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DIE PROVINSIE TRANSVAAL

Guitengemone
Officiële Knoprant

(As 'n Nuusblad by die Poskantoor Geregistreer)

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TENDER REGULATIONS OF THE PROVINCE OF
TRANSVAAL.

The Executive Committee of the Province of Transvaal has, in terms of section 29(2) of the Provincial Finance and Audit Act, 1972 (Act 18 of 1972), made the regulations set out in the Schedule hereto.

SCHEDULE.

TENDER REGULATIONS OF THE PROVINCE OF
TRANSVAAL.

Definitions.

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

“Administration” means the Provincial Administration of the Province;

“Administrator” means the officer appointed in terms of the provisions of section 66 of the Republic of South Africa Constitution Act, 1961 (Act 32 of 1961), acting on the advice and with the consent of the Executive Committee of the Province;

“Board” means the Provincial Tender Board referred to in regulation 3(1);

“chairman” means the chairman of the Board;

“closing time” means the date and hour up to which tenders will be received;

“contract” includes a contract resulting from the acceptance of a tender or other offer;

“head of the department” means the Provincial Secretary or where the head of a subdepartment has been designated as accounting officer of that subdepartment in terms of the proviso to section 13 of the Act, the head of such subdepartment;

“prescribed” means prescribed or approved by the Provincial Secretary;

“Province” means the Province of Transvaal;

“secretary” means the secretary of the Board;

“tender address” means the address to which tenders are required to be submitted;

30 August, 1978

TENDERREGULASIES VAN DIE PROVINSIE
TRANSVAAL.

Die Uitvoerende Komitee van die Provincie Transvaal het ingevolge artikel 29(2) van die Wet op Provinciale Finansies en Oudit, 1972 (Wet 18 van 1972), die regulasies in die Bylae hierby uiteengesit, uitgevaardig.

BYLAE.

TENDERREGULASIES VAN DIE PROVINSIE
TRANSVAAL.

Woodomskrywing.

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

“Administrasie” die Provinciale Administrasie van die Provincie;

“Administrateur” die amptenaar aangestel ingevolge die bepalings van artikel 66 van die Grondwet van die Republiek van Suid-Afrika, 1961 (Wet 32 van 1961), handelende op die advies en met die toestemming van die Uitvoerende Komitee van die Provincie;

“departementshoof” die Provinciale Sekretaris of, waar die hoof van 'n subdepartement ingevolge die voorbehoudsbepaling by artikel 13 van die Wet as rekenpligtige beampete vir daardie subdepartement aangewys is, die hoof van sodanige subdepartement;

“die Wet” die Wet op Provinciale Finansies en Oudit, 1972 (Wet 18 van 1972);

“kontrak” ook 'n kontrak wat uit die aanname van 'n tender of ander aanbod ontstaan;

“Provincie” die Provincie Transvaal;

“Raad” die Provinciale Tenderraad in regulasie 3(1) genoem;

“sekretaris” die sekretaris van die Raad;

“sluitingstyd” die datum en uur tot wanneer tenders ontvang word;

“tenderadres” die adres waar tenders ingedien moet word;

“tenderdokumente” die dokumente wat aan 'n voorname tenderaar voorsien word ten einde hom in staat te stel om 'n tender in te dien;

"tender documents" means the documents furnished to a prospective tenderer to enable him to submit a tender; and

"the Act" means the Provincial Finance and Audit Act, 1972 (Act 18 of 1972).

Application of regulations.

2. These regulations shall not apply in respect of the procurement of supplies and services for and on behalf of the Province or the disposal of moveable property of the Province where —

- (a) such procurement or disposal takes place in accordance with the provisions of any other law; or
- (b) such procurement is from or such disposal is to a department as defined in section 1 of the Public Service Act, 1957 (Act 54 of 1957), the Department of Posts and Telecommunications or the South African Railways and Harbours Administration; or
- (c) the Tender Board Rules published under Administrator's Notice 1 of 4 January, 1971, as amended, continue to apply as provided in regulation 37(2).

CHAPTER I.

TRANSVAAL PROVINCIAL TENDER BOARD.

Establishment and constitution of Tender Board.

3.(1) There is hereby established a provincial tender board for the Province, to be called the Transvaal Provincial Tender Board, which shall be constituted as follows:

- (a) a Deputy Secretary of the Administration from time to time designated by the Provincial Secretary;
- (b) the Chief Accountant of the Administration, with the Assistant Chief Accountant of the Administration as alternate;
- (c) a Deputy Director of Education (Administrative), with an Under Secretary in the Transvaal Education Department as alternate, both of whom are from time to time designated by the Director of Education;
- (d) a Deputy Director of Hospital Services (Professional) from time to time designated by the Director of Hospital Services, with the Deputy Director of Hospital Services (Administrative) as alternate;
- (e) the Deputy Director of Roads (Administrative), with an Under Secretary in the Transvaal Roads Department from time to time designated by the Director of Roads as alternate; and
- (f) the Deputy Director of Works, with an Under Secretary in the Department of Works from time to time designated by the Director of Works as alternate.

(2) The Deputy Secretary referred to in subregulation (1)(a) shall be chairman of the Board and the Chief Accountant referred to in subregulation (1)(b) shall be vice-chairman of the Board.

