



national treasury

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REPUBLIC OF SOUTH AFRICA

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Mr. N T Godi
The Chairperson
Standing Committee on Public Accounts
Parliament of the Republic of South Africa
P O Box 15
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Dear Mr. Godi

SCOPA REVIEW OF THE JOINT INVESTIGATION TASK TEAM RESOLUTIONS ON THE STRATEGIC DEFENCE PROCUREMENT PACKAGES

Your letter dated 1 December 2008 has reference.

The Committee requested an update on the status of implementation on the resolutions captured in paragraph 14.2.12 of the report that was considered by the Committee during 2001. The resolutions are as follows:

"DoD and Armscor should develop specific rules and guidelines to address conflict of interest issues and to ensure that personnel are properly informed in this regard. These rules and guidelines should be developed, taking into account the principles contained in the Code of Conduct of the State Tender Board and the King Report on Corporate Governance, 1994, regarding improved ethics and probity as well as international norms in this regard. Steps should also be taken to ensure that a particular individual, irrespective of his/her position is not tasked with incompatible functions in multifaceted procurements. This will prevent a conflict or perceived conflict of interest, which could have a detrimental effect on the overall acquisition process."

Regarding the implementation of the resolutions in respect of conflict of interest, the following can be reported:

1. Pursuant to the approval by Cabinet during September 2003 of a Policy Strategy to Guide Uniformity in Procurement Reform Processes in Government, a Framework for Supply Chain Management (SCM) was promulgated on 5 December 2003.
2. Treasury Regulations in respect of SCM were promulgated in terms of section 76(4)(c) of the Public Finance Management Act, 1999 (PFMA). To supplement these regulations, guidelines and various instructions in the form of practice notes on the implementation of SCM were issued by the National Treasury. These Treasury Regulations and instructions are applicable to all national and provincial departments (including the DoD), constitutional institutions as well as public entities listed in schedule 3A and 3C of the PFMA.
3. The SCM system compels the establishment of individual bid specification, evaluation and adjudication committees. Bid adjudication committees are responsible for the award of bids, depending on the delegations granted by the accounting officer /authority. In order to

counter abuse of the SCM system, the instructions prescribe that members of evaluation committees may not be part of the adjudication committees.

4. The following is quoted from the Code of Conduct for SCM Practitioners issued on 5 December 2003:

- "2.1 SCM practitioners, to the extent required by their position, should declare any business, commercial and financial interests or activities undertaken for financial gain that may raise a possible conflict of interest.
- 2.2 They should not place themselves under any financial or other obligation to outside individuals or organizations that might seek to influence them in the performance of their official duties.
- 2.3 Practitioners should not take improper advantage of their previous office after leaving their official position."

5. A Code of Conduct for Bid Adjudication Committees was developed and issued during March 2006. In respect of conflicts of interest, the following is an extract from this Code:

"5.4.1 Members shall sign a register at each meeting, serving as attendance register as well as an undertaking to confidentiality of that meeting.

5.4.2 The register will also provide for the declaration of interest...

6.1.1.2 Members must accept that - ...

- a member (including the chairperson and vice-chairperson) shall beforehand declare his/her interest regarding any matter serving before the Committee and the member will then recuse her/himself during the discussion of that matter. No discussion by the member concerned will be allowed prior to the serving of that submission/report and such a member may not retain that specific submission/report. Any personal interest that may infringe, or might reasonably be deemed to infringe on a member's impartiality in any matter relevant to their duties must be recorded;"

6. The Municipal SCM Regulations which are applicable to all municipalities and municipal entities were promulgated on 30 May 2005 in terms of the Municipal Finance Management Act, No. 56 of 2003. Regulation 46 prescribes the following in respect of conflicts of interest:

"(2) A municipal code of ethical standards must stipulate that an official or other role player involved in the implementation of the supply chain management policy of the municipality or municipal entity— ...

- (e) must declare to the accounting officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by, the municipality or municipal entity;
- (f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;"

7. The various Codes of Conduct referred to above form an integral part of all training courses presented to SCM practitioners as well as senior managers involved in procurement. A

separate course was also specifically designed to equip members of bid adjudication committees.

- 8 On 27 October 2004, Practice Note SCM 5 of 2004 was issued instructing accounting officers/authorities to ensure that their SCM practitioners are properly trained and that only those training-providers whose training materials have been validated by the National Treasury should be used. For quality assurance purposes, the National Treasury monitors and assesses the knowledge and capability of all trainers on a continuous basis and also ensures that training manuals are kept abreast with the latest developments.
- 9 Copies of the various regulations, guidelines and instructions referred to in this memorandum are attached.
- 10 On 15 January 2009, the Office of the Public Service Commission confirmed that the DoD had taken note of and addressed the resolutions of SCOPA. Furthermore, it should be noted that an internal policy document entitled "A Policy on the Acquisition of Armaments in the Department of Defence" was issued to all officials of the DoD by the Minister of Defence in October 2004.

Please accept my apologies for the delay experienced in providing a response.

Kind regards.


LESETJA KGANYAGO
DIRECTOR-GENERAL
DATE: 29 JANUARY 09

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