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1964.

[No. 915.

GOVERNMENT NOTICE.

DEPARTMENT OF FINANCE.

No. R. 1541.] [2 October 1964.
STATE TENDER BOARD REGULATIONS, 1964.

It is hereby notified that the Minister of Finance has, in terms of section *sixty-one bis* of the Exchequer and Audit Act, 1956 (Act No. 23 of 1956), made the regulations as contained in the Schedule to this notice to provide for the appointment of the State Tender Board and the procedure for the procurement of supplies and services and the disposal of stores by the Government of the Republic of South Africa (excluding the South African Railways and Harbours Administration, the Provincial Administrations and the South West Africa Administration).

Government Notice No. R. 171 of the 30th June, 1961, as amended by Government Notices Nos. R. 2022, dated the 7th December, 1962, R. 445, dated the 29th March, 1963, R. 859, dated the 14th June, 1963, R. 1503, dated the 27th September, 1963, R. 1775, dated the 15th November, 1963, and R. 421, dated the 20th March, 1964, is hereby withdrawn.

SCHEDULE.

DEFINITION OF TERMS.

1. In these regulations, unless the context otherwise indicates:—

“Board” means the State Tender Board referred to in regulation 2;

“Chairman” means the Chairman of the State Tender Board;

“current domestic value”, in relation to supplies imported or to be imported into the Republic, means the market price at which, at the time of tendering, such or similar supplies are freely offered for sale, for consumption in the territory from which exportation took place or is to take place, in the usual wholesale quantities in the ordinary course of trade to all purchasers in the principal markets of that territory, including the cost of packages ordinarily used in those markets plus the extra cost of packing and packages for export, carriage to the port of shipment or other place of final despatch in that territory, and all other expenses incidental to placing the supplies on board ship or vehicle at that port or place, ready for export to the Republic, but excluding excise duties or sales taxes imposed by the government of that territory;

“due date and hour” means the date and hour specified in the tender form for the receipt of tenders;

GOEWERMENSKENNISGEWING.

DEPARTEMENT VAN FINANSIES.

No. R. 1541.] [2 Oktober 1964.
STAATSTENDERRAADREGULASIES, 1964.

Hiermee word bekendgemaak dat die Minister van Finansies kragtens artikel *een-en-sestig bis* van die Skatkis- en Ouditwet, 1956 (Wet No. 23 van 1956), die regulasies soos vervat in die Bylae tot hierdie kennisgewing uitgevaardig het wat voorsiening maak vir die aanstelling van die Staatstenderraad en die prosedure wat gevolg moet word vir die verkryging van leweransies en dienste en wegdoen van voorrade deur die Regering van die Republiek van Suid-Afrika (uitgesonderd die Administrasie van die Suid-Afrikaanse Spoorweë en Hawens, die Provinsiale Administrasies en die Administrasie van Suidwes-Afrika).

Goewermentskennisgewing No. R. 171 van 30 Junie 1961, soos gewysig deur Goewermentskennisgewings Nos. R. 2022 van 7 Desember 1962, R. 445 van 29 Maart 1963, R. 859 van 14 Junie 1963, R. 1503 van 27 September 1963, R. 1775 van 15 November 1963 en R. 421 van 20 Maart 1964 word hierby herroep.

BYLAE.

WOORDBEPALING.

1. In hierdie regulasies, tensy uit die samehang anders blyk, beteken—

„algemene kontrak”, ’n kontrak aangegaan vir die verskaffing van goedere, die lewering van dienste of die wegdoen van Regeringsvoorrade oor ’n bepaalde tydperk;

„bepaalde datum en uur”, die datum en uur in die tendervorm gespesifiseer vir die ontvang van tenders;

„formele tender”, ’n tender vir aankope, dienste of verkope waarvan die geraamde waarde meer as R2,500 bedra;

„informele tender”, ’n tender vir aankope, dienste of verkope waarvan die geraamde waarde nie meer as R2,500 bedra nie;

„ingevoerde inhoud”, die gelewerde koste, by die fabriek in die Republiek van Suid-Afrika, van daardie gedeelte van die tenderprys wat bestanddele, onderdele of materiaal uitmaak wat ingevoer is of nog ingevoer moet word ongeag of dit deur die tenderaar, sy leweransiers of subkontraakteurs ingevoer is of sal word;

„Kantoor van die Staatskoper”, die Staatskoper se Kantoor genoem in regulasie 10;

- “formal tender” means a tender for purchases, services or sales the estimated value of which exceeds R2,500;
- “general contract” means a contract entered into for the supply of commodities, the rendering of services or the disposal of Government stores over a specified period;
- “Government” means the Government of the Republic of South Africa;
- “imported content” means the landed cost at factory in the Republic of South Africa, of that portion of the tender price which comprises components, parts or materials which have been or are still to be imported whether by the tenderer or by his suppliers or sub-contractors;
- “informal tender” means a tender for purchases, services or sales the estimated value of which does not exceed R2,500;
- “landed cost of factory” means the overseas costs plus direct importation costs such as freight, all landing charges, dock dues, import duties and the like at the South African port of entry as well as inward transportation and handling to factory in the Republic of South Africa where the supplies tendered for are manufactured or assembled;
- “local content” means that portion of the tender price which is not included in the definition “imported content”;
- “Minister” means the Minister of Finance;
- “Republic” means the Republic of South Africa and includes the Territory of South West Africa;
- “Secretary” means the Secretary to the Board referred to in sub-regulation (8) of regulation 2;
- “State Buyer” means the State Buyer referred to in regulation 10;
- “State Buyer’s Office” means the State Buyer’s Office referred to in regulation 10.

STATE TENDER BOARD.

2. (1) There shall be a State Tender Board, which shall consist of a Chairman, a Deputy-Chairman who shall be the State Buyer, and not more than fourteen other members and their alternates.

(2) Except as provided in sub-regulation (3), the other members and their alternates shall be appointed from persons who are officers or employees in the Public Service.

(3) One member and an alternate shall be appointed in respect of each of the following organizations from a list of nominations submitted by them to the Minister for the purpose:—

- The Association of Chambers of Commerce of South Africa;
- the South African Federated Chamber of Industries;
- the Afrikaanse Handelsinstituut;
- the South African Agricultural Union,

and in addition one member and an alternate shall be appointed to represent the Trade Unions in the Republic.

(4) The Chairman and the other members (excluding the Deputy-Chairman) and their alternates shall be appointed by the Minister for such period as the Minister may determine in the case of the Chairman and for a period of three years in the case of the other members and their alternates, and they shall be eligible for re-appointment at the expiry of their respective terms of office: Provided that the period of three years in respect of those members and their alternates referred to in sub-regulation (2) who are appointed as such prior to the first day of October, 1963, shall be deemed to commence on that date.

(5) The Deputy-Chairman shall act as Chairman in the absence of the latter and the Minister shall appoint a member to act as Chairman in the absence of both the Chairman and the Deputy-Chairman.

„koste gelewer by die fabriek”, die oorsese-koste plus direkte invoerkoste soos skeepsfrag, alle landings-koste, dokgelde, invoerreg en dies meer, by die Suid-Afrikaanse toegangshawe, sowel as vervoer en hanteringskoste na die fabriek in die Republiek van Suid-Afrika waar die leweransies waarvoor getender word, vervaardig of gemonteer word;

„lopende binnelandse waarde”, met betrekking tot leweransies wat in die Republiek ingevoer is of nog ingevoer moet word, die markprys waarteen sulke of soortgelyke goedere, ten tye van indiening van ’n tender, in gewone groothandelshoeveelhede in die gewone loop van die handel aan alle kopers in die vernaamste markte van die gebied waaruit die leweransies uitgevoer is of sal word, vrylik vir verbruik daarin te koop aangebied word, met inbegrip van die koste van verpakking wat gewoonlik in daardie markte gebruik word, plus die ekstra koste van pak en verpakking vir uitvoer, vervoer na die hawe van verskeping of ’n ander plek van finale versending in daardie gebied en alle ander koste verbonde aan die plasing van die leweransies aan boord van ’n skip of ’n ander voertuig by daardie hawe of plek, gereed vir uitvoer na die Republiek, maar met uitsluiting van aksynsregte of verkoopbelasting deur die regering van daardie gebied opgelê;

„Minister”, die Minister van Finansies;

„plaaslike inhoud”, daardie gedeelte van die tenderprys wat nie ingesluit is in die definisie „ingevoerde inhoud” nie;

„Raad”, die Staatstenderraad genoem in regulasie 2;

„Regering”, die Regering van die Republiek van Suid-Afrika;

„Republiek”, die Republiek van Suid-Afrika met inbegrip van die Gebied Suidwes-Afrika;

„Sekretaris”, die Sekretaris van die Raad genoem in subregulasie (8) van regulasie 2;

„Staatskoper”, die Staatskoper genoem in regulasie 10;

„Voorsitter”, Die Voorsitter van die Staatstenderraad.

STAATSTENDERRAAD.

2. (1) Daar is ’n Staatstenderraad wat bestaan uit ’n Voorsitter, ’n Adjunk-voorsitter wat die Staatskoper is, en hoogstens veertien ander lede met plaasvervangers.

(2) Behalwe soos in subregulasie (3) bepaal, word die ander lede met plaasvervangers aangestel uit beamptes of werknemers in die Staatsdiens.

(3) Een lid met plaasvervanger word ten opsigte van elk van die volgende organisasies aangestel uit ’n lys van nominasies wat hulle vir die doel aan die Minister voorlê:—

- Die Vereniging van Kamers van Koophandel van Suid-Afrika;
- die Suid-Afrikaanse Gefedereerde Kamer van Nywerhede;
- die Afrikaanse Handelsinstituut;
- die Suid-Afrikaanse Landbou-unie;

en nog een lid met plaasvervanger word aangestel om die Vakverenigings in die Republiek te verteenwoordig.

(4) Die Voorsitter en ander lede (uitgesonderd die Adjunk-voorsitter) en hul plaasvervangers word deur die Minister aangestel vir solank as die Minister mag bepaal in die geval van die Voorsitter en vir ’n tydperk van drie jaar in die geval van die ander lede en hul plaasvervangers en hulle kan in aanmerking kom vir heraanstelling aan die einde van hul onderskeie ampstye: Met dien verstande dat die tydperk van drie jaar ten opsigte van daardie lede en hul plaasvervangers na wie in subregulasie (2) verwys word, wat as sodanig aangestel is voor die eerste dag van Oktober 1963, beskou word as op daardie dag te begin.

(5) Die Adjunk-voorsitter tree op as Voorsitter wanneer die Voorsitter afwesig is en die Minister stel ’n lid aan om as Voorsitter op te tree wanneer beide die Voorsitter en Adjunk-voorsitter afwesig is.

(6) In the absence at any particular meeting of the Chairman, the Deputy-Chairman and the member referred to in sub-regulation (5), the members present shall elect from amongst themselves a member to act as Chairman at that meeting.

(7) In the absence of the State Buyer the officer referred to in regulation 12 shall be co-opted as a member of the Board.

(8) There shall be a Secretary to the Board appointed by the State Buyer from the State Buyer's Office staff who shall keep full records of the meetings of the Board and perform such other duties as may be assigned to him by these regulations or by the State Buyer.