(3) Whenever the chairman is absent or is for any reason unable to perform his duties and functions, any reference in these regulations to the chairman shall be construed as a reference to the vice-chairman.

"voorgeskryf" deur die Proviniale Sekretaris voorgeskryf of goedgekeur; en

"voorsitter" die voorsitter van die Raad.

Toepassing van regulasies.

2. Hierdie regulasies is nie ten opsigte van die verkryging van leveransies en dienste vir en ten behoeve van die Provinie of die vervreemding van roerende goed van die Provinie van toepassing nie waar —

- (a) sodanige verkryging of vervreemding ooreenkomsdig die bepalings van enige ander wet geskied; of
- (b) sodanige verkryging van of sodanige vervreemding aan 'n departement soos in artikel 1 van die Staatsdienswet, 1957 (Wet 54 van 1957), omskryf, die Departement van Pos- en Telekommunikasiewese of die Suid-Afrikaanse Spoerweë en Hawens is; of
- (c) die Tenderraadreëls gepubliseer by Administrateurs-kennisgewing 1 van 4 Januarie 1971, soos gewysig, van toepassing bly soos in regulasie 37(2) bepaal.

HOOFSTUK 1.

TRANSVAAL PROVINSIALE TENDERRAAD.

Instelling en samestelling van Tenderraad.

3.(1) Hierby word daar vir die Provinie 'n tenderraad ingestel wat die Transvaalse Proviniale Tenderraad heet en soos volg saamgestel is:

- (a) 'n Adjunksekretaris van die Administrasie wat van tyd tot tyd deur die Proviniale Sekretaris aangewys word;
- (b) die Hoofrekkenmeester van die Administrasie, met die Assistent-hoofrekkenmeester van die Administrasie as plaasvervanger;
- (c) 'n Adjunkdirekteur van Onderwys (Administratief), met 'n Ondersekretaris in die Transvaalse Onderwysdepartement as plaasvervanger, beide waarvan van tyd tot tyd deur die Direkteur van Onderwys aangewys word;
- (d) 'n Adjunkdirekteur van Hospitaaldienste (Vakkundig) wat van tyd tot tyd deur die Direkteur van Hospitaaldienste aangewys word, met die Adjunkdirekteur van Hospitaaldienste (Administratief) as plaasvervanger;
- (e) die Adjunkdirekteur van Paaie (Administratief), met 'n Ondersekretaris in die Transvaalse Paaiedepartement wat van tyd tot tyd deur die Direkteur van Paaie aangewys word as plaasvervanger; en
- (f) die Adjunkdirekteur van Werke, met 'n Ondersekretaris in die Werkedepartement wat van tyd tot tyd deur die Direkteur van Werke aangewys word as plaasvervanger.

(2) Die Adjunksekretaris in subregulasie (1)(a) genoem, is voorsitter van die Raad en die Hoofrekkenmeester in subregulasie (1)(b) genoem, is vise-voorsitter van die Raad.

(3) Wanneer die voorsitter ook al afwesig is of om enige rede nie in staat is om sy pligte en werksamehede te vervul nie, word enige verwysing in hierdie regulasies na die voorsitter as 'n verwysing na die vise-voorsitter uitgeleë.

(4) Whenever both the chairman and the vice-chairman are absent or are for any reason unable to perform their duties and functions, any reference to the chairman in these regulations shall —

- (a) be construed as a reference to an acting chairman elected by the members from among themselves at a meeting of the Board; or
- (b) failing the election of an acting chairman as provided in paragraph (a), be construed as a reference to an acting chairman appointed by the Provincial Secretary from among the members of the Board; or
- (c) failing the election or appointment of an acting chairman as provided in paragraphs (a) and (b), be construed as a reference to the Provincial Secretary.

(5) The Provincial Secretary shall, subject to the laws applicable to the Public Service, nominate an officer or employee as secretary of the Board who shall keep minutes of the proceedings and decisions of the Board and carry out such other duties as may be imposed on him by these regulations or assigned to him by the chairman in connection with the performance by the Board of its functions.

Meetings and proceedings of Tender Board.

4.(1) A meeting of the Board shall be convened by the chairman whenever necessary for the consideration of any matter.

(2) Four members of the Board, inclusive of the chairman, shall form a quorum.

(3) All matters for decision before the Board shall be decided by a majority of votes of the members present, and in the event of an equality of votes, the chairman shall, in addition to his deliberative vote, also have a casting vote.

(4) In lieu of convening a meeting of the Board, the chairman may circularise a number of members not fewer than the quorum referred to in subregulation (2), with the matter to be decided, requiring each such member to exercise his vote in writing thereon, in which event the provisions of subregulation (3) shall *mutatis mutandis* apply.

(5) Any member circularised as provided in subregulation (4) may in writing to the chairman demand that a meeting of the Board be convened for the consideration of the matter concerned, whereupon any decision arrived at by the members circularised shall be null and void and the chairman shall forthwith convene a meeting of the Board.

(6) If no demand as contemplated in subregulation (5) is made, the decision of the members circularised shall be the decision of the Board.

