



Compiler guidance note

Component document: T2.2 - Returnable Schedules

Function and broad outline of contents

Contains documents that the tenderer is required to complete for the purpose of evaluating tenders and other schedules which upon acceptance become part of the subsequent contract.

Notes

The Standard for Uniformity in Construction Procurement requires that the following schedules be included in all procurement documents:

- Record of Addenda to Tender Documents (see Annex K); and
- Compulsory Enterprise Questionnaire (see Annex L)

Commentary:

1 Regulation 13 of the Local Government: Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations requires that tenderers submit the following to permit municipalities and municipal entities consider their quotation or tender:

- a) name, identification number or company registration number or other registration number, and tax reference number and VAT registration number, if any;
- b) authority to permit the municipality or municipal entity to obtain a tax clearance certificate from SARS;
- c) a disclosure relating to individuals (sole proprietors, individuals, directors, principal shareholders or stakeholders) who are in the service of the state or have been in the service during the last 12 months; and
- d) a disclosure relating to individuals (sole proprietors, individuals, directors, principal shareholders or stakeholders) whose spouse, parent or child are in the service of the state or have been in the service during the last 12 months.

The inclusion of the Compulsory Enterprise Questionnaire contained in Annex L of the CIDB Standard for Uniformity in Construction Procurement enables these requirements to be satisfied. It also allows Regulation 21 c) which requires that the procurement documentation must compel bidders to declare any conflict of interest, to be satisfied.

2 Regulation 43 of the Local Government: Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations prohibits the award of a contract above R15 000 to a person whose tax matters have not been declared by the South African Revenue Service to be in order and requires the accounting officer to check with SARS whether that person's tax matters are in order prior to making an award. Sub-regulation 43(3) presumes that a person's tax matters are in order should SARS not respond within 7 days.

It should be noted that the Compulsory Enterprise Questionnaire authorizes the Employer to obtain a tax clearance certificate from the South African Revenue Services.

3 Regulation 44 of the Local Government: Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations prohibits the award of a contract to a natural person who is in the service of the state or to a juristic person with a director, manager, principal shareholder or stakeholder is a person who is in the employ of the state. Regulation 44 requires that the notes to the annual financial statements of a municipality or municipal entity must disclose any award of a contract of more than R2000 to a person who is a spouse, child or parent of a person in the service of the state in the previous 12 months.

It should be noted that the Compulsory Enterprise Questionnaire facilitates the capturing of the information required to implement Regulations 44 and 45.

4 A person in the employ of the state may in terms of section 30 of the Public Service Act, 1994 as amended by Public Service Labour Relations Act, 1994, provide services in terms of a public sector contract to the

state provided that his or her conditions of employment make provision to do so or he or she has the President's, Deputy President's Minister's, the Premier's or the Member of the Executive Council's, as appropriate, permission to do so.

Chapter 2 of the Public Service Regulations (Code of Conduct) requires a person in the employ of the state to obtain permission to undertake remunerative work outside her or his official duties.

Chapter 3 of the Public Service Regulations (Code of Conduct) requires that members of the Senior Management Service and accounting officers must declare and register their shares and other financial interests in private or public companies and other corporate entities recognised by law; directorships and partnerships; remunerated work outside the public service; and consultancies and retainerships.

The code of conduct Code of conduct (SCM 4 of 2003) and Regulation 16A8.3 of the Supply Chain Management Regulations issued in terms of the Public Finance Management Act requires official to disclose and avoid conflicts of interest.

Accordingly, a person in the employ of the state may provide services in terms of a public sector contract provided that:

- 1) either his or her conditions of employment make provision to do so or he or she has the President's, Deputy President's Minister's, the Premier's or the Member of the Executive Council's, as appropriate, permission to do so; and
- 2) it does not present any conflicts of interest or compromise the work that he or she does for the state..

It should be noted that the Compulsory Enterprise Questionnaire facilitates the capturing of the information required to ensure compliance with the requirements of the Public Service Act, 1994.