



treasury

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ENQUIRIES: MR. NN SANGWENI

TO: ACCOUNTING OFFICERS

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NATIONAL TREASURY CIRCULAR ON ACCEPTANCE OF SWORN AFFIDAVITS IN TERMS OF THE AMENDED B-BBEE CODES

On August 11, National Treasury issued a circular to provide clarity to accounting officers and accounting authorities on whether affidavits issued in terms of the B-BBEE Codes of Good Practice may be accepted.

As an interim measure while the Preferential Procurement Regulations, 2011 are being reviewed, accounting officers of all departments and municipalities, and accounting authorities of Schedule 2 and 3 Public Entities and municipal entities should accept sworn affidavits from suppliers.

The circular repeals the communiqué Clarification on Affidavit Issued by the Department of Trade and Industry (DTI) for the Claiming of Preferential Points (PPPFA&B-BBEE) dated 09/06/2015.

Sincerely,

Mr. S Moodley

Accountant General: KZN Treasury

Date: 8/10/15



national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

Private Bag X115, Pretoria, 0001

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TO:

- **ACCOUNTING OFFICERS OF ALL NATIONAL DEPARTMENTS AND CONSTITUTIONAL INSTITUTIONS**
- **ACCOUNTING OFFICERS OF ALL MUNICIPALITIES AND MUNICIPAL ENTITIES**
- **ACCOUNTING AUTHORITIES OF ALL SCHEDULE 2 AND 3 PUBLIC ENTITIES**
- **HEAD OFFICIALS OF ALL PROVINCIAL TREASURIES**

SUPPLY CHAIN MANAGEMENT CIRCULAR

ACCEPTANCE OF SWORN AFFIDAVITS IN TERMS OF THE AMENDED B-BBEE CODES

1. PURPOSE

This Circular serves to provide clarity to accounting officers (AOs) and accounting authorities (AAs) on whether the sworn affidavits issued in terms of the Codes of Good Practice, 2013 (the amended codes) may be accepted or not.

2. ACCEPTANCE OF SWORN AFFIDAVITS

- 2.1 In October 2013, the Minister of Trade and Industry, Minister Rob Davies, issued amended Codes of Good Practice under section 9 (1) of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003) and determined that these Codes will come into operation within twelve (12) months from date of publication.
- 2.2 These amended Codes of Good Practice are effective from 1 May 2015.
- 2.3 According to the amended Codes, an Exempted Micro Enterprise (EME) is only required to obtain a sworn affidavit or a Certificate issued by Companies and Intellectual Property Commission (CIPC) confirming their **annual turnover of R10 million or less and level of black ownership** to claim points, whereas in terms of the Preferential Procurement regulations, a certificate is required from a registered auditor, accounting officer as contemplated in the Close Corporations Act, or an accredited verification agency.
- 2.4 Under the amended codes, the threshold for the classification of EMEs has been increased from R5 million to R10 million, whilst the Preferential Procurement Regulations, 2011 still refer to the threshold of R5 million. Thus the number of potential suppliers affected by the new requirements as per the amended Codes increases as well.
- 2.5 In a meeting between the National Treasury and representatives from the Auditor-General it was agreed that, to address the incompatibility between the Preferential Procurement Regulations and the amended B-BBEE codes, and as an interim measure while the Preferential Procurement Regulations are being revised, a circular be issued that will provide clarity to Accounting Officers (AOs) and Accounting Authorities (AAs) on the acceptance of sworn affidavits.
- 2.6 In light of the afore-mentioned, organs of state to which this circular applies should accept sworn affidavits in the circumstances prescribed in the amended B-BBEE codes.

ACCEPTANCE OF SWORN AFFIDAVITS

3. ENQUIRIES

Any enquiries in respect of B-BBEE Status Level Certificates may be directed to the dti as follows:

Miss Janeez Hafizulla
Acting Director: Procurement Transformation and Verification
Tel: (012) 394 1627
Fax: (012) 394 2627
E-mail: JHafizulla@thedti.gov.za

4. APPLICABILITY

This circular applies to all national and provincial departments, constitutional institutions, public entities listed in schedules 2 and 3 to the PFMA and municipalities and municipal entities to which the MFMA applies.

5. DISSEMINATION OF INFORMATION CONTAINED IN THIS CIRCULAR

- 5.1 Heads of provincial treasuries are requested to bring the contents of this circular to the attention of accounting officers and supply chain management officials of their respective provincial departments.
- 5.2 Accounting officers of national and provincial departments are requested to bring the contents of this circular to the attention of accounting authorities and the supply chain management officials of Schedule 3A and 3C public entities reporting to their respective executive authorities.
- 5.3 Accounting officers of municipalities and municipal entities are requested to bring the contents of this circular to the attention of the supply chain management officials of their municipalities and municipal entities.

Accounting authorities of Schedule 2, 3B and 3D public entities are requested to bring the contents of this circular to the attention of the supply chain management officials of their public entities.

6. CONTACT INFORMATION

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KENNETH BROWN
CHIEF PROCUREMENT OFFICER
DATE: 11/5/2015