(9) The Board shall meet at such intervals and on such special occasions as may be determined by the Chairman or, in his absence, by the Deputy-Chairman or, in the absence of both of them, by the member referred to in sub-regulation (5); and any meeting thus called may be adjourned or postponed by the Chairman, the Deputy-Chairman or the member, as the case may be.

3. In the event of equality of votes at a Board meeting, the Chairman shall have a casting vote as well as a deliberative vote. Five members shall form a quorum, but if only four members are available consideration of the business on hand may be proceeded with and in the latter case any decision arrived at unanimously shall be regarded as the decision of the Board.

4. (1) Votes may be cast either at a meeting of the Board or by individual members being circularized but in the latter case any member may demand that a meeting of the Board be convened.

(2) A resolution taken by circularising members shall be recorded in the minutes of the next Board meeting.

(3) The number of members voting for or against any resolution shall be entered in the minutes if so decided by the meeting. Any member may demand that a record of his vote shall likewise be entered.

5. When a matter affecting a department or organization represented on the Board is under consideration, the member representing such department or organization shall be considered as being present at the meeting in an advisory capacity only and shall not be entitled to vote on the matter under discussion.

6. (1) All discussions at Board meetings and matters considered and decisions arrived at by the Board shall be treated as confidential and shall not be disclosed by any member of the Board or of the State Buyer's Office staff, without the prior consent of the Board.

(2) Decisions of the Board shall be communicated to those concerned by the Chairman or State Buyer.

7. Expert advice may be engaged by the Board with the consent of the Treasury. Any Government official may be required by the Board to give expert or technical advice.

8. The functions of the Board shall be, *inter alia*—

(a) to define the general policy to be followed in the invitation and acceptance of tenders for supplies, services and sales and in the placing of orders;

(b) to invite and accept formal tenders;

(c) to decide for what supplies, services and sales common to more than one department general contracts shall be arranged;

(d) to ensure that proper specifications and descriptions are prepared for all supplies, services and sales submitted to competition;

(e) to standardize requirements as far as possible by eliminating unnecessary articles and unnecessary grades and varieties of articles and to provide for the procurement of such articles as are best suited to the requirements of the Government;

(6) Wanneer die Voorsitter, die Adjunk-voorsitter en die lid in subregulasie (5) genoem, afwesig is van 'n bepaalde vergadering, word uit die teenwoordige lede een lid deur die vergadering verkies om op te tree as Voorsitter op daardie vergadering.

(7) Wanneer die Staatskoper afwesig is, word die beampte in regulasie 12 genoem, gekoopteer as lid van die Raad.

(8) Daar is 'n Sekretaris van die Raad wat deur die Staatskoper aangestel word uit die personeel van die Kantoor van die Staatskoper en wat volledige rekords moet hou van die vergaderings van die Raad en die pligte moet uitvoer wat by hierdie regulasies of deur die Staatskoper aan hom opgedra word.

(9) Die Raad vergader met sodanige tussenpose en by sodanige spesiale geleenthede as wat die Voorsitter of, in sy afwesigheid, die Adjunk-voorsitter of, in afwesigheid van beide van hulle, die lid in subregulasie (5) genoem, bepaal, en enige vergaderings aldus belê, kan verdaag of uitgestel word deur die Voorsitter, Adjunk-voorsitter of die lid, na gelang van die geval.

3. Ingeval daar 'n staking van stemme op 'n vergadering van die Raad is, het die Voorsitter sowel 'n beslissende as 'n beraadslagende stem. Vyf lede maak 'n kworum uit, maar as daar slegs vier lede beskikbaar is, kan daar voortgegaan word met die oorweging van die sake wat voor die Raad dien, en in laasgenoemde geval word 'n besluit wat eenparig geneem word, geag 'n besluit van die Raad te wees.

4. (1) Stemme kan uitgebring word of op 'n vergadering van die Raad of deur individuele lede regstreeks te nader maar in laasgenoemde geval kan 'n lid eis dat 'n vergadering van die Raad belê word.

(2) 'n Besluit wat geneem is deur lede per omsendbrief te nader, moet in die notule van die volgende raadsvergadering opgeneem word.

(3) Die getal stemme vir of teen enige besluit moet in die notule aangedui word indien die vergadering so beslis. Enige lid kan eis dat sy stem insgelyks opgeteken word.

5. By die oorweging van 'n saak wat 'n departement of 'n organisasie raak wat in die Raad verteenwoordig word, word die lid wat sodanige departement of organisasie verteenwoordig, geag op die vergadering aanwesig te wees in slegs 'n raadgevende hoedanigheid en is hy nie daartoe geregtig om oor die saak onder bespreking te stem nie.

6. (1) Alle besprekings op vergaderings van die Raad en alle sake wat oorweeg en besluite wat geneem word deur die Raad, word as vertroulik behandel en mag nie deur 'n lid van die Raad of 'n lid van die personeel van die kantoor van die Staatskoper openbaar gemaak word nie sonder dat die toestemming van die Raad vooraf verkry is.

(2) Besluite van die Raad word deur die Voorsitter of Staatskoper aan die betrokkenes meegedeel.

7. Die Raad kan, met die toestemming van die Tesourie, deskundige advies inroep. Die Raad kan van enige Regeringsbeampte vereis om deskundige of tegniese advies te gee.

8. Die funksies van die Raad is onder andere—

(a) om die algemene beleid te bepaal wat gevolg moet word wanneer tenders vir leweransies, dienste en verkope gevra en aangeneem en bestellings geplaas word;

(b) om formele tenders te vra en aan te neem;

(c) om te besluit vir watter leweransies, dienste en verkope wat meer as een departement met mekaar gemeen het, algemene kontrakte aangegaan moet word;

(d) om te verseker dat behoorlike spesifikasies en beskrywings opgestel word vir alle leweransies, dienste en verkope waarvoor daar tenders gevra moet word;

(e) om benodighede sover moontlik te standaardiseer deur onnodige artikels en onnodige grade en verskeidenheid van artikels uit te skakel en om voorsiening te maak vir die verkryging van dié artikels wat die geskikste vir die behoeftes van die Regering is;

- (f) to ensure that the conditions of contract for supplies, services and sales are framed on uniform lines and to provide adequate safeguards for due delivery, cancellation necessitated by breach of contract and any other matter in the interest of the Government;
- (g) to deal with breaches of the conditions of tenders or contracts and to decide what action, if any, shall be taken against defaulters;
- (h) to grant extension of contract delivery periods;
- (i) to approve, *ex post facto*, of emergency purchases, services or sales by departments where the Board is satisfied that the action of the department was in the best interests of the Government: Provided that where the delay in taking timely action is due to negligence or where fruitless expenditure is involved, the matter shall be submitted by the department concerned to the Treasury for approval;
- (j) to authorize departments to invite formal tenders;
- (k) to dispense with the invitation of tenders or letter quotations when such action is considered to be in the interests of the Government; and
- (l) to exercise such other powers or duties as may be conferred or imposed by these regulations.

9. (1) The Board may, with the approval of the Minister, institute one or more Committees of the Board and may at its discretion delegate to any Committee so instituted such of its powers and functions as it may from time to time deem expedient.

(2) Any Committee instituted in terms of sub-regulation (1) shall consist of the Chairman, the Deputy-Chairman and at least two other members and the provisions of sub-regulations (5), (6), (7), (8) and (9) of regulation 2 and of regulations 3, 5, 6 and 7 shall apply *mutatis mutandis* in respect of any such Committee.

STATE BUYER AND STATE BUYER'S OFFICE.

10. (1) There shall be a State Buyer's Office under the direction of the State Buyer.

(2) Subject to the provisions of regulation 13, the invitation of all tenders and the arrangement of contracts on behalf of the Government and all other matters incidental thereto shall be centralized in that office.

11. The functions of the State Buyer shall be, *inter alia*—

- (a) to authorize, where necessary, communication between departments and tenderers in order to elucidate doubtful points in tenders;
- (b) to award contracts by the spin of a coin or by the drawing of lots in the case of equal tenders not in excess of the maximum amount laid down for an informal tender in these regulations;
- (c) to dispense with the invitation of informal tenders when such action is considered to be in the interests of the Government, and to authorize the invitation of letter quotations or to make the best arrangements in terms of paragraph (a) of regulation 14;
- (d) to authorize departments to invite informal tenders in terms of paragraph (b) of sub-regulation (2) of regulation 13;
- (e) to grant authority in terms of the second proviso to paragraph (c) of sub-regulation (2) of regulation 13;
- (f) to admit late tenders for consideration as offers in terms of sub-regulation (a) of regulation 31;
- (g) to accord additional preference in terms of paragraph (a) of sub-regulation (2) of regulation 34 to tenders the value of which does not exceed the maximum amount laid down for an informal tender in these regulations;
- (h) to authorize the placing of indents in terms of regulation 43;
- (i) to enter into written contracts in terms of regulation 46;

- (f) om te verseker dat die kontrakvoorwaardes vir leweransies, dienste en verkope op 'n eenvormige wyse opgestel word en om voorsiening te maak vir doeltreffende beveiliging vir behoorlike lewering, intrekking weens kontrakbreuk en ander sake in belang van die Regering;
- (g) om met verbrekings van die tendervoorwaardes of kontrakte te handel en te besluit watter stappe, indien nodig, teen wanpresteerders gedoen moet word;
- (h) om die verlenging van leweringstydperke van kontrakte toe te staan;
- (i) om noodaankope, -dienste of -verkope deur departemente *ex post facto* goed te keur waar die Raad daarvan oortuig is dat die optrede van die departement in die beste belang van die Regering was: Met dien verstande dat waar die versuim om betyds stappe te doen, aan nalatigheid te wyte is of waar vrugtelose uitgawes daardeur meegebring is, die betrokke departement die saak aan die Tesourie vir goedkeuring moet voorlê;
- (j) om departemente te magtig om formele tenders te vra;
- (k) om daarvan af te sien om tenders of briefprysnoterings te vra wanneer so 'n stap geag word in belang van die Regering te wees; en
- (l) om dié ander bevoegdhede of pligte wat by hierdie regulasies verleen of opgelê word, uit te oefen of uit te voer.

9. (1) Met die goedkeuring van die Minister, mag die Raad een of meer Komitees van die Raad instel en na sy goedvinde aan 'n Komitee wat aldus ingestel is, dié bevoegdhede en funksies van hom deleger wat hy van tyd tot tyd dienstig ag.

(2) Enige Komitee wat ingevolge subregulasie (1) ingestel is, bestaan uit die Voorsitter, die Adjunk-voorsitter en minstens twee ander lede, en die bepalings van sub-regulasies (5), (6), (7), (8) en (9) van regulasie 2 en van regulasies 3, 5, 6 en 7 is *mutatis mutandis* op sodanige Komitee van toepassing.

STAATSKOPER EN KANTOOR VAN DIE STAATSKOPER.

10. (1) Daar is 'n Kantoor van Staatskoper onder die bestuur van die Staatskoper.

(2) Behoudens die bepalings van regulasie 13, word die vra van alle tenders en die aangaan van kontrakte namens die Regering en alle ander sake wat daaruit voortvloei, in daardie kantoor gesentraliseer.