(7) The Board may in its discretion cause enquiries to be made with a view to obtaining information which it deems necessary to enable it to arrive at an equitable decision: Provided that no expenditure in connection therewith shall be incurred without the prior approval of the Provincial Secretary.

(4) Wanneer sowel die voorsitter as die vise-voorsitter ook al afwesig is of om enige rede nie in staat is om hulle pligte en werksaamhede te vervul nie, word enige verwysing in hierdie regulasies na die voorsitter —

- (a) uitgelê as 'n verwysing na 'n waarnemende voorsitter wat deur die lede op 'n vergadering van die Raad uit hulle geledere gekies is; of
- (b) by ontstentenis van die verkiesing van 'n waarnemende voorsitter soos in paragraaf (a) bepaal, uitgelê as 'n verwysing na 'n waarnemende voorsitter wat deur die Provinciale Sekretaris uit die geledere van die Raad aangestel is; of
- (c) by ontstentenis van die verkiesing of aanstelling van 'n waarnemende voorsitter soos in paragrafe (a) en (b) bepaal, uitgelê as 'n verwysing na die Provinciale Sekretaris.

(5) Behoudens die wette wat op die Staatsdiens van toepassing is, benoem die Provinciale Sekretaris 'n beampie of werknaemer as sekretaris van die Raad wat notele van die verrigtinge en besluite van die Raad hou en die ander pligte uitvoer wat deur hierdie regulasies aan hom opgeleg word of deur die voorsitter in verband met die vervulling deur die Raad van sy werksaamhede aan hom toegevys word.

Vergaderings en verrigtinge van Tenderraad.

4.(1) 'n Vergadering van die Raad word deur die voorsitter belê wanneer dit ook al nodig is vir die oorweging van enige aangeleenthed.

(2) Vier lede van die Raad, met inbegrip van die voorsitter, maak 'n kworum uit.

(3) Alle aangeleenthede vir beslissing voor die Raad word deur 'n meerderheid van stemme van die aanwesige lede beslis, en in die geval van 'n staking van stemme het die voorsitter, benewens sy beraadslagende stem, ook 'n beslissende stem.

(4) Instede van 'n vergadering van die Raad te belê, kan die voorsitter by wyse van 'n rondskrywe die aangeleenthed wat beslis moet word aan 'n aantal lede, wat nie minder is nie as die kworum in subregulasie (2) genoem, voorlê en elke sodanige lid aansê om sy stem skriftelik daarop uit te bring, in welke geval die bepalings van subregulasie (3) *mutatis mutandis* van toepassing is.

(5) Enige lid aan wie 'n rondskrywe gerig is soos in subregulasie (4) bepaal, kan skriftelik van die voorsitter vereis dat 'n vergadering van die Raad vir oorweging van die betrokke aangeleenthed belê word, waarna enige beslissing bereik deur die lede aan wie die rondskrywe gerig is, kragteloos is en die voorsitter onverwyd 'n vergadering van die Raad moet belê.

(6) Indien geen eis soos in subregulasie (5) beoog, ingedien word nie, is die beslissing van lede aan wie die rondskrywe gerig is, die beslissing van die Raad.

(7) Die Raad kan na goeddunke navrae laat doen met die oog daarop om inligting wat hy nodig ag ten einde hom in staat te stel om 'n billike beslissing te bereik, te verkry. Met dien verstande dat geen uitgawe in verband daarmee sonder die voorafverkrey goedkeuring van die Provinciale Sekretaris aangegaan word nie.

CHAPTER II.

FORMAL TENDERS.

Invitation of formal tenders.

5.(1) Except as otherwise provided in these regulations, formal tenders shall be invited and dealt with as set out in this Chapter whenever it is necessary to procure a supply or a service for and on behalf of the Province or to dispose of moveable property of the Province.

(2) For the purpose of inviting tenders in accordance with subregulation (1), the head of the department shall furnish the chairman in writing in such form as the Board may prescribe, with full particulars of the supply or service to be procured or of the moveable property to be disposed of, as the case may be.

Tender notice.

6.(1) The Board shall cause a notice (hereinafter referred to as the tender notice) to be published in the *Provincial Gazette* and, if the Board deems it expedient, also in the public press, inviting tenders for the provision of the supply or the rendering of the service or for the acquisition of the moveable property, as the case may be, mentioned in such notice.

(2) In addition to any other particulars, each tender notice shall contain the address where tender documents may be obtained, the tender address and the date and hour up to which tenders will be received.

(3) After publication of the tender notice no amendment or addition to the particulars contained therein shall be made without the prior approval of the chairman, and any amendment or addition so approved shall be made known to tenderers and prospective tenderers by the head of the department in such manner as he deems fit.

Period of validity of tenders.

7.(1) The period for which tenders are to remain valid and open for acceptance shall be stated in the tender documents: Provided that the head of the department may by agreement with a tenderer extend such period.

(2) The period contemplated in subregulation (1) shall be reckoned as from the day immediately following the day on which the closing time falls.

Particulars regarding nature of supply or services.

