



**national treasury**

Department:  
National Treasury  
REPUBLIC OF SOUTH AFRICA

**TO ALL : ACCOUNTING OFFICERS OF DEPARTMENTS AND CONSTITUTIONAL INSTITUTIONS**

**ACCOUNTING AUTHORITIES OF PUBLIC ENTITIES**

**HEAD OFFICIALS OF PROVINCIAL TREASURIES**

**NATIONAL TREASURY INSTRUCTION SCM INSTRUCTION NOTE 3 OF 2016/17**

**PREVENTING AND COMBATING ABUSE IN THE SUPPLY CHAIN MANAGEMENT SYSTEM**

**1. OBJECTIVE**

The objective of the *SCM Treasury Instruction* is to provide guidance on measures to prevent and combat abuse in the Supply Chain Management System.

**2. BACKGROUND**

- 2.1 The Public Finance Management Act (PFMA), 1999 (Act No. 1 of 1999) promotes economy, efficiency, effectiveness and transparency in the use of state resources. A key objective is to establish and maintain a responsive and credible Supply Chain Management System.
- 2.2 In terms of section 6 (2) (a), (b), (f) and (g) and section 18 (2) a), (b), (g) and (i) of the PFMA, the National Treasury and provincial treasuries have an obligation to ensure that proper norms and standards are set to prevent abuse of the Supply Chain Management System and enforce the prescribed measures.
- 2.3 The National Treasury therefore considered it prudent to introduce and enhance measure to prevent and combat abuse of the SCM System.

**3. REGISTER OF COMPLAINTS**

- 3.1 The Accounting Officer/Accounting Authority must establish a system that deals with the management of complaints and or allegations of abuse in the Supply Chain Management System.
- 3.2 The system must provide for:
  - 3.2.1 Written, verbal or anonymous reporting of the complaint.
  - 3.2.2 The establishment of a register of all allegations of abuse in the Supply Chain Management System in the format as per Annexure A attached to this *SCM Treasury Instruction*.

- 3.3 Complaints that implicate the Accounting Officer/Accounting Authority must be reported to the relevant Treasury within 14 calendar days of the receipt of the complaint, by the delegated official in relevant institutions.

#### **4. INVESTIGATE<sup>1</sup> COMPLAINTS**

- 4.1 The Accounting Officer/Accounting Authority must:

- 4.1.1 Initiate an investigation within 14 calendar days of receipt of the complaint and or allegation of abuse;
- 4.1.2 The investigation must be completed within 30 calendar days from date of initiation unless an extension was approved by the relevant treasury;
- 4.1.3 Ensure that the investigation reports are securely stored;
- 4.1.4 Inform the relevant treasury of the outcome of the investigation, together with the proposed actions within 7 calendar days of receiving the investigation report.

- 4.2 The relevant treasury must initiate an investigation into complaints that implicate the Accounting Officer/Accounting Authority, within 14 calendar days from the receipt of the complaint and or allegation of abuse.
- 4.3 The relevant treasury must inform the Executive Authority of the outcome of the investigation, together with the proposed actions within 7 calendar days of receiving the investigation report.
- 4.4 The Executive Authority will thereafter handle the financial misconduct process, if applicable.

#### **5. IMPLEMENT REMEDIAL ACTION**

- 5.1 The Accounting Officer/Accounting Authority must:

- 5.1.1 Initiate disciplinary proceedings if the investigation report confirms the allegations of financial misconduct.
- 5.1.2 Report such allegations to the South African Police Services within 7 working days if the investigation report confirms the allegations of a criminal nature.
- 5.1.3 Inform the relevant treasury, in writing, of any criminal complaint within 7 working days of the complaint being lodged with the South African Police Services.
- 5.1.4 Initiate the implementation of the recommended remedial actions against the supplier within 14 calendar days of the receipt of the investigation report. Such remedial actions may include:
  - 5.1.4.1 rejecting the bid;
  - 5.1.4.2 cancelation of the contract;

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<sup>1</sup> Investigate in the context of this Instruction means to carry out a systematic or formal probe to examine or analyse the particulars of an allegation or incident or occurrence so as to establish the reality and may include one or more of the following:

- 1. Compliance review by the procuring entity or the relevant Treasury
- 2. Internal audit review by the procuring entity or the relevant Treasury
- 3. Forensic audit review by a relevant authorised institution
- 4. Any other probity check conducted by the relevant authorised institution

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- 5.1.4.3 restricting the supplier from doing business with the state; and/or
  - 5.1.4.4 claiming damages (if any).
- 5.2 If the Accounting Officer/ Accounting Authority fail to initiate the remedial actions against the supplier within 14 calendar days of receiving the investigation report, the National Treasury or the relevant provincial treasury must initiate the implementation of the remedial actions.
- 5.3 The National Treasury or the relevant provincial treasury must recover all costs for initiating the implementation of the remedial actions from the Accounting Officer/ Accounting Authority.
- 5.4 The relevant treasury must publish an investigation report which confirms the abuse of supply chain management on the website.
- 5.5 The relevant treasury must publish a list of all SCM related criminal cases opened by various enforcement agencies on the website.
- 5.6 The relevant treasury must publish a list of irregular expenditure applications processed on the website on a quarterly basis.
- 6. REPORT OUTCOMES**
- 6.1 The Accounting Officer/Accounting Authority of provincial institutions must table the reports on the allegations received, outcome of the investigations and the remedial actions at the Provincial Legislatures on a quarterly basis.
- 6.2 The Accounting Officer/Accounting Authority of National Institutions must table the reports on the allegations received, outcome of the investigations and the remedial actions in Parliament on a quarterly basis.
- 6.3 The Accounting Officer/Accounting Authority must submit reports to the Provincial Legislatures/ Parliament by the 15<sup>th</sup> of the month following the end of the quarter.
- 6.4 Relevant Legislature/Parliament Committees must ensure that the Accounting Officer/ Accounting Authority are held accountable to enhance efficiencies in the SCM System.
- 7. RESTRICTION OF SUPPLIERS, SHAREHOLDERS AND DIRECTORS**
- 7.1 The Accounting Officer/Accounting Authority must:
  - 7.1.1 Notify the supplier and any other person of the intention to restrict by registered mail. The letter of restriction must provide for:
    - 7.1.1.1 the grounds for restriction;
    - 7.1.1.2 the period of restriction which must not exceed 10 years;
    - 7.1.1.3 A period of 14 calendar days for the supplier to provide reasons why the restriction should not be imposed.