11. Die funksies van die Staatskoper is, onder andere—

- (a) om, waar nodig, magtiging daartoe te verleen dat departemente en tenderaars met mekaar in verbinding tree ten einde duidelikheid te verkry omtrent twyfelagtige punte in tenders;
- (b) om kontrakte toe te ken deur 'n muntstuk op te gooi of lootjies te trek in die geval van gelyke tenders wat nie meer bedra nie as die maksimum bedrag in hierdie regulasies neergelê vir 'n informele tender;
- (c) om daarvan af te sien om informele tenders te vra wanneer so 'n stap geag word in belang van die Regering te wees, en om magtiging te verleen tot die vra van briefprysnoterings of om die beste reëlings te tref ingevolge paragraaf (a) van regulasie 14;
- (d) om departemente te magtig om informele tenders ooreenkomstig die bepalings van paragraaf (b) van subregulasie (2) van regulasie 13 te vra;
- (e) om magtiging te verleen ooreenkomstig die tweede voorbehoud by paragraaf (c) van subregulasie (2) van regulasie 13;
- (f) om tenders wat laat ontvang word as aanbiedings ooreenkomstig die bepalings van subregulasie (a) van regulasie 31 vir oorweging toe te laat;
- (g) om addisionele voorkeur toe te staan ingevolge paragraaf (a) van subregulasie (2) van regulasie 34 aan tenders waarvan die waarde nie meer bedra nie as die maksimum bedrag in hierdie regulasies neergelê vir 'n informele tender;
- (h) om magtiging te verleen tot die plasing van buitenlandse bestellings ooreenkomstig die bepalings van regulasie 43;
- (i) om skriftelike kontrakte aan te gaan ooreenkomstig die bepalings van regulasie 46;

- (j) to vary the amount of the security to be provided in terms of regulation 47;
- (k) to approve the cession of contracts in terms of regulation 48;
- (l) to ensure that contracts are properly executed;
- (m) to determine in consultation with departments which supplies or services are best suited to the particular requirement;
- (n) to exercise supervision over the sale of Government property by public auction subject to such directions as may be given by the Treasury; and
- (o) to exercise such other powers or perform such duties as may be conferred or imposed upon him by the Minister or the Board.

12. In the absence of the State Buyer, a senior officer in the State Buyer's Office nominated for the purpose by the State Buyer in consultation with the Treasury or failing such nomination, by the Treasury, shall perform the functions assigned to the State Buyer in terms of regulation 11 and carry out the authorities delegated to the latter by the Minister or the Board.

TENDERS.

13. (1) The procedure laid down in paragraphs (a), (b) and (c) of sub-regulation (2) shall govern the procurement of all supplies and services required by the Government or the disposal of Government stores, except—

- (a) where supplies are indented for in terms of regulation 43;
- (b) where tenders for items appearing on approved lists are invited in terms of regulation 44;
- (c) where authority for the disposal of stores by public auction or out of hand has been obtained from the Treasury; or
- (d) where authority has been given to dispense with the invitation of tenders or letter quotations in terms of regulation 14.

(2) (a) Where the estimated value exceeds the maximum amount laid down for an informal tender in these regulations, formal tenders shall be invited by the State Buyer on behalf of the Board, unless prior approval has been granted by the Board for a department to invite such tenders.

(b) Where the estimated value does not exceed the maximum amount laid down for an informal tender, the State Buyer shall invite informal tenders, unless prior approval has been granted by him for a department to invite such tenders.

(c) Where the estimated value does not exceed R100, tenders shall, where practicable, be invited locally: Provided that tenders may be dispensed with if a department considers this course to be more advantageous or convenient in the interests of the Government: Provided further that the State Buyer may authorize an increase of the said amount from R100 to R250 in certain instances and at the request of departments which have obtained Treasury approval for such request.

(3) (a) The estimated value shall cover or include the total value of all items on a requisition or order and not the value of any individual item appearing thereon.

(b) A supply, service or sale shall not be subdivided in order to bring the estimated value within the limits of paragraph (b) or (c) of sub-regulation (2).

14. Where it is considered to be impracticable or not in the interests of the Government to invite tenders in terms of regulation 13, prior authority to dispense with such tenders and to invite one or more letter quotations or to make the best arrangements for the supply, service or sale shall be obtained from—

- (a) the State Buyer, if the estimated value exceeds R100 [or R250 in terms of the second proviso to paragraph (c) of sub-regulation (2) of regulation 13] but does not exceed the maximum amount laid down for an informal tender;

- (j) om die bedrag van die sekerheid wat ooreenkomstig die bepaling van regulasie 47 gestel moet word, te varieer;
- (k) om goedkeuring te heg aan die sessie van kontrakte ooreenkomstig die bepaling van regulasie 48;
- (l) om te verseker dat kontrakte behoorlik uitgevoer word;
- (m) om in oorleg met departemente te bepaal watter leweransies of dienste die geskikste vir 'n besondere behoefte is;
- (n) om toesig te hou oor die verkoop van Regerings-eiendom per openbare veiling behoudens die opdragte wat die Tesourie mag gee; en
- (o) om die ander bevoegdhede of pligte wat die Minister of die Raad aan hom mag verleen of ople, uit te oefen of uit te voer.

12. Wanneer die Staatskoper afwesig is, verrig 'n senior beamppte van die kantoor van die Staatskoper vir die doel benoem deur die Staatskoper in oorleg met die Tesourie of, by gebrek aan sodanige benoeming dan deur die Tesourie, die funksies wat by regulasie 11 aan die Staatskoper opgedra word en oefen hy die bevoegdhede uit wat die Minister of die Raad aan die Staatskoper gedelegeer het.

TENDERS.

13. (1) Die prosedure voorgeskryf in paragrawe (a), (b) en (c) van subregulasie (2), word gevolg by die verkryging van alle leweransies en dienste wat die Regering nodig het of by die wegdoen van Regeringsvoorrade uitgesonderd—

- (a) waar leweransies uit die buiteland bestel word ooreenkomstig die bepaling van regulasie 43;
- (b) waar tenders vir items wat op goedgekeurde lyste voorkom, ooreenkomstig die bepaling van regulasie 44 gevra word;
- (c) waar magtiging van die Tesourie verkry is tot die verkoop van voorrade per openbare veiling of uit die hand; of
- (d) waar, ooreenkomstig regulasie 14, magtiging verleen is om daarvan af te sien om tenders of briefprysnoterings te vra.

(2) (a) Waar die geraamde waarde meer bedra as die maksimum bedrag in hierdie regulasies neêrgeleë vir 'n informele tender, vra die Staatskoper formele tenders namens die Raad, tensy die Raad vooraf toestemming aan 'n departement verleen het om sodanige tenders te vra.

(b) Waar die geraamde waarde nie meer bedra nie as die maksimum bedrag voorgeskryf vir 'n informele tender, vra die Staatskoper informele tenders, tensy hy vooraf toestemming aan 'n departement verleen het om sodanige tenders te vra.

(c) Waar die geraamde waarde nie meer as R100 bedra nie, word tenders, waar doenlik, plaaslik gevra: Met dien verstande dat van die tenders afgesien kan word as 'n departement van mening is dat so 'n gedragslyn voordeliger of geriefliker vir die Regering is: Met dien verstande voorts dat die Staatskoper die genoemde bedrag van R100 tot R250 kan verhoog in sekere gevalle en op versoek van departemente wat die goedkeuring van die Tesourie vir dié versoek verkry het.

(3) (a) Die geraamde waarde dek of sluit in die totale waarde van al die items op 'n rekwisisie of bestelling en nie die waarde van 'n individuele item wat daarop voorkom nie.

(b) 'n Leweransie, diens of verkoping mag nie onderverdeel word ten einde die geraamde waarde binne die perke van paragrawe (b) of (c) van subregulasie (2) te bring nie.

14. Waar dit geag word onprakties te wees of nie in die belang van die Regering nie om tenders kragtens die bepaling van regulasie 13 te vra, moet magtiging om van sodanige tenders af te sien en om een of meer briefprysnoterings te vra of om die beste reëlings te tref vir die leweransie, diens of verkoping vooraf verkry word van—

- (a) die Staatskoper, as die geraamde waarde meer as R100 [of R250 ooreenkomstig die tweede voorbehoud by paragraaf (c) van subregulasie (2) van regulasie 13] maar nie meer as die maksimum bedrag voorgeskryf vir 'n informele tender bedra nie;

- (b) the Board, if the estimated value exceeds the maximum amount laid down for an informal tender.

INFORMAL TENDERS AND LETTER QUOTATIONS.

15. (1) Subject to the provisions of paragraphs (b) and (c) of sub-regulation (2) of regulation 13, the State Buyer shall invite informal tenders or letter quotations from likely tenderers.

(2) Informal tenders or letter quotations received shall be decided upon by the State Buyer in cases where the total value of the tenders or quotations recommended for acceptance does not exceed the maximum laid down for an informal tender in these regulations and by the Board in all other cases.

(3) The procedure hereinafter prescribed for formal tenders shall, save in so far as such procedure is inconsistent with the concept of informal tenders or letter quotations, also apply to informal tenders, and for the purposes of such application any reference in the regulations to the Board shall be construed as a reference to the State Buyer.

FORMAL TENDERS.

(1) Invitation of Tenders.

16. (1) Tenders shall be invited in the Republic only and shall indicate the place at and the latest date and hour up to which they will be received and give such further particulars as may be necessary.

(2) Tender notices shall be published in such manner as the Board may deem expedient.

17. Departments shall not divulge information about their anticipated requirements nor shall any communication take place between departments and likely tenderers in regard to tenders invited by the State Buyer without the prior consent of the latter.

18. (1) Where the contract necessitates the use of transport for its fulfilment, the successful tenderer shall, in cases where he does not own transport vehicles used solely for the purpose of his business, use South African Railways and Harbours Administration transport wherever available, but the services of public hauliers as provided for in the Motor Carrier Transportation Act, 1930 (No. 39 of 1930), as amended, sea transport or parcel post may also be used.

(2) The successful tenderer shall also comply with the terms of any shipping freight agreement to which the Government is a party.

19. The use of trade names and reference to proprietary articles in tender forms shall be avoided as far as possible but where this is not possible, the words "similar or equal" shall be added to indicate the style, type or quality of the article required.

20. (1) Samples supplied to prospective tenderers, shall be charged for at prices determined by the Board.

(2) A nominal charge may be made for prints, specifications and tender forms, which will be refunded in the event of the return of the documents so issued in the form of a bona fide tender, or, if a bona fide tender is not submitted, within such period as may be specified in the tender form for the return of the documents.

21. (1) Samples in support of a tender shall be supplied by the tenderer at his own cost and risk. There shall be no obligation on the Government to keep or purchase such samples. Samples of value may be purchased by the Government at the tendered price, but if not so purchased, they shall be reconsigned to the tenderer at a place within the Republic at Government expense, but at the tenderer's risk.

(2) Where samples are destroyed or damaged in the process of testing or examination the Government shall not accept liability for the cost of such samples unless so specified in the tender form and approved by the Treasury.

- (b) die Raad, as die geraamde waarde meer as die maksimum bedrag neergelê vir 'n informele tender bedra.

INFORMELE TENDERS EN BRIEFPRYSNOTERINGS.

15. (1) Die Staatskoper vra, behoudens die bepalings van paragrawe (b) en (c) van subregulasie (2) van regulasie 13, informele tenders of briefprysnoterings van waarskynlike tenderaars.