8.(1) The tender documents relating to the procurement of supplies or services shall specify whether the tenders invited are —

- (a) for a specific service or the supply of a definite number or quantity of articles; or
- (b) for a service the duration or extent of which cannot accurately be determined in advance and which will terminate at a particular stage or on the occurrence of a particular event; or
- (c) for the supply of an estimated number or quantity of articles subject, at the option of the head of the department, to an increase or decrease of not more than 10 per cent of the estimated number or quantity; or

HOOFSTUK II.

FORMELE TENDERS.

Aanvra van formele tenders.

5.(1) Uitgesonderd soos anders in hierdie regulasies bepaal, word formele tenders aangevra en daarmee gehandel soos in hierdie Hoofstuk uiteengesit wanneer dit ook al nodig is om 'n leveransie of 'n diens vir en ten behoeve van die Provincie te verkry of om roerende goed van die Provincie te vervreem.

(2) Vir die doel om tenders ooreenkomsdig subregulasie (1) aan te vra, voorsien die departementshoof die voorsteller skriftelik in die vorm wat die Raad voorskryf, van volle besonderhede van die leveransie of diens wat verkry moet word of van die roerende goed wat vervreem moet word, na gelang van die geval.

Tenderkennisgewing.

6.(1) Die Raad laat 'n kennisgewing (hierna die tenderkennisgewing genoem) in die *Provinsiale Koerant* en, indien die Raad dit dienstig ag, ook in die openbare pers, publiseer waarby tenders vir die voorsiening van die leveransie of die verrigting van die diens of vir die aankaffing van die roerende goed, na gelang van die geval, wat in sodanige kennisgewing genoem word, aangevra word.

(2) Benewens enige ander besonderhede, bevat die tenderkennisgewing die adres waar tenderdokumente verkry kan word, die tenderadres en die datum en uur tot wanneer tenders ontvang word.

(3) Na publikasie van die tenderkennisgewing word geen wysiging van of toevoeging tot die besonderhede daarin vervat, sonder die voorafverkreeë goedkeuring van die voorsteller aangebring nie, en enige wysiging of toevoeging aldus goedgekeur, word deur die departementshoof op die wyse wat hy goeddink aan tenderaars en voorgenome tenderaars bekend gemaak.

Geldigheidsduur van tenders.

7.(1) Die tydperk wat tenders geldig en vir aanname staande bly, word in die tenderdokumente gemeld: Met dien verstaande dat die departementshoof by ooreenkoms met 'n tenderaar sodanige tydperk kan verleng.

(2) Die tydperk in subregulasie (1) beoog, word bereken met ingang van die eersvolgende dag na die dag waarop die sluitingstyd val.

Besonderhede aangaande aard van leveransie of diens.

8.(1) Die tenderdokumente met betrekking tot die verkryging van leveransies of dienste meld of die aangevraagde tenders —

- (a) vir 'n spesifieke diens of die levering van 'n bepaalde getal of hoeveelheid artikels is; of
- (b) vir 'n diens is waarvan die duur of omvang nie vooruit presies bepaal kan word nie en wat op 'n besondere stadium of by die plaasvind van 'n besondere gebeurtenis eindig; of
- (c) vir die levering van 'n beraamde getal of hoeveelheid artikels is, onderworpe, na die keuse van die departementshoof, aan 'n vermeerdering of vermindering van hoogstens 10 persent van die beraamde getal of hoeveelheid; of

(d) for the supply of an unspecified number or quantity of articles or of an estimated number or quantity of articles which cannot be guaranteed.

(2) The use of trade names and the mention of patent articles in tender documents shall be avoided as far as possible, but where such use or mention is necessary in order to indicate the style, type or quality of the required article, the words "or similar, or equivalent" shall be added.

Submission of tenders.

9.(1) Except as otherwise provided hereinafter, tenders shall be submitted on the prescribed tender form, in a sealed cover on which is endorsed the tender number and the nature of the supply, service or moveable property to which it relates, and shall reach the tender address not later than the closing time.

(2) If a tender is received in an unsealed cover or without one or more of the particulars required by subregulation (1) to be endorsed on the cover, the secretary shall ascertain (if necessary, by opening the sealed cover) the nature of the content thereof and, after noting on the cover the date and time of receipt thereof, the condition in which it was received and any omitted particulars as aforesaid, he shall seal or reseal such cover, and particularly draw the Board's attention thereto.

(3) A telegraphic tender shall be admitted by the Board if it —

- (a) is received at the tender address not later than the closing time;
- (b) states the name of the tenderer, the tender number, the tender price and the supply, service or moveable property to which it relates; and
- (c) is subsequently confirmed by a tender on the prescribed tender form which is received by the secretary within 24 hours after the closing time.

(4) The Board shall not admit a tender which does not comply with the requirements of subregulation (1) or (3); Provided that the Board may in its discretion admit —

- (a) a tender referred to in subregulation (2);
- (b) a tender not submitted on the prescribed tender form, if it is satisfied that such a form was not readily available to the tenderer and that there was insufficient time to obtain one;
- (c) a tender which is received late, if it is satisfied —
 - (i) that the tender was posted in sufficient time to reach the tender address in the normal course of post not later than the closing time, but was delayed in the post; or
 - (ii) in the case of a telegraphic tender, that it was received in the post office serving the tender address not later than the closing time; or
 - (iii) in the case of a confirmation of a telegraphic tender, that it was posted not later than the day on which the closing time falls; or
 - (iv) that the fact that the tender was late was due to circumstances which were beyond the con-

(d) vir die levering is van 'n ongespesifieerde aantal of hoeveelheid artikels of van 'n beraamde getal of hoeveelheid artikels wat nie gewaarborg kan word nie.