- 7.2 The Accounting Officer/Accounting Authority:
  - 7.2.1 May regard the intended penalty as not objected to and may impose such penalty on the supplier, should the supplier fail to respond;
  - 7.2.2 Must assess the reasons provided by the supplier and take the final decision.
- 7.3 If the penalty is imposed, the Accounting Officer/Accounting Authority must inform National Treasury of the restriction within 7 calendar days and must furnish the following information:
  - 7.3.1 The name and address of the person to be restricted;
  - 7.3.2 The identity number of individuals and the registration number of the entity;
  - 7.3.3 Period of restriction.
- 7.4 National Treasury will load the details on the Database of Prohibited Suppliers after ensuring that the Accounting Officer/Accounting Authority has complied with Supply Chain Management legal framework.
- 7.5 A supplier who refuses to cooperate with a government institution must be suspended from the Central Supplier Database until it fully complies.

## **8. DEVIATIONS FROM NORMAL BIDDING PROCESS**

- 8.1 The Accounting Officer/Accounting Authority must only deviate from inviting competitive bids in cases of emergency and sole supplier status.
- 8.2 An emergency procurement may occur when there is a serious and unexpected situation that poses an immediate risk to health, life, property or environment which calls an agency to action and there is insufficient time to invite competitive bids.
- 8.3 Sole source procurement may occur when there is evidence that only one supplier possesses the unique and singularly available capacity to meet the requirements of the institution.
- 8.4 The Accounting Officer/Accounting Authority must invite as many suppliers as possible and select the preferred supplier using the competitive bid committee system.
- 8.5 Any other deviation will be allowed in exceptional cases subject to the prior written approval from the relevant treasury.

## **9. EXPANSIONS OR VARIATION OF ORDERS**

- 9.1 The Accounting Officer/Accounting Authority must ensure that contracts are not varied by more than 20% or R 20 million (including VAT) for construction related goods, works and or services and 15% or R15 million (including VAT) for all other goods and or services of the original contract value.
- 9.2 Any deviation in excess of the prescribed thresholds will only be allowed in exceptional cases subject to prior written approval from the relevant treasury.

**10. BID COMMITTEE MEETINGS**

The relevant Treasury may, at its sole discretion, choose to attend Bid Committee meetings in an advisory capacity or prescribe which bid evaluation/adjudication process must be open to the public.

Every member of the Bid Committee is jointly and severally liable for the improper evaluation and adjudication of the bid.

**11. PROCUREMENT WITHOUT A BUDGET**

The Accounting Officer/ Accounting Authority must not advertise a bid for which no provision has been made in the budget.

**12. CONDONATION OF IRREGULAR EXPENDITURE**

Irregular expenditure may be condoned if there is evidence that the Accounting Officer/ Accounting Authority took effective and appropriate steps against any person found to have caused it.

**13. INFORMATION TO BE SUBMITTED**

The Accounting Officer/ Accounting Authority must submit such information, returns, documents, explanations and motivations as prescribed or required by the relevant treasury.

Any application from the Accounting Officer/ Accounting Authority who fail to submit the required information must not be processed by the relevant treasury until they fully comply.

**14. APPLICABILITY**

This *SCM Treasury Instruction* applies to all institutions and public entities.

**15. WITHDRAWAL OF CIRCULAR DATED 24 APRIL 2012**

Circular on the postponement of paragraph 3.9.4 dated 24/04/2012 of Instruction Note 32 of 2011 is hereby withdrawn.

**16. EFFECTIVE DATE**

This *SCM Treasury Instruction* takes effect from the 1 May 2016.

**17. DISSEMINATION OF INFORMATION CONTAINED IN THIS INSTRUCTION**

17.1 Head officials of provincial treasuries must bring the contents of this *SCM Treasury Instruction* to the attention of all Accounting Officers/Accounting Authorities.

17.2 Accounting Officers and Accounting Authorities at National level must bring the contents of this *SCM Treasury Instruction* to the attention of the relevant officials.

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**18 AUTHORITY FOR THIS SCM INSTRUCTION**

This *SCM Treasury Instruction* is issued in terms of section 76(4) (c) of the PFMA.

**19 CONTACT INFORMATION**

Enquiries related to this *SCM Treasury Instruction* may be directed to:

Egendri Nanakan

Director: SCM Governance

Tel 012 315 5452

Email: [Knowledge.Ndou@Treasury.gov.za](mailto:Knowledge.Ndou@Treasury.gov.za) or [Lebo.Molefe@Treasury.gov.za](mailto:Lebo.Molefe@Treasury.gov.za)



**KENNETH BROWN**  
**CHIEF PROCUREMENT OFFICER**

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