(2) Die Staatskoper besluit oor ontvangse informele tenders of briefprysnoterings in gevalle waar die totale waarde van die tenders of prysnoterings wat vir aanname aanbeveel word nie meer bedra nie as die maksimum in hierdie regulasies voorgeskryf vir 'n informele tender, en die Raad besluit in alle ander gevalle.

(3) Die prosedure wat hieronder vir formele tenders voorgeskryf word, is ook op informele tenders van toepassing vir sover sodanige prosedure nie onbestaanbaar met die begrip „informele tender” of „briefprysnotering” is nie, en vir sodanige toepassing word 'n verwysing in die regulasies na die Raad opgevat as 'n verwysing na die Staatskoper.

FORMELE TENDERS.

(1) Die vra van tenders.

16. (1) Tenders word slegs in die Republiek gevra, en die plek waar, die laatste datum en uur waarop hulle ontvang sal word en die verdere besonderhede wat nodig mag wees, moet in sodanige tenders gemeld word.

(2) Tenderkennisgewings word gepubliseer op die manier wat die Raad dienstig mag ag.

17. Departemente mag nie inligting oor hul verwagte benodigdhede openbaar maak nie, en departemente en waarskynlike tenderaars mag ook nie met mekaar in verbanding tree oor tenders wat die Staatskoper gevra het nie tensy die Staatskoper vooraf toestemming daartoe verleen het.

18. (1) Waar die kontrak dit noodsaaklik maak dat vervoer gebruik moet word om dit uit te voer, moet die suksesvolle tenderaar in gevalle waar hy nie transportvoertuie besit wat uitsluitlik vir sy sakedoeleindes gebruik word nie, die vervoer van die Administrasie van die Suid-Afrikaanse Spoorweë en Hawens gebruik waar dit beskikbaar is, maar die dienste van openbare karweiers, waarvoor daar in die Motortransportwet, 1930 (No. 39 van 1930), soos gewysig, voorsiening gemaak word, seewervoer of die pakketpos kan ook gebruik word.

(2) Die suksesvolle tenderaar moet ook voldoen aan die bepalings van skeepsvragooreenkomste waarby die Regering 'n party is.

19. Die gebruik van handelsname en die vermelding van patentartikels moet sover moontlik in tendervorms vermy word, maar waar dit nie moontlik is nie, moet die woorde „soortgelyke of daarmee gelykstaande” bygevoeg word om die styl, tipe of gehalte van die vereiste artikel aan te dui.

20. (1) Vir monsters wat aan moontlike tenderaars verskaf word, word pryse gevorder wat die Raad vasstel.

(2) 'n Nominale koste kan gevorder word vir afdrukke, spesifikasies en tendervorms, en dié koste word terugbetaal wanneer die dokumente aldus uitgereik, teruggestuur word in die vorm van 'n bona fide-tender of as 'n bona fide-tender nie ingedien word nie, binne die tydperk wat vir die terugstuur van die dokumente in die tendervorm gespesifiseer word.

21. (1) Monsters ter ondersteuning van 'n tender word deur die tenderaar op sy eie koste en risiko verskaf. Daar rus geen verpligting op die Regering om sodanige monsters te hou of te koop nie. Die Regering kan waardevolle monsters teen die tenderprys koop, maar as hulle nie aldus gekoop word nie, word hulle op Regeringskoste maar op risiko van die tenderaar aan die tenderaar op 'n plek binne die Republiek teruggestuur.

(2) Waar monsters in die toets- of ondersoekproses vernietig of beskadig word aanvaar die Regering geen aanspreklikheid vir die koste van sodanige monsters nie tensy dit in die tendervorm aldus gespesifiseer en deur die Tesourie goedgekeur is.

(3) Samples made up from materials supplied by the Government shall not be returned to the tenderer, nor shall the Government accept any liability for the cost of such samples, unless so specified in the tender form and approved by the Treasury.

22. (1) The due dates of formal tenders shall be determined as follows:—

(a) For supplies ex stocks held in the Republic or to be manufactured in the Republic from materials already in the Republic, not less than 21 days from the date of first publication; and

(b) in cases not covered by (a), not less than 30 days from date of first publication.

(2) The Board may vary these periods in its discretion if circumstances make this expedient in the interests of the Government.

23. Unless otherwise directed by the Board, tenderers shall be required to hold their offers good for thirty days from the due date of the tenders.

24. (1) Tenderers may tender for one or more items specified in the tender form.

(2) If it is necessary to accept a larger or a lesser quantity than called for against any item, the tenderer shall have the option of refusing acceptance.

25. When the date for the receipt of tenders falls on a Sunday or public holiday, tenders shall be received up to the stipulated hour on the following working day of the Office of the State Buyer.

26. Tenders invited by the Board shall be addressed to the Secretary of the State Tender Board and shall be submitted by the tenderer under sealed cover with the tender number, due date and name and address of the tenderer endorsed on the outside.

27. Tenders received open or without the endorsement on the cover referred to in regulation 26 shall, after the tender reference has been ascertained, be sealed and a note shall be made on the envelope indicating—

(a) the date and time of receipt;

(b) the relative tender number and due date; and

(c) the condition in which it was received.

28. Tenders received by telegraph on or before the due date and hour shall be admitted if the name of the tenderer, the tender number, the price against each item tendered for and the delivery period offered, are clearly stated therein: Provided that—

(a) such tender shall be confirmed on the prescribed official tender form or in any other bona fide manner; and

(b) such confirmation shall be posted or delivered within 24 hours after the due date and hour of the tender.

(2) Opening of Tenders.

29. As soon as practicable after the due date and hour for receiving tenders, the officials to whom that duty shall be assigned by the State Buyer shall open in public all tenders duly received. If a member of the public so desires, the names of the tenderers shall be read out, but not the prices, unless the prior authority of the Board has been obtained.

30. All tenders after being opened and listed by the officials to whom that duty has been assigned by the State Buyer, shall be forwarded to the State Buyer for consideration and, if deemed necessary, consultation with the department concerned.

31. Any tender arriving after the due date and hour for receiving it shall not be considered and, where practicable, shall be returned immediately to the tenderer unopened with an explanatory letter: Provided that—

(a) if no tender has been received on or before the due date and hour, and a tender is received subsequently, the State Buyer may in his discretion admit the late tender as an offer;

(3) Monsters opgemaak uit materiaal wat die Regering verskaf het, word nie aan die tenderaar teruggestuur nie, en die Regering aanvaar ook geen aanspreeklikheid vir die koste van sodanige monsters nie tensy dit in die tendervorm aldus gespesifiseer en deur die Tesourie goedgekeur is.

22. (1) Die bepaalde datums van formele tenders word soos volg vasgestel:—

(a) Vir leweransies uit voorrade wat in die Republiek gehou word of wat in die Republiek vervaardig moet word van materiaal wat alreeds in die Republiek is, minstens 21 dae na die datum van eerste publikasie; en

(b) in gevalle wat nie deur (a) gedek word nie, minstens 30 dae na die datum van eerste publikasie.

(2) Die Raad kan hierdie tydperke na goeë dunnke verander as dit, onder omstandighede, in die belang van die Regering dienstig is.

23. Tensy die Raad anders gelas, word dit van tenderaars vereis om hul aanbiedings vir dertig dae vanaf die bepaalde datum van die tender van krag te laat bly.

24. (1) Tenderaars kan tender vir een of meer van die items wat in die tendervorm gespesifiseer word.

(2) As dit nodig is om 'n groter of 'n kleiner hoeveelheid aan te neem as dié wat teenoor enige item gevra word, het die tenderaar die keuse om aanneming te weier.

25. Wanneer die datum vir die ontvangs van tenders op 'n Sondag of openbare vakansiedag val, word tenders ingewag tot op die bepaalde uur op die daaropvolgende werksdag van die Kantoor van die Staatskoper.

26. Tenders wat deur die Raad gevra word, word aan die Sekretaris van die Staatstenderraad geadresseer en moet deur die tenderaar ingedien word in 'n verseëelde omslag waarop die tendernommer, die bepaalde datum en die naam en adres van die tenderaar buite-op geëndosseer is.

27. Tenders wat oop of sonder die endossement op die omslag, soos in regulasie 26 vereis, ontvang word, moet verseël word nadat die verwysingsnommer van die tender vasgestel is, en daar moet 'n aantekening op die kovert gemaak word wat die volgende meld—

(a) die datum en tyd van ontvangs;

(b) die betrokke tendernommer en die bepaalde datum; en

(c) die toestand waarin dit ontvang is.

28. Tenders wat op of voor die bepaalde datum en uur per telegraaf ontvang word, word toegelaat as die naam van die tenderaar, die tendernommer, die prys teenoor elke item waarvoor getender word en die afleweringstydperk wat aangebied word, duidelik daarin gemeld word: Met dien verstande dat—

(a) sodanige tender bevestig moet word op die voorgeskrewe amptelike tendervorm of op 'n ander bona fide-maniër; en

(b) sodanige bevestiging gepos of afgelewer moet word binne 24 uur na die bepaalde datum en uur van die tender.

(2) Die oopmaak van tenders.

29. So gou doenlik na die bepaalde datum en uur vir die ontvangs van tenders, moet die beamptes aan wie die Staatskoper daardie plig opgedra het, alle tenders wat behoorlik ontvang is, in die openbaar oopmaak. As 'n lid van die publiek dit verlang, word die name van die tenderaars uitgelees, maar nie die pryse nie, tensy die Raad vooraf magtiging daartoe verleen het.

30. Nadat die beamptes aan wie die Staatskoper daardie plig opgedra het al die tenders oopgemaak en 'n lys daarvan opgestel het, word dit aan die Staatskoper gestuur vir oorweging en, indien dit nodig geag word, oorlegpleging met die betrokke departement.

31. Enige tender wat aankom na die bepaalde datum en uur vir die ontvangs daarvan, word nie oorweeg nie en word, waar doenlik, onmiddellik onopgemaak aan die tenderaar teruggestuur met 'n verduidelikende brief: Met dien verstande dat—

(a) as geen tender voor of op die bepaalde datum en uur ontvang is nie en 'n tender daarna ontvang word, die Staatskoper die tender wat laat ontvang is, na goeë dunnke as 'n aanbod kan toelaat;

(b) if there is evidence that the tender should have, but for unavoidable reasons, has not reached the Secretary in time, such tender shall be submitted to the Board at the first opportunity for a decision as to whether it should be admitted or not.

(3) *Submission of Tenders to Board with Recommendations.*

32. (1) All tenders duly received or admitted in terms of these regulations shall be submitted, together with the recommendations of the State Buyer, to the Board for consideration but the Board shall not be obliged to consider any tender which does not comply with the advertisement in response to which it is submitted.

(2) The Board may, in its discretion, consider any tender received in response to a tender invitation although it does not comply with the conditions of tender.

(4) *Preferences.*

33. (1) (a) Where tenders for goods manufactured in the Republic and tenders for imported goods are compared, any preference to be accorded in terms of regulation 34 shall be deducted from the former, whilst to the latter (if not already allowed for in the tender) shall be added freight, insurance, duty, landing charges and railage.

(b) Where tenders for imported goods only are being compared a preference of 1 per cent shall be allowed on supplies offered from stocks already held in the Republic.

(c) Where tenders for imported goods only are to be compared there shall be added to the respective prices the customs dues ordinarily payable, in order that countries entitled thereto may receive the benefit of any customs preference, and there shall also be added any difference there may be in the ordinary freight charges from the different ports of shipment.