(2) Die gebruik van handelsname en die vermelding van patentartikels in tenderdokumente word sover moontlik vermyn, maar waar sodanige gebruik of vermelding nodig is om die styl, tipe of gehalte van die benodigde artikel aan te duif, word die woorde "of soortgelyke of gelykstaande" bygevoeg.

Indiening van tenders.

9.(1) Uitgesonderd soos anders hierna bepaal, word tenders ingedien op die voorgeskrewe vorm in 'n versééle omslag waarop die tendernommer en die aard van die leveransie, diens of roerende goed waarop dit betrekking het, geëndosseer is, en bereik die tenderadres nie later as die sluitingstyd nie.

(2) Indien 'n tender ontvang word in 'n onverseéle omslag of sonder een of meer van die besonderhede wat ingevolge subregulasie (1) op die omslag geëndosseer moet word, moet die sekretaris (indien nodig, deur die verseéle omslag oop te maak) die aard van die inhoud daarvan vasstel en, nadat hy die datum en tyd van ontvangs daarvan; die toestand waarin dit ontvang is; en enige weggetekende besonderhede soos voornoem, op die omslag aangeteken het, sodanige omslag verseéel of herverseéel en die Raad se aandag besonderlik daarop vestig.

(3) 'n Telegrafiese tender word deur die Raad toegelaat indien dit —

- (a) nie later nie as die sluitingstyd by die tenderadres ontvang word;
- (b) die naam van die tenderaar, die tendernommer, die tenderprys en die leveransie, diens of roerende goed waarop dit betrekking het, vermeld; en
- (c) daarna deur 'n tender op die voorgeskrewe tendervorm wat deur die sekretaris binne 24 uur na die sluitingstyd ontvang word, bevestig word.

(4) Die Raad laat nie 'n tender wat nie aan die vereistes van subregulasie (1) of (3) voldoen, toe nie: Met dien verstande dat die Raad na goeddunke 'n tender kan toelaat —

- (a) wat in subregulasie (2) genoem word;
- (b) wat nie op die voorgeskrewe tendervorm ingedien word nie, indien hy oortuig is dat so 'n vorm nie geredelik aan die tenderaar beskikbaar was nie en dat daar onvoldoende tyd was om een te verkry;
- (c) wat laat ontvang word, indien hy oortuig is —
 - (i) dat die tender betyds gepos is om in die normale loop van die pos die tenderadres nie later nie as die sluitingstyd te bereik, maar in die pos vertraag is; of
 - (ii) in die geval van 'n telegrafiese tender, dat dit nie later nie as die sluitingstyd in die poskantoor wat die tenderadres bedien, ontvang is; of
 - (iii) in die geval van 'n bevestiging van 'n telegrafiese tender, dat dit nie later nie as die dag waarop die sluitingstyd val, gepos is; of
 - (iv) dat die feit dat die tender laat was te wyte was aan omstandighede wat buite die beheer

trol of the tenderer and which could not reasonably have been foreseen by him.

(5) A tender not admitted by the Board shall be returned by the secretary to the tenderer with a letter setting out the reason why the tender was not admitted.

(6) The Board may delegate to the chairman the powers and duties conferred or imposed on it by the preceding provisions of this regulation in regard to the admission of tenders.

Opening of tenders.

10.(1) As soon as practicable after the closing time all tenders shall be opened by the chairman, and tenderers and members of the public shall be entitled to attend such opening of tenders.

(2) As soon as a tender has been opened, the chairman shall —

(a) read out the name of the tenderer and place the office date stamp and the serial number of the offer on the tender; and

(b) if the tender is —

(i) for one item, read out the tender price; or

(ii) for more than one item, in his discretion decide whether to read out the tender prices or not.

(3) The chairman may delegate the powers and duties conferred or imposed on him by the preceding provisions of this regulation to the secretary or another officer.

Consideration of tenders.

11. The Board and the head of the department —

(a) shall, for the purpose of making a recommendation as hereinafter provided, consider the admitted tenders, taking into account —

(i) where applicable, the provisions of regulation 12; and

(ii) the financial standing of each tenderer and his ability to execute the contract;

(b) shall not be bound to recommend the acceptance —

(i) of the lowest tender in the case of tenders relating to a supply or service; or

(ii) of the highest tender in the case of tenders relating to the disposal of moveable property of the Province; or

(iii) of any tender whatsoever;

(c) may disregard a tender —

(i) which is incomplete; or

(ii) which is in any manner qualified; or

(iii) which contains any alteration not authenticated by the tenderer's signature; or

(iv) if samples called for in the tender documents, have not been supplied; and

(d) shall disregard a tender if —

van die tenderaar was en wat nie redelikerwys deur hom voorsien kon word nie.

(5) 'n Tender wat nie deur die Raad toegelaat word nie, word deur die sekretaris aan die tenderaar teruggestuur met 'n brief waarin die rede waarom die tender nie toegelaat is nie, uiteengesit word.

(6) Die Raad kan die bevoegdhede en pligte deur die voorafgaande bepalings van hierdie regulasie aangaande die toelating van tenders aan hom verleen of opgele, aan die voorsitter deleger.

Oopmaak van tenders.

10.(1) Só spoedig doenlik na die sluitingstyd word alle tenders deur die voorsitter oopgemaak, en tenderaars en lede van die publiek is geregtig om sodanige oopmaak van tenders by te woon.

(2) Sodra 'n tender oopgemaak is —

(a) lees die voorsitter die naam van die tenderaar uit en plaas hy die kantoordatumstempel en die volgnommer van die aanbod op die tender; en

(b) indien die tender —

(i) vir een item is, lees die voorsitter die tenderprys uit; of

(ii) vir meer as een item is, besluit die voorsitter na eie goeddunke of hy die tenderpryse gaan uitlees, al dan nie.

(3) Die voorsitter kan die bevoegdhede en pligte deur die voorafgaande bepalings van hierdie regulasies aan hom verleen of opgele, aan die sekretaris of 'n ander beampete deleger.

Oorweging van tenders.

11. Die Raad en die departementshoof, —

(a) oorweeg die toegelate tenders vir die doel om 'n aanbeveling soos hierna bepaal, te maak, en neem in aanmerking —

(i) die bepalings van regulasie 12, waar van toepassing; en

(ii) die finansiële posisie van elke tenderaar; en sy vermoë om die kontrak uit te voer;

(b) is nie verplig om die aanname aan te beveel —

(i) van die laagste tender in die geval van tenders met betrekking tot 'n leveransie of diens; of

(ii) van die hoogste tender in die geval van tenders met betrekking tot die vervreemding van roerende goed van die Provinsie; of

(iii) van enige tender hoegenaamd;

(c) kan 'n tender verontsaam —

(i) wat onvolledig is; of

(ii) wat op enige wyse gekwalifiseer is; of

(iii) wat enige wysigings wat nie deur die tenderaar se handtekening gewaarmerk is nie, bevat; of

(iv) indien monsters wat in die tenderdokumente aangevra is, nie voorsien is nie; en

(d) verontsaam 'n tender indien —

- (i) it is excluded from consideration in terms of regulation 28; or
- (ii) the tender price in the confirmation of a telegraphic tender differs from that stated in the telegraphic tender as handed in by the tenderer at the post office.

Comparison of tenders and preference.

12.(1) In this regulation —

“imported goods” means goods which are not local goods;

“local content” means the added primary cost of South African manufactured components, and of raw material and packing material of South African origin, as well as direct labour costs being the gross salaries and wages of the employees who are directly concerned with the production, manufacture or assembly of goods; and

“local goods” means goods wholly or partly produced, manufactured or assembled in the Republic.

(2) In considering and comparing tenders, preference shall be accorded to tenders offering local goods.

(3) For the purpose of comparing tenders, tender prices shall be adjusted in the manner provided hereunder in order to bring them to a comparative level.

(4) The Administrator may from time to time, after considering the Board's recommendation, prescribe a deduction, proportionate to the local content of goods, to be made from tender prices, and details of the deduction so prescribed shall be set out in or attached to the preference certificate referred to in subregulation (5)(a).

(5)(a) In order to determine the preference, a tenderer offering local goods is required to complete the prescribed preference certificate in which he shall indicate the classification under which the offered supplies fall and the deduction, if any, claimed by him.

(b) Where doubt exists in regard to the correctness of a tenderer's classification or claim referred to in paragraph (a), the Board or the head of the department may demand substantiation thereof by a sworn statement or other documentary proof.

(6) If after the acceptance of a tender it is established that the deductions claimed by a tenderer are higher than those permitted in terms of this regulation, he shall, in addition to any other legal remedy the Province may have, be liable to the Province for the extra expense incurred by the Province as a result of the acceptance of his tender.

(7) In the case of local goods offered —

- (a) the deduction prescribed in terms of subregulation (4) shall be made from the tender price; and
- (b) a further deduction of $2\frac{1}{2}$ per cent shall be made from the tender price for goods bearing the mark of the South African Bureau of Standards; and
- (c) if the tender price is on a f.o.r. basis, the railage to the place of delivery shall be added thereto.

(i) dit ingevolge regulasie 28 van oorweging uitgesluit is; of

(ii) die tenderprys in die bevestiging van 'n telegrafiese tender verskil van dié gemeld in die telegrafiese tender soos dit deur die tenderaar by die poskantoor ingehandig is.

Vergelyking van tenders en voorkeur.

12.(1) In hierdie regulasie beteken —

“ingevoerde goedere” goedere wat nie plaaslike goedere is nie;

“plaaslike goedere” goedere wat in die geheel of gedeeltelik in die Republiek geproduceer, vervaardig of gemonteer is; en

“plaaslike inhoud” die toegevoegde primêre koste van Suid-Afrikaans-vervaardigde komponente, en van grondstowwe en verpakkingsmateriaal van Suid-Afrikaanse oorsprong, sowel as direkte arbeidskoste synde die bruto salaris en lone van die werknemers wat direk by die produksie, vervaardiging of montering van goedere betrokke is.

(2) By die oorweging en vergelyking van tenders, word voorkeur verleen aan tenders wat plaaslike goedere aanbied.

(3) Vir die doel om tenders te vergelyk, word tenderpryse op die wyse hierna bepaal, aangepas ten einde hulle op 'n vergelykbare vlak te bring.

(4) Die Administrateur kan van tyd tot tyd, na oorweging van die Raad se aanbeveling, 'n aftrekking, in verhouding tot die plaaslike inhoud van goedere, wat van tenderpryse gemaak moet word, voorskryf, en besonderhede van die aftrekking aldus voorgeskryf, word in die voorkeursertifikaat in subregulasie (5)(a) genoem, uiteengesit of daaraan geheg.

(5)(a) Ten einde die voorkeur te bepaal, word van 'n tenderaar wat plaaslike goedere aanbied, vereis om die voorgeskrewe voorkeursertifikaat te voltooi en daarin die klassifikasie waaronder die aangebode leveransies val en die aftrekking, indien daar is, waarop hy aanspraak maak, aan te dui.

(b) Waar twyfel bestaan aangaande die juistheid van 'n tenderaar se klassifikasie of aanspraak in paragraaf (a) genoem, kan die Raad of die departementshoof 'n beëdigde verklaring of ander dokumentêre bewys ter staving daarvan eis.

(6) Indien daar na die aanname van 'n tender vastgestel word dat die aftrekking waarop 'n tenderaar aanspraak maak, hoër is as die wat ingevolge hierdie regulasie toegelaat word, is hy, benewens enige ander regsmiddel wat die Provincie mag hê, teenoor die Provincie aanspreeklik vir die bykomende uitgawes wat die Provincie as gevolg van die aanname van sy tender aangegaan het.

(7) In die geval van plaaslike goedere wat aangebied word —

(a) word die aftrekking ingevolge subregulasie (4) voorgeskryf, van die tenderprys gemaak; en

(b) word 'n verdere aftrekking van $2\frac{1}{2}$ persent van die tenderprys vir goedere wat die merk van die Suid-Afrikaanse Buro vir Standaarde dra, gemaak; en

(c) indien die tenderprys op 'n v.o.s.-grondslag is, word die spoorvrag na die afleveringspunt bygereken.

(8) Over and above the deductions provided for in subregulation (7)(a) and (b), the following deductions may be made from the tender price for local goods offered:

- (a) a deduction which, together with the import duty on similar goods, does not exceed 20 per cent of the tender price;
- (b) in addition to the deduction mentioned in paragraph (a), a deduction determined in consultation with the Board of Trade and Industries.

(9) In the case of imported goods offered —

- (a) the cost of freight, insurance, import duty, landing charges and railage shall be added if not already included in the tender price; and
- (b) one per cent of the tender price shall be deducted if the goods are to be delivered from stocks already held in the Republic.

(10) Whenever transport costs have to be calculated for the purposes of the foregoing provisions of this regulation, such calculation shall be made in accordance with the normal tariff payable by the public.

(11) In the event of equality of tender prices after the preceding provisions of this regulation have been applied, preference shall be accorded to tenders in the following sequence:

- (a) tenders from tenderers offering local goods;
- (b) tenders from tenderers offering imported goods from stocks held in the Republic;
- (c) tenders from accredited agents in the Republic who offer imported goods and who are in a position to give expert advice or to render service;
- (d) tenders from foreign tenderers who offer imported goods and who have stocks and branches or agencies in the Republic.

(12) All things otherwise being equal, preference shall be accorded to tenders in the following sequence:

- (a) tenders from tenderers offering goods wholly or partly produced, manufactured or assembled in the Province;
- (b) tenders from co-operative societies;
- (c) tenders in the case of which the point of despatch of the goods offered is nearest to the point of delivery;
- (d) by lot.

Recommendation by head of department.

13. The secretary shall submit the admitted tenders to the head of the department who shall prepare a comparative schedule of tenders in the prescribed form and, after due consideration of the tenders, in writing make a motivated recommendation, stating —

- (a) in the event of the tender recommended for acceptance being the only one, that the tender price is regarded as fair and reasonable; or

(8) Bo en behalwe die aftrekkings waarvoor in subregulasie (7)(a) en (b) voorsiening gemaak word, kan die volgende aftrekkings van die tenderprys vir plaaslike goedere wat aangebied word, gemaak word:

- (a) 'n aftrekking wat tesame met die invoerregte op soortgelyke goedere, hoogstens 20 persent van die tenderprys bedra;
- (b) benewens die aftrekking in paragraaf (a) genoem, 'n aftrekking wat in ooreenstemming met die Raad van Handel en Nywerheid vasgestel word.

(9) In die geval van ingevoerde goedere wat aangebied word —

- (a) word skeopsvrag, versekering, invoerregte, landingskoste en spoorvrag bygereken indien dit nie reeds by die tenderprys inbegrepe is nie; en
- (b) word een persent van die tenderprys afgetrek indien die goedere uit voorrade wat reeds in die Republiek gehou word, gelewer gaan word.

(10) Wanneer vervoerkoste ook al vir die doel van die voorafgaande bepalings van hierdie regulasie bereken moet word, word sodanige berekening ooreenkomsdig die normale tarief deur die publiek betaalbaar, gedoen.

(11) In die geval van gelykheid van tenderpryse nadat die voorafgaande bepalings van hierdie regulasie toegepas is, word voorkeur aan tenders in die volgorde verleen:

- (a) tenders van tenderaars wat plaaslike goedere aanbied;
- (b) tenders van tenderaars wat ingevoerde goedere uit voorrade wat in die Republiek gehou word, aanbied;
- (c) tenders van geakkrediteerde agente in die Republiek wat ingevoerde goedere aanbied en wat in staat is om deskundige advies te gee of om diens te lever;
- (d) tenders van buitelandse tenderaars wat ingevoerde goedere aanbied en voorrade en takke of agèntskappe in die Republiek het.

(12) In origens gelyke omstandighede word voorkeur aan tenders in die volgorde verleen:

- (a) tenders van tenderaars wat goedere wat in die geheel of gedeeltelik in die Provinsie geproduseer, vervaardig of gemonteer is, aanbied;
- (b) tenders van koöperatiewe verenigings;
- (c) tenders in die geval waarvan die versendingspunt van die aangebode goedere die naaste aan die afluweringspunt is;
- (d) deur loting.

Aanbeveling deur departementshoof.

13. Die sekretaris lê die toegelate tenders aan die departementshoof voor wat 'n vergelykende skedule van tenders in die voorgeskrewe vorm opstel en, na behoorlike oorweging van die tenders, skriftelik 'n gemitiveerde aanbeveling maak waarin hy —

- (a) indien die tender wat vir aanname aanbeveel word die enigste is, verstaan dat die tenderprys as billik en redelik beskou word; of

- (b) in the event of the tender recommended for acceptance not being the lowest in the case of tenders relating to a supply or service, or not being the highest in the case of tenders relating to the disposal of moveable property of the Province, the reasons why its acceptance is considered to be in the Province's interest; or
- (c) in the event of a recommendation that no tender be accepted, the reasons therefor.

Recommendation by the Board.

14.(1) The head of the department shall submit the documents referred to in regulation 13 to the Board which may, after due consideration thereof —

- (a) support the recommendation of the head of the department; or
- (b) make its own motivated recommendation in the manner provided in regulation 13; or
- (c) refer the matter back to the head of the department for reconsideration, clarification or amplification in relation to specific points raised by the Board.

(2) When the Board has reached a final decision in regard to its recommendation, it shall submit such recommendation, together with all documents relating to the tenders, to the head of the department.

Finalising of tenders.

15.(1) Except as provided in subregulation (3), the head of the department shall submit the tenders, together with the comparative schedule of tenders and the recommendations, for decision to the Administrator in whom shall be vested the power to accept or reject any tender.

(2) If the Administrator's decision departs from the Board's recommendation, the head of the department shall advise the chairman thereof.

(3) If no tender is recommended for acceptance, the head of the department shall, subject to the provisions of these regulations, decide whether further steps shall be taken with a view to procuring the supply or service concerned or disposing of the moveable property concerned and, if so, what steps shall be taken.

Notification of result of tenders.

16.(1) The head of the department shall forthwith by letter or telegram notify the successful tenderer that his tender has been accepted: Provided that if an order is forthwith issued to the successful tenderer for the supply of the goods or for the rendering of the service tendered for, no notification as aforesaid of the acceptance of his tender shall be necessary.

(2) The posting of a letter or order or the handing in of a telegram at a post office shall be deemed to be sufficient notification to the successful tenderer of the acceptance of his tender.

(3) The head of the department shall notify each unsuccessful tenderer in writing that his tender has not been accepted.

- (b) indien die tender wat vir aanname aanbeveel word nie die laagste is nie in die geval van tenders met betrekking tot 'n leveransie of diens, of nie die hoogste is nie in die geval van tenders met betrekking tot die vervreemding van roerende goed van die Provinsie, die redes waarom die aanname daarvan in die Provinsie se belang geag word, vermeld; of
- (c) indien aanbeveel word dat geen tender aangeneem word nie, die redes daarvoor vermeld.

Aanbeveling deur die Raad.

14.(1) Die departementshoof lê die dokumente in regulasie 13 genoem aan die Raad voor wat na behoorlike oorweging daarvan —

- (a) die aanbeveling van die departementshoof kan steun; of
- (b) sy eie gemotiveerde aanbeveling op die wyse in regulasie 13 bepaal, kan doen; of
- (c) die aangeleentheid na die departementshoof vir hoorweging, opklaring of aanvulling met betrekking tot spesifieke punte deur die Raad geopper, kan terugverwys.

(2) Wanneer die Raad 'n finale besluit aangaande sy aanbeveling bereik het, lê hy sodanige aanbeveling, tesame met alle dokumente wat op die tenders betrekking het, aan die departementshoof voor.

Afhandeling van tenders.

15.(1) Uitgesonderd soos in subregulasie (3) bepaal, lê die departementshoof die tenders, tesame met die vergelykende skedule van tenders en die aanbevelings, vir beslissing aan die Administrateur voