findings and to give effect to the recommendations of the Auditor-General and ensure compliance with the prescripts of the Treasury Regulations and the Public Service Act, 1994 where any conflict of interest may arise.

4.1 **Amendment and augmentation of the SBD 4 issued in terms of Practice Note Number SCM 1 of 2003**

4.1.1 The SBD 4 issued by the National Treasury in terms of Practice Note Number SCM 1 of 2003 has been reviewed and revised.

4.1.2 With effect from the date on which this practice note takes effect, accounting officers and accounting authorities are required to utilize the attached revised SBD 4 when inviting **price quotations, advertised competitive bids, limited bids or proposals**. This SBD 4 should be used with minimum changes that are necessary to address contract and project specific issues.

4.2 **Use of the SBD 4 when establishing lists of potential / prospective suppliers when obtaining quotations**

The SBD 4 must also be used in documentation relating to applications by service providers to be registered in the lists of potential or prospective suppliers for goods and services obtained by means of verbal or written quotations.

4.3 **Replacement of SBD 4 issued in terms of Practice Note Number SCM 1 of 2003**

The revised SBD 4 attached to this Practice Note replaces the SBD 4 issued in terms of Practice Note Number SCM 1 of 2003 dated 5 December 2003.

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**4.4 Signing of Codes of Conduct**

4.4.1 Accounting officers and accounting authorities are required to compel SCM officials to formally sign the relevant Codes of Conduct with an undertaking to adhere to their requirements.

4.4.2 Newly appointed officials or officials transferred to the SCM unit should also be required to sign the Codes of Conduct.

**4.5 Approval to perform other remunerative work**

4.5.1 Employees should ensure that the necessary approval is obtained to perform any remunerative work outside his or her employment by the state. Such approval must be obtained in terms of the Public Service Act, 1994, internal policies or in terms of legislation relevant to the institution.

4.5.2 Accounting officers and accounting authorities should implement and actively monitor the systems of control to manage the performance of other remunerative work by employees. Disciplinary action should be taken against employees who perform other remunerative work without the necessary approval.

**5 APPLICABILITY**

This practice note applies to all national and provincial departments, constitutional institutions and Schedule 3A and 3C public entities.

**6 DISSEMINATION OF INFORMATION CONTAINED IN THIS PRACTICE NOTE**

6.1 Heads of provincial treasuries are requested to bring the contents of this practice note to the attention of accounting officers of their respective provincial departments.

6.2 Accounting officers of national and provincial departments are requested to 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.

**7 EFFECTIVE DATE**

This practice note is issued in terms of section 76(4)(c) of the PFMA, and takes effect from the date of issuance.

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**CONTACT PERSON**

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**S F NOMVALO**  
**ACCOUNTANT-GENERAL**  
**DATE: 2 October 2009**

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## DECLARATION OF INTEREST

1. Any legal person, including persons employed by the state\*, or persons having a kinship with persons employed by the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid (includes a price quotation, advertised competitive bid, limited bid or proposal). In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons employed by the state, or to persons connected with or related to them, it is required that the bidder or his/her authorised representative declare his/her position in relation to the evaluating/adjudicating authority and/or take an oath declaring his/her interest, where-

- the bidder is employed by the state; and/or
- the legal person on whose behalf the bidding document is signed, has a relationship with persons/a person who are/is involved in the evaluation and or adjudication of the bid(s), or where it is known that such a relationship exists between the person or persons for or on whose behalf the declarant acts and persons who are involved with the evaluation and or adjudication of the bid.

2. **In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**

2.1 Full Name of bidder or his or her representative: .....

2.2 Identity Number: .....

2.3 Position occupied in the Company (director, shareholder etc): .....

2.4 Company Registration Number: .....

2.5 Tax Reference Number: .....

2.6 VAT Registration Number: .....

\* "State" means –

- (a) any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- (b) any municipality or municipal entity;
- (c) provincial legislature;
- (d) national Assembly or the national Council of provinces; or
- (e) Parliament.

2.7 Are you or any person connected with the bidder YES / NO

presently employed by the state?

2.7.1 If so, furnish the following particulars:

Name of person / director / shareholder/ member: .....  
Name of state institution to which the person is connected: .....  
Position occupied in the state institution: .....

Any other particulars:  
.....  
.....  
.....

2.8 Did you or your spouse, or any of the company's directors / shareowners / members or their spouses conduct business with the state in the previous twelve months? **YES / NO**

2.8.1 If so, furnish particulars:  
.....  
.....  
.....

2.9 Do you, or any person connected with the bidder, have any relationship (family, friend, other) with a person employed by the state and who may be involved with the evaluation and or adjudication of this bid?

2.9.1 If so, furnish particulars.  
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.....  
.....

**YES / NO**

2.10 Are you, or any person connected with the bidder, aware of any relationship (family, friend, other) between the bidder and any person employed by the **state** who may be involved with the evaluation and or adjudication of this bid?

2.10.1 If so, furnish particulars.  
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2.11 Do you or any of the directors /shareowners/ members of the company have any interest in any other related companies whether or not they are bidding for this contract?

**YES / NO**



2.11.1 If so, furnish particulars:

.....  
.....  
.....

YES / NO

**DECLARATION**

I, THE UNDERSIGNED (NAME).....

CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 2.1 TO 2.11.1 ABOVE IS CORRECT.

I ACCEPT THAT THE STATE MAY ACT AGAINST ME IN TERMS OF PARAGRAPH 23 OF THE GENERAL CONDITIONS OF CONTRACT SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of bidder