(d) Where tenders on a f.o.r. basis for goods manufactured in the Republic are to be compared, railage to the point of delivery shall be added.

(2) Where transport is involved, calculations for purposes of comparison of prices shall be based on rates normally paid by the public.

34. (1) In the comparison of tenders for supplies produced, manufactured or assembled within the Republic from imported and local materials, the following preferences shall be allowed:—

- (i) 1 Per cent—if the local content in relation to the tender price is not in excess of 5 per cent.
- (ii) 2 Per cent—if the local content in relation to the tender price is more than 5 per cent but not in excess of 10 per cent;
- (iii) 3 Per cent—if the local content in relation to the tender price is more than 10 per cent but not in excess of 20 per cent.
- (iv) 4 Per cent—if the local content in relation to the tender price is more than 20 per cent but not in excess of 30 per cent.
- (v) 5 Per cent—if the local content in relation to the tender price is more than 30 per cent but not in excess of 40 per cent.
- (vi) 6 Per cent—if the local content in relation to the tender price is more than 40 per cent but not in excess of 50 per cent.
- (vii) 7 Per cent—if the local content in relation to the tender price is more than 50 per cent but not in excess of 60 per cent.
- (viii) 8 Per cent—if the local content in relation to the tender price is more than 60 per cent but not in excess of 70 per cent.
- (ix) 9 Per cent—if the local content in relation to the tender price is more than 70 per cent but not in excess of 80 per cent.
- (x) 10 Per cent—if the local content constitutes more than 80 per cent of the tender price.

(b) as daar aanduiding is dat die tender die Sekretaris betyds moes bereik het maar dat dit om onvermydbare redes hom nie betyds bereik het nie, sodanige tender by die eerste geleentheid aan die Raad voorgelê moet word om te besluit of dit toegelaat moet word of nie.

(3) *Voorlegging van tenders, met aanbevelings, aan die Raad.*

32. (1) Alle tenders wat behoortlik ingevolge hierdie regulasies ontvang of toegelaat is, word, met die aanbevelings van die Staatskoper, aan die Raad voorgelê vir oorweging, maar die Raad is nie verplig om 'n tender te oorweeg wat nie aan die advertensie na aanleiding waarvan dit ingestuur is, voldoen nie.

(2) Die Raad kan na goeëddunke enige tender oorweeg wat in antwoord op 'n tenderversoek ontvang is hoewel dit nie aan die tendervoorwaardes voldoen nie.

(4) *Voorkeur.*

33. (1) (a) Waar tenders vir goedere wat in die Republiek vervaardig is en tenders vir ingevoerde goedere met mekaar vergelyk word, word enige voorkeur wat ooreenkomstig die bepalings van regulasie 34 toegestaan moet word, van eersgenoemde tender afgetrek, terwyl skeepsvrag, assuransië, invoerreg, landingskoste en spoorvrag by laasgenoemde tender bygereken word as daar nie alreeds rekening daarmee in die tender gehou is nie.

(b) Waar tenders alleenlik vir ingevoerde goedere met mekaar vergelyk moet word moet 'n voorkeur van 1 persent toegestaan word op leweransies wat aangebied word uit voorrade wat alreeds in die Republiek gehou word.

(c) Waar tenders alleenlik vir ingevoerde goedere met mekaar vergelyk moet word, word die doeaneregte wat gewoonlik betaalbaar is by die betrokke pryse bygereken sodat die lande wat daarop geregtig is, die voordeel van enige doeanevoorkeur kan ontvang. Ook die verskil wat daar mag bestaan in die gewone skeepsvrag van die verskillende verskeppingshawes af word bygereken.

(d) Waar tenders op 'n v.o.s.-grondslag vir goedere wat in die Republiek vervaardig is vergelyk moet word, word die spoorvrag na die afleweringpunt bygereken.

(2) Waar vervoer betrokke is, word berekenings vir doeleindes van prysvergelykings gebaseer op die tariewe wat gewoonlik deur die publiek betaal word.

34. (1) By die vergelyking van tenders vir leweransies wat in die Republiek geproduseer, vervaardig of gemonteer is van of uit ingevoerde en plaaslike materiaal, moet die volgende voorkeur toegestaan word:—

- (i) 1 Persent—indien die plaaslike inhoud in verhouding tot die tenderprys nie 5 persent oorskry nie.
- (ii) 2 Persent—indien die plaaslike inhoud in verhouding tot die tenderprys mees as 5 persent is, maar nie 10 persent oorskry nie.
- (iii) 3 Persent—indien die plaaslike inhoud in verhouding tot die tenderprys meer as 10 persent is, maar nie 20 persent oorskry nie.
- (iv) 4 Persent—indien die plaaslike inhoud in verhouding tot die tenderprys meer as 20 persent is, maar nie 30 persent oorskry nie.
- (v) 5 Persent—indien die plaaslike inhoud in verhouding tot die tenderprys meer as 30 persent is, maar nie 40 persent oorskry nie.
- (vi) 6 Persent—indien die plaaslike inhoud in verhouding tot die tenderprys meer as 40 persent is, maar nie 50 persent oorskry nie.
- (vii) 7 Persent—indien die plaaslike inhoud in verhouding tot die tenderprys meer as 50 persent is, maar nie 60 persent oorskry nie.
- (viii) 8 Persent—indien die plaaslike inhoud in verhouding tot die tenderprys meer as 60 persent is, maar nie 70 persent oorskry nie.
- (ix) 9 Persent—indien die plaaslike inhoud in verhouding tot die tenderprys meer as 70 persent is, maar nie 80 persent oorskry nie.
- (x) 10 Persent—indien die plaaslike inhoud meer as 80 persent van die tenderprys uitmaak.

(2) In addition to the foregoing preferences the Board may in its discretion accord—

(a) additional preference, provided such additional preference together with the existing customs duty on the supplies concerned does not exceed 15 per cent;

(b) further additional preference after consultation with and on the recommendation of the Board of Trade and Industries.

(3) (a) For the purpose of determining the degree of preference to be accorded to supplies produced, manufactured or assembled within the Republic, tenderers shall be requested to embody in their tenders a certificate showing the classification under which the supplies offered fall in terms of sub-regulation (1).

(b) The question of bona fide manufacture or assembly of supplies in the Republic and of current domestic value of imported supplies shall be considered when tenders are compared, and in case of doubt documentary evidence may be called for to substantiate any claims or statements made. Furthermore, any other steps may be taken, then or later, to verify the authenticity of claims and statements made.

(c) Where a contract has been awarded as a result of a preference claimed, the contractor shall, before final payment of the contract price is made to him, be required to furnish an affidavit to the effect that the claim for preference made in the certificate is correct and that the local content of the items supplied in execution of the contract is as classified in the certificate.

(d) Where the supplies tendered for originate from a country other than the Republic, the Board may in its discretion, require the tenderer to furnish the current domestic value of the supplies offered.

(e) Should the current domestic value of the supplies be greater than the price tendered, the Board may, when considering the additional preference provided for in paragraph (a) of sub-regulation (2), draw a comparison between the current domestic value of such supplies plus freight and all other charges incidental to the transport of such supplies to and within the Republic, and the tendered price of the supplies produced, manufactured or assembled in the Republic.

(4) The Board may, in its discretion, exclude from the operation of this regulation such products as it may from time to time deem necessary or expedient to exclude.

(5) In addition to the foregoing preferences such further preference as may be decided upon by the Minister from time to time shall be accorded to items bearing the mark of the South African Bureau of Standards.

35. (1) In case of equality after the provisions of regulations 33 and 34 have been applied, the order of preference in the award of contracts shall be as follows:—

(a) Tenders for supplies entirely or mainly produced within the Republic;

(b) tenders for supplies manufactured from raw or non-fabricated materials entirely or mainly imported;

(c) tenders for supplies assembled in the Republic from components entirely or mainly imported;

(d) tenders for supplies from imported stocks held in the Republic;

(e) tenders from accredited agents for goods for import who are in position to give expert advice or service;

(f) tenders from overseas firms (preference being given to firms having branches or agencies and carrying stocks in the Republic).

(2) All things still being equal, the award may be made in the following order:—

(a) To co-operative societies;

(b) to tenderers quoting for delivery from points of despatch nearest to the centres at which delivery is required;

(c) by the spin of a coin or the drawing of lots.

(2) Benewens voornoemde voorkeure mag die Raad na goeddunke—

(a) 'n addisionele voorkeur toestaan, mits sodanige addisionele voorkeur tesame met die bestaande invoerreg op die betrokke leweransies nie 15 per sent oorskry nie;

(b) 'n verdere addisionele voorkeur toestaan na oorlegpleging met en op aanbeveling van die Raad van Handel en Nywerheid.

(3) (a) Ten einde die graad te bepaal van die voorkeur wat verleen moet word aan leweransies wat binne die Republiek geproduseer, vervaardig of gemonteer is, moet tenderaars versoek word om in hul tenders 'n sertifikaat op te neem waarin aangedui word onder watter klas, ooreenkomstig subregulasie (1) die aangebode leweransies ressorteer.

(b) Die vraag in verband met *bona fide*-vervaardiging of montering van leweransies in die Republiek en van lopende binnelandse waarde van ingevoerde leweransies moet oorweeg word wanneer tenders vergelyk word, en as daar twyfel bestaan, mag dokumentêre bewyse gevra word ter staving van eise of verklarings wat gemaak word. Daarbenewens kan, dan of later, ander stappe gedoen word om die egtheid van eise en verklarings te toets.

(c) Waar 'n kontrak as gevolg van geëiste voorkeur toegeken is, moet die kontrakteur, voordat finale betaling van die kontrakprys aan hom gedoen word, 'n beëdigde verklaring indien met die strekking dat die eis om voorkeur wat in die sertifikaat gemaak is korrek is en dat die plaaslike inhoud van die items wat ter uitvoering van die kontrak gelewer is, is soos in die sertifikaat geklassifiseer.

(d) Waar aangebode leweransies uit 'n ander land as die Republiek kom, mag die Raad na goeddunke eis dat die tenderaar die lopende binnelandse waarde van die aangebode leweransies verstrek.

(e) As die lopende binnelandse waarde van die leweransies groter is as die getenderde prys, kan die Raad, wanneer vergunning van die addisionele voorkeur waarvoor in paragraaf (a) van subregulasie (2) voorsiening gemaak is, oorweeg word, 'n vergelyking maak tussen die lopende binnelandse waarde van sodanige leweransies, plus vraggeld en alle ander koste verbonde aan die vervoer van sodanige leweransies na en in die Republiek en die tenderprys van leweransies wat in die Republiek geproduseer, vervaardig of gemonteer is.

(4) Die Raad kan, wat die toepassing van hierdie regulasie betref, na goeddunke dié produkte uitsluit ten opsigte waarvan hy dit van tyd tot tyd nodig of dienstig ag om hulle aldus uit te sluit.

(5) Benewens voornoemde voorkeure word dié verdere voorkeure waartoe die Minister van tyd tot tyd mag besluit, toegestaan ten opsigte van items wat die merk van die Suid-Afrikaanse Buro vir Standaarde dra.

35. (1) In geval van gelykheid nadat die bepalings van regulasies 33 en 34 toegepas is, is die voorkeurvorgorde by die toekenning van kontrakte soos volg:—

(a) Tenders vir leweransies wat geheel en al of hoofsaaklik binne die Republiek geproduseer is;

(b) tenders vir leweransies wat vervaardig is van ru- of nie-vervaardigde materiaal wat geheel en al of hoofsaaklik ingevoer is;

(c) tenders vir leweransies wat in die Republiek gemonteer is uit bestanddele wat geheel en al of hoofsaaklik ingevoer is;

(d) tenders vir leweransies uit ingevoerde voorrade wat in die Republiek gehou word;

(e) tenders van gevolmagtigde agente vir invoergoedere wat in staat is om deskundige advies of diens te gee of te lewer;

(f) tenders van buitelandse firmas (voorkeur moet gegee word aan firmas wat takke of agentskantore en voorrade in die Republiek het).

(2) Onder origens gelyke omstandighede mag kontrakte in onderstaande volgorde toegeken word:—

(a) Aan koöperatiewe verenigings;

(b) aan tenderaars wat prysnoterings instuur vir aflewering vanaf versendingspunte wat die naaste is aan die sentrums waar aflewering vereis word;

(c) deur 'n muntstuk op te gooi of lootjies te trek.

36. Notwithstanding the provisions of regulations 33, 34 and 35 articles of a perishable nature shall, as far as practicable and in the interest of economy, be purchased at, or as near as possible to, the centre where the supplies are required.

(5) *Board's Decision.*

37. The Board shall not necessarily accept the lowest or any tender, or assign any reason for the acceptance or rejection of any tender, and shall have the right to accept the whole or part of any tender or in the event of a number of items being tendered for, any item of a tender.

38. (1) Any decision of the Board regarding the acceptance of tenders shall be final.

(2) If the State Buyer does not agree with any decision of the Board regarding any matter other than that referred to in sub-regulation (1), he may refer such decision for review to the Treasury whose decision shall be final. The State Buyer shall in such a case intimate to the Board his intention to defer the execution of the Board's decision pending the Treasury's ruling.

(6) *Notification of acceptance of tenders.*

39. Successful tenderers shall be promptly notified by the State Buyer or the department of the acceptance of their tenders, and the unsuccessful tenderers shall be informed accordingly.

40. The acceptance of a tender may be notified to the tenderer by letter or by telegram or by placing an order and in such case the posting of such letter or order or the delivery of such telegram to the Post Office or Telegraph Office shall be regarded as notification of such acceptance to the tenderer.

(7) *Information Which May be Made Available.*

41. (1) After the acceptance of tenders, the tender documents shall not be made available to the public but the following information may on request be furnished by the State Buyer:—

- (a) The names and addresses of all tenderers;
- (b) the prices and bases of delivery quoted by all tenderers;
- (c) the brands and the names of manufacturers, if available, in respect of the accepted tenders only; and
- (d) where applicable the percentage of preference claimed by the successful tenderer in terms of sub-regulation (1) of regulation 34 for supplies produced, manufactured or assembled in the Republic of South Africa.

(2) Where no tender has been accepted particulars of the tenders received shall not be made public.

(8) *Amendments to Tenders.*

42. (1) If it is considered desirable to amend, alter or substitute samples, specifications, prints, or conditions after tenders are returnable and before acceptance has been notified, fresh tenders shall, if so directed by the Board, be invited. The Board may, however, in its discretion and subject to the provisions of regulation 24 authorize an increase or decrease in the number of articles or quantity involved without calling for fresh tenders when it considers that the interests of the Government will be best served thereby.

(2) When it is found necessary in the interests of the Government to alter the conditions after a tender has been accepted, the Board may, in its discretion, authorize the best arrangement practicable with the contractor, provided that if such arrangement is to the disadvantage of the Government, Treasury approval shall be obtained.

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43. When prices quoted in a tender invited in terms of these regulations for supplies are considered to be excessive or when supplies cannot be obtained in the

36. Ondanks die bepalinge van regulasies 33, 34 en 35 moet bederfbare artikels sover doenlik en ter wille van besparing aangekoop word by of so naby as moontlik aan die plek waar die voorrade nodig is.

(5) *Besluit van die Raad.*

37. Die Raad neem nie noodwendig die laagste of enige tender aan nie of verstreke nie noodwendig 'n rede vir die aanname of afkeuring van 'n tender nie, en hy het die reg om die hele tender of 'n deel daarvan of, ingeval daar vir 'n aantal items getender word, enige item van 'n tender aan te neem.

38. (1) 'n Besluit van die Raad in verband met die aanname van tenders is finaal.

(2) As die Staatskoper nie met 'n besluit van die Raad in verband met enige ander saak as dié genoem in sub-regulasie (1), saamstem nie, kan hy so 'n besluit vir hersiening verwys na die Tesourie wie se besluit finaal is. In so 'n geval stel die Staatskoper die Raad in kennis van sy voorneme om die uitvoering van die Raad se besluit uit te stel in afwagting van die Tesourie se beslissing.

(6) *Kennisgewing van aanneming van tenders.*

39. Die Staatskoper of die departement stel suksesvolle tenderaars onverwyld in kennis dat hul tenders aangeneem is, en die onsuksesvolle tenderaars word dienooreenkomstig verwittig.

40. Die tenderaar kan per brief of telegram of deur die plasing van 'n bestelling in kennis gestel word dat 'n tender aangeneem is, en in so 'n geval word die pos van so 'n brief of bestelling of die aflewering van so 'n telegram by die poskantoor of telegraafkantoor geag 'n kennisgewing aan die tenderaar van sodanige aanname te wees.

(7) *Inligting wat beskikbaar gestel kan word.*

41. (1) Na die aanname van tenders word die tenderdokumente nie vir die publiek beskikbaar gestel nie, maar onderstaande inligting kan op versoek deur die Staatskoper verstreke word:—

- (a) Die name en adresse van alle tenderaars;
- (b) die pryse genoteer en die afleweringsegrondslag gemeld deur alle tenderaars;
- (c) die handelsmerke en die name van fabrikante, indien beskikbaar, ten opsigte van slegs die aangenome tenders; en
- (d) waar van toepassing, die persentasie voorkeur deur die suksesvolle tenderaar geëis ooreenkomstig sub-regulasie (1) van regulasie 34 vir leweransies in die Republiek van Suid-Afrika geproduseer, vervaardig of gemonteer.

(2) Waar geen tender aangeneem is nie, mag besonderhede van die tenders wat ontvang is, nie openbaar gemaak word nie.

(8) *Wysiging van tenders.*

42. (1) Indien dit wenslik geag word om monsters, spesifikasies, afdrucke of voorwaardes te wysig, te verander of te vervang na die bepaalde datum van tenders en voordat daar kennis van aanname gegee is, moet nuwe tenders gevra word indien die Raad aldus gelas. Die Raad kan egter na goedgeunkte en behoudens die bepalinge van regulasie 24, magtiging verleen tot 'n vermindering of 'n vermeerdering van die betrokke getal artikels of hoeveelheid sonder om nuwe tenders te vra wanneer hy van mening is dat so 'n stap in die beste belang van die Regering sal wees.

(2) Wanneer dit in die belang van die Regering nodig gevind word om die voorwaardes te verander nadat 'n tender aangeneem is, kan die Raad na goedgeunkte magtiging daartoe verleen om die beste reëlins met die kontrakteur te tref, met dien verstande dat, as so 'n reëling tot nadeel van die Regering strek, die goedkeuring van die Tesourie verkry moet word.

BUITELANDSE BESTELLINGS.

43. Wanneer die pryse genoteer in 'n tender wat ooreenkomstig die bepalinge van hierdie regulasies vir leweransies gevra word, as buitensporig beskou word, of

Republic, or through agents in the Republic, such supplies may be indented for by the State Buyer through the Republic's representatives abroad.

LISTS OF APPROVED TENDERERS.

44. (1) Where the Board considers it advisable that tendering for specific articles or services should be limited to tenderers who comply with the requirements of sub-regulation (3) hereof, lists of approved tenderers for such specific items or services may be framed by the Board.

(2) Before framing such a list, the Board shall cause to have published in such manner as may be deemed expedient, a notice inviting manufacturers and others interested to submit applications on or before a stated date for inclusion in the list.

(3) After consultation with the Department of Labour and other departments concerned and other public bodies where considered necessary, the Board shall include in the list of approved tenderers the names of such companies, firms or persons as it considers suitable in all respects to undertake Government contracts.

(4) The Board may at any time in like manner remove from an approved list the name of any company, firm or person whom it considers to be no longer suitable in all respects to undertake Government contracts.

(5) The Board may at any time after an approved list has been framed consider further applications for inclusion therein.

(6) The Board shall publish from time to time in such manner as it may deem expedient lists of commodities and services in respect of which there are lists of approved tenderers.

(7) Tenders for items appearing on approved lists shall be invited only from the companies, firms or persons whose names are included in the relative approved list.

(8) The names of the companies, firms or persons appearing in the approved lists concerned may be made available on request.

CONTRACTS, SECURITIES AND DELIVERIES.

45. General contracts may be entered into on any of the following bases:—

- (a) For a definite quantity which may not be varied without mutual consent;
- (b) for an estimated quantity subject to an increase or decrease of 10 per centum;
- (c) for a maximum quantity where the minimum quantity ordered cannot be guaranteed but where the maximum quantity may not be exceeded without the consent of the contractor; or
- (d) for a quantity not specified or an estimated quantity not guaranteed.

46. When the value of a supply, service or sale exceeds R2,500 and is for other than immediate delivery or execution, security shall be provided and, unless otherwise directed by the Board, a written contract shall be entered into with the contractor by the State Buyer. Such contract shall be signed and administered on behalf of the department concerned by the State Buyer or an officer appointed by him.

47. (1) When security is required to be provided by successful tenderers, it shall be preferably in the form of a guarantee by a bank or approved guarantee corporation or the deposit with the State Buyer of cash or Government or approved municipal stock in negotiable form.

(2) The security shall represent 10 per cent of the value of the contract unless otherwise decided by the State Buyer.

48. The State Buyer may authorize the cession of a contract after satisfying himself as to the sufficiency of the cessionary's security (if any is required).

as leweransies nie in die Republiek of deur tussenkoms van agente in die Republiek verkry kan word nie, kan die Staatskoper sodanige leweransies uit die buiteland bestel deur tussenkoms van die Republiek se buitelandse verteenwoordigers.

LYS VAN GOEDGEKEURDE TENDERAARS.

44. (1) Waar die Raad dit wenslik ag dat die indiening van tenders vir spesifieke artikels of dienste beperk moet word tot tenderaars wat voldoen aan die vereistes van subregulasie (3) hiervan, kan die Raad lyste van goedgekeurde tenderaars vir sulke spesifieke items of dienste opstel.

(2) Voordat so 'n lys opgestel word, laat die Raad op 'n manier wat hy dienstig ag, 'n kennisgewing publiseer waarby fabrikante en ander belanghebbendes gevra word om aansoeke om insluiting in die lys op of voor 'n gemelde datum voor te lê.

(3) Na oorlegpleging met die Departement van Arbeid, ander betrokke departemente en ander openbare liggame, waar dit nodig geag word, sluit die Raad in die lys van goedgekeurde tenderaars die name in van dié maatskappye, firmas of persone wat hy in alle opsigte geskik ag om Regeringskontrakte te onderneem.

(4) Die Raad kan ingelyks die naam van 'n maatskappy, firma of persoon wat na sy mening nie meer in alle opsigte geskik is om Regeringskontrakte te onderneem nie, te eniger tyd van 'n goedgekeurde lys skrap.

(5) Die Raad kan te eniger tyd nadat 'n goedgekeurde lys opgestel is, verdere aansoeke om insluiting daarin oorweeg.

(6) Die Raad publiseer van tyd tot tyd op 'n manier wat hy dienstig ag lyste van dié kommoditeite en dienste ten opsigte waarvan daar lyste van goedgekeurde tenderaars is.

(7) Tenders vir items wat op goedgekeurde lyste voorkom, word gevra van slegs dié maatskappye, firmas of persone wie se name in die betrokke goedgekeurde lys ingesluit is.

(8) Die name van die maatskappye, firmas of persone wat in die betrokke goedgekeurde lyste voorkom, kan op versoek beskikbaar gestel word.

KONTRAKTE, SEKERHEIDSTELLINGS EN AFLEWERINGS.

45. Algemene kontrakte kan op enigeen van ondergenoemde grondslae aangegaan word:—

- (a) Vir 'n bepaalde hoeveelheid wat nie sonder wederzijdse toestemming verander mag word nie;
- (b) vir 'n geraamde hoeveelheid onderworpe aan 'n vermeerdering of 'n vermindering van 10 persent;
- (c) vir 'n maksimum hoeveelheid waar die minimum hoeveelheid wat bestel word, nie gewaarborg kan word nie maar waar die maksimum hoeveelheid nie sonder die toestemming van die kontrakteur oorskry mag word nie; of
- (d) vir 'n hoeveelheid wat nie gespesifiseer word nie of vir 'n geraamde hoeveelheid wat nie gewaarborg word nie.

46. Wanneer die waarde van 'n leweransie, diens of verkoping meer as R2,500 bedra en sodanige leweransie, diens of verkoping nie onmiddellik gelewer of uitgevoer moet word nie, word sekerheid daarvoor gestel en, tensy die Raad anders gelas, gaan die Staatskoper 'n skriftelike kontrak met die kontrakteur aan. So 'n kontrak word deur die Staatskoper of 'n amptenaar deur hom aangestel, geteken en geadmistreer namens die betrokke departement.

47. (1) Wanneer daar van suksesvolle tenderaars vereis word om sekerheid te stel, moet sodanige sekerheid by voorkeur bestaan uit 'n garansie deur 'n bank of 'n goedgekeurde garansie korporasie of die deponering by die Staatskoper, van kontant of Regerings- of goedgekeurde munisipale effekte in verhandelbare vorm.

(2) Die sekerheid moet 10 persent van die waarde van die kontrak verteenwoordig tensy die Staatskoper anders besluit.

48. Die Staatskoper kan magtiging verleen tot die sessie van 'n kontrak nadat hy homself daarvan oortuig het dat die sessionaris se sekerheidstelling (as dit vereis word) voldoende is.

49. Where imported supplies are to be inspected before shipment or where shipment is to be arranged by one of the Republic's representatives abroad, the successful tenderer shall request his principals to notify the Republic's representative abroad concerned when consignments are available so that arrangements for inspection or shipment may be made.

50. Unless in special cases the Board agrees to the contrary, the law of the Republic of South Africa shall govern the contract created by the acceptance of a tender and the tenderer shall choose a *domicilium citandi et executandi* at a place in the Republic to be specified by the tenderer in his tender at which all legal process may be served on the tenderer who shall agree to the jurisdiction of the Courts of the Republic. A tenderer abroad shall also state in his tender the name of his accredited agent in the Republic duly appointed to sign the contract in case the tender is accepted and to act in all respects on behalf of the contractor.

51. (1) (a) Deliveries of suppliers shall be systematically inspected, sampled and tested by the purchasing department, institution or a testing house as directed by the Board and shall not be accepted unless they comply with the specifications or approved samples or conform to the quality indicated in the contract.

(b) In the event of rejection the supplier shall be responsible for all costs and expenses incurred as a result of such rejection.

(c) The Board may arrange for any additional inspections, analyses or tests considered necessary and any representative of the State Buyer's Office shall be afforded immediate access to any stores for inspection purposes on exhibiting a written authority from the State Buyer.

(d) Results of inspections, analyses and tests and particulars of rejection shall be reported to the State Buyer.

(2) The Board or the State Buyer may in their discretion authorize the acceptance of supplies not conforming strictly to the specification provided such acceptance is not to the disadvantage of the Government.

PENALTIES.

52. (1) If a tenderer varies or withdraws his tender after the due date and hour but before he is notified of its acceptance or if a tenderer, when notified that his tender has been accepted—

- (a) notifies the State Buyer of his inability to execute the contract in terms of his tender; or
- (b) fails within the period stipulated in the conditions of tender or such extended period as the State Buyer may allow to sign a contract and to provide security in terms of regulation 46; or
- (c) fails to execute the contract;

he shall forfeit any deposit which may have been required with the tender or pay the Government any additional expense incurred by its having to invite fresh tenders or to accept any less favourable tender or to make any less favourable arrangements: Provided that the Board may in its discretion waive or vary the enforcement of this sub-regulation as circumstances may warrant: Provided further that where such waiver or variation is to the disadvantage of the Government or where the deposit forfeited is less than the additional expense incurred, Treasury approval shall be obtained.

(2) When the successful tenderer—

- (a) notifies the State Buyer of his inability to execute the contract; or
- (b) fails within the period allowed to sign the contract or to provide the required security; or
- (c) fails to execute the contract;

and it is not practicable within the available time to invite fresh tenders, the State Buyer may negotiate for the acceptance of the next most acceptable tender and shall,

49. Waar ingevoerde leweransies voor verskeping geïnspekteer moet word of waar die verskeping deur een van die Republiek se buitelandse verteenwoordigers gereël moet word, moet die suksesvolle tenderaar sy prinsipale versoek om die betrokke buitelandse verteenwoordiger van die Republiek in kennis te stel wanneer besittings beskikbaar is, sodat reëlins vir die inspeksie of verskeping daarvan getref kan word.

50. Tensy die Raad in spesiale gevalle met die teenoor-gestelde instem, is die reg van die Republiek van Suid-Afrika van toepassing op die kontrak wat deur die aanname van 'n tender geskep word en moet die tenderaar 'n plek in die Republiek kies as sy *domicilium citandi et executandi*, wat hy in sy tender moet spesifiseer as die plek waar alle prosesstukke aan hom beteken kan word. Die tenderaar moet ook die jurisdiksie van die houe van die Republiek aanvaar. 'n Buitelandse tenderaar moet in sy tender ook die naam meld van sy gevolmagtigde agent in die Republiek wat behoorlik aangestel is om die kontrak te onderteken ingeval die tender aangeneem word en om in alle opsigte namens die kontrakteur op te tree.

51. (1) (a) Leweransies wat gelewer word, word stelselmatig geïnspekteer, bemonster en getoets deur die aankoopdepartement, -inrigting of toetsonderneming soos die Raad gelas en mag nie aangeneem word nie tensy dit met die spesifikasies of goedgekeurde monsters ooreenkom of van die gehalte is soos in die kontrak vermeld.

(b) Ingeval die goedere afgekeur word, is die leweransier aanspreeklik vir alle koste en uitgawes wat as gevolg van so 'n afkeuring aangegaan is.

(c) Die Raad kan reëlins tref vir addisionele inspeksies, ontledings of toetse wat nodig geag word, en enige verteenwoordiger van die kantoor van die Staatskoper moet op vertoon van 'n skriftelike magtiging van die Staatskoper onmiddellik tot voorrade toegelaat word om inspeksie te doen.

(d) Die uitslae van inspeksies, ontledings en toetse en besonderhede van afkeurings word aan die Staatskoper gerapporteer.

(2) Die Raad of die Staatskoper kan na goeë dunke magtiging verleen tot die aanname van leweransies wat nie streng aan die spesifikasies voldoen nie mits sodanige aanname nie tot nadeel van die Regering strek nie.

STRAWWE.

52. (1) As 'n tenderaar sy tender wysig of terugtrek na die bepaalde datum en uur dog voordat hy van die aanname daarvan in kennis gestel word, of as 'n tenderaar wanneer hy in kennis gestel word dat sy tender aangeneem is,

- (a) die Staatskoper verwittig van sy onvermoë om die kontrak ooreenkomstig sy tender uit te voer; of
- (b) versuim om binne die tydperk in die tendervoorwaardes bepaal of binne die verlengde tydperk wat die Staatskoper mag toelaat, 'n kontrak te teken en sekerheid ooreenkomstig regulasie 46 op te stel; of
- (c) versuim om uitvoering aan die kontrak te gee,

moet hy die deposito verbeur wat hy by die indiening van die tender vereis mag gewees het of alle addisionele uitgawes wat die Regering aangaan deurdat hy of nuwe tenders moet vra, of 'n minder gunstige tender moet aanneem, of minder gunstige reëlins moet tref: Met dien verstande dat die Raad na goeë dunke afstand kan doen van die toepassing van hierdie subregulasie of die toepassing daarvan kan verander na gelang omstandighede dit mag regverdig: Met dien verstande voorts dat waar sodanige afstanddoening of verandering tot nadeel van die Staat is, of waar die verbeurde deposito minder is as die addisionele uitgawes wat aangegaan is, die goedkeuring van die Tesourie verkry moet word.

(2) Wanneer die suksesvolle tenderaar—

- (a) die Staatskoper verwittig van sy onvermoë om die kontrak uit te voer; of
- (b) versuim om binne die tydperk wat toegelaat word die kontrak te onderteken of die vereiste sekerheid te stel; of
- (c) versuim om die kontrak uit te voer,

en dit ondoenlik is om nuwe tenders binne die beskikbare tyd te vra, kan die Staatskoper onderhandel vir die aanname van die volgende aanneemlikste tender en moet hy,

after consultation, where necessary, with the department concerned, submit to the Board for decision his recommendations either for the acceptance of such tender or, if no other tender is acceptable, for the making of such other arrangements as he considers to be in the best interests of the Government.

(3) Where a contract has been awarded to a tenderer because of preferences claimed by him and allowed in terms of sub-regulation (1) of regulation 34, and it is subsequently shown to the satisfaction of the Board that the preferences claimed were too high, the Board may, in addition to any restrictions it may impose in terms of regulation 54, or any other remedy it may have—

- (a) recover from the contractor all costs, losses or damages incurred or sustained by the Government as a result of the award of the contract to him; and/or
- (b) for good cause shown impose on the contractor a penalty not exceeding five per cent of the value of the contract.

53. For the purpose of the application of the procedure prescribed in regulation 52, any reference to the Board shall, in so far as it concerns contracts arising out of the invitation of informal tenders as defined in these regulations or letter quotations the value of which does not exceed the maximum laid down for informal tenders, be construed as a reference to the State Buyer.

54. (1) If the Board is satisfied that—

- (a) the execution of a Government contract, by a person, firm or company has been unsatisfactory; or
- (b) a person, firm or company has offered, promised or given a bribe or any other consideration to an official in the service of the Government in relation to the obtaining or the execution of a contract; or
- (c) a person, firm or company has acted fraudulently or in bad faith or in any other unsatisfactory manner in the obtaining or execution of any contract with the Government, any public body or company or firm or person, or has in the conduct of his or its business failed to observe statutory requirements resulting in a criminal conviction; or
- (d) a person, firm or company has varied or withdrawn his or its tender after the due date and hour but before he or it has been notified of its acceptance; or
- (e) a person, firm or company, when notified that his or its tender has been accepted, has notified the State Buyer of his or its inability to execute the contract in terms of his or its tender or has failed to execute the contract or has failed within the period stipulated in the conditions of tender or such extended period as the State Buyer may allow, to sign a contract or to provide security in terms of the tender form.

the Board may in its discretion after consideration of all the circumstances resolve—

- (i) subject to the provisions of regulation 52 that the particular contract and any other contract held by the person, firm or company be cancelled; or
- (ii) that no tender from that person, firm or company shall be considered during such a period as it may decide.

(2) The Board may, after further consideration, at any time rescind or vary a resolution passed by it relative to the restriction of tenderers.

(3) Any restriction relative to tendering imposed upon any person, firm or company shall apply also to any other enterprise under the same or different name with which the person, firm or company restricted is actively associated.

indien nodig na raadpleging met die betrokke departement, sy aanbevelings om of sodanige tender aan te neem, of as geen ander tender aanneemlik is nie, om sulke ander reëlins te tref as wat hy in die beste belang van die Staat ag, aan die Raad voorlê vir beslissing.

(3) As 'n kontrak aan 'n tenderaar toegeken is as gevolg van voorkeur wat deur hom geëis is en toegelaat is ooreenkomstig subregulasie (1) van regulasie 34, en daar later tot tevredenheid van die Raad getoon word dat die geëiste voorkeur te hoog was, kan die Raad, benewens beperkings wat hy ingevolge regulasie 54 mag opleë, of enige ander regsmiddel wat hy mag hê—

- (a) alle koste, verliese of skade wat die Staat mag hê as gevolg van die toekenning van die kontrak aan die kontrakteur, op hom verhaal; en/of
- (b) om gegronde redes, die kontrakteur 'n boete, wat nie vyf persent van die waarde van die kontrak oorskry nie, opleë.

53. Vir die doel van die toepassing van die prosedure in regulasie 52 voorgeskryf, word alle verwysings na die Raad opgevat as verwysings na die Staatskoper vir sover dit kontrakte aangaan wat voortspruit uit die vra van informele tenders soos in hierdie regulasies omskryf of briefprysnoterings waarvan die waarde nie die maksimum wat vir informele tenders voorgeskryf is, oorskry nie.

54. (1) As die Raad daarvan oortuig is dat—

- (a) die uitvoering van 'n Regeringskontrak deur 'n persoon, firma of maatskappy onbevredigend was; of
- (b) 'n persoon, firma of maatskappy 'n amptenaar in die diens van die Regering omkoopgeld of ander vergoeding aangebied, beloof of gegee het in verband met die verkryging of die uitvoering van 'n kontrak; of
- (c) 'n persoon, firma of maatskappy op 'n bedrieglike wyse of te kwader trou of op 'n ander onbevredigende manier opgetree het in die verkryging of uitvoering van 'n kontrak met die Regering, 'n openbare liggaam of maatskappy of firma of persoon, of dat hy sy sake so gedryf het dat hy versuim het om enige wetteregtelike vereistes na te kom, as gevolg waarvan hy strafregtelik skuldig bevind is; of
- (d) 'n persoon, firma of maatskappy sy tender na die bepaalde datum en uur dog voordat hy in kennis gestel is van die aanname daarvan, gewysig of teruggetrek het; of
- (e) 'n persoon, firma of maatskappy, wanneer in kennis gestel dat sy tender aangeneem is die Staatskoper verwittig van sy onvermoë om die kontrak ooreenkomstig sy tender uit te voer, of versuim het om die kontrak uit te voer, of versuim het om binne die tydperk in die tendervoorwaardes bepaal of binne die verlengde tydperk wat die Staatskoper mag toelaat, 'n kontrak te onderteken of sekerheid te stel ooreenkomstig die bepalings van die tendervorm.

kan die Raad, na goeddunke en na oorweging van al die omstandighede besluit—

- (i) dat, behoudens die bepalings van regulasie 52, die betrokke kontrak en enige ander kontrak gehou deur die persoon, firma of maatskappy gekanselleer word; of
- (ii) dat geen tender vir 'n tydperk wat hy mag bepaal van daardie persoon, firma of maatskappy oorweë word nie.

(2) Die Raad kan, na verdere oorweging, 'n besluit wat hy aangaande die beperking van tenderaars geneem het te eniger tyd herroep of verander.

(3) 'n Beperking opgelê op 'n persoon, firma of maatskappy met betrekking tot die indiening van tenders is ook van toepassing op enige ander onderneming onder dieselfde of onder 'n ander naam waarmee die persoon, firma of maatskappy wat aldus beperk is, aktief geassosieer is.

(4) For the purpose of this regulation the term person, firm or company shall include an authorized employee or agent of such person, firm or company.

(5) The Board may, in its discretion, apply any decision of any other Governmental tender board including those of the South Africa Railways and Harbours, the Provincial Administrations and the Administration of South West Africa relative to the restriction of tenderers, to the person, firm or company so restricted.

55. The State Buyer shall inform State departments, the South African Railways and Harbours Tender Board, Provincial Administrations, the South West Africa Administration, and, where necessary, the Republic's representatives abroad of any resolution relative to the restriction of tenderers passed under regulation 54 and any rescission or variation thereof.

GENERAL.

56. Whenever under these regulations any power is to be exercised or any duty is to be performed by a department or by the State Buyer such power or duty shall be exercised or performed by the accounting officer of the department concerned or the State Buyer as the case may be or by any officer delegated thereto by them.

57. The financial standing of tenderers and their ability to manufacture or supply shall be considered before acceptance of their tenders is recommended.

58. Without the express prior permission of the State Buyer, no communication of any nature shall take place between any official of the Government or of a duly appointed testing house and a member of the public on a question affecting a tender during the period between the due date of tenders and the date of notification of the successful tenderer.

59. Nothing in these regulations shall be deemed to prohibit the purchase of stores by one department from another, and stocks surplus to the requirements of a department shall be offered to other departments and provincial administrations before being disposed of to the public.

60. In the event of a contract being placed for the supply of products of the Republic of South Africa the successful tenderer shall not be permitted to substitute imported products without the prior consent of the Board.

61. Articles manufactured in the Republic, purchased by the Government, shall be marked by the supplier "Made in the Republic of South Africa" whenever practicable.

62. (1) When a tender or quotation for a supply or service to the Government is received from an official of the Public Service, this fact shall be specifically stated if the tender is recommended for acceptance. The acceptance of such tender shall be subject to Treasury approval.

(2) Unless otherwise prescribed, however, an official of the Public Service shall not be precluded from making purchases from the Government by tender, at auction sales or at tariffs prescribed for sales to members of the public.

63. If, in exceptional circumstances, the Treasury deems it expedient in the interest of the Government to depart from the provisions of these regulations, it may, after consultation with the Chairman and the State Buyer, authorize such departure and at the first meeting of the Board held after such departure has been so authorized, the Board shall be fully informed thereof.

64. The State Buyer shall furnish the Controller and Auditor-General with full particulars of all authorities granted and decisions taken under these regulations.

(4) Vir die toepassing van hierdie regulasies beteken die uitdrukking persoon, firma of maatskappy ook 'n gemagtigde werknemer of agent van sodanige persoon, firma of maatskappy.

(5) Die Raad kan na goeë dunde 'n besluit van enige ander itenderraad van die Staat, insluitende dié van die Suid-Afrikaanse Spoorweë en Hawens, die Provinsiale Administrasie en die Administrasie van Suidwes-Afrika, in verband met die beperking van tenderaars, van toepassing maak op die persoon, firma of maatskappy wat aldus beperk is.

55. Die Staatskoper moet Staatsdepartemente, die Tenderraad van die Suid-Afrikaanse Spoorweë en Hawens, Provinsiale Administrasies, die Administrasie van Suidwes-Afrika en, waar nodig, die Republiek se buitelandse verteenwoordigers verwittig van alle besluite aangaande die beperking van tenderaars, wat kragtens regulasie 54 geneem is en van alle herroepings of wysigings daarvan.

ALGEMEEN.

56. Wanneer 'n bevoegdheid of 'n plig ooreenkomstig die bepalings van hierdie regulasies uitgeoefen of uitgevoer moet word deur 'n departement of deur die Staatskoper, word sodanige bevoegdheid of plig uitgeoefen of uitgevoer deur die rekenpligtige amptenaar van die betrokke departement of die Staatskoper na gelang van die geval of deur 'n amptenaar aan wie hulle sodanige bevoegdheid of plig gedelegeer het.

57. Die finansiële posisie van tenderaars en hul vermoë om te vervaardig of te lewer moet oorweeg word voordat die aanname van hul tenders aanbeveel word.

58. Geen kommunikasie van watter aard ook in verband met 'n aspek wat 'n tender raak mag gedurende die tydperk tussen die bepaalde datum van die tender en die datum van kennisgewing aan die suksesvolle tenderaar, tussen 'n amptenaar van die Regering of van 'n behoorlik aangestelde toetsonderneming en 'n lid van die publiek plaasvind nie tensy die Staatskoper uitdruklik vooraf toestemming daartoe verleen het.

59. Geen bepaling in hierdie regulasies word geag 'n verbod te plaas op die aankoop van voorrade deur een departement van 'n ander nie, en voorrade wat meer is as wat 'n departement nodig het, moet aan ander departemente en provinsiale administrasies aangebied word voordat dit aan die publiek verkoop word.

60. Ingeval 'n kontrak aangegaan word vir die lewering van produkte van die Republiek van Suid-Afrika word die suksesvolle tenderaar nie toegelaat om dit deur ingevoerde produkte te vervang nie tensy die Raad vooraf toestemming daartoe verleen het.

61. Artikels wat in die Republiek vervaardig is en deur die Regering aangekoop word, moet, waar doenlik, deur die leweransier gemerk word „Vervaardig in die Republiek van Suid-Afrika”.

62. (1) Wanneer 'n tender of prysnotering vir 'n leweransie of diens aan die Regering van 'n amptenaar van die Staatsdiens ontvang word, moet hierdie feit spesifiek gemeld word as die tender vir aanname aanbeveel word. Die aanname van so 'n tender is onderworpe aan die goedkeuring van die Tesourie.

(2) Tensy anders voorgeskryf, word 'n amptenaar van die Staatsdiens nie daarvan uitgesluit om van die Regering te koop deur middel van tender, op openbare veilings of teen tariewe wat vir verkope aan die publiek voorgeskryf is nie.

63. As die Tesourie dit in die belang van die Regering dienstig ag om onder buitengewone omstandighede van die bepalings van hierdie regulasies af te wyk, kan hy, na oorlegpleging met die Voorsitter en die Staatskoper, magtiging tot sodanige afwyking verleen en die Raad moet ten volle daaromtrent ingelig word op die eerste vergadering van die Raad wat gehou word na sodanige afwyking aldus gemagtig is.

64. Die Staatskoper moet aan die Kontroleur en Ouditeur-generaal volledige besonderhede van alle magtigings en besluit wat ooreenkomstig die bepalings van hierdie regulasies verleen en geneem is, verstrek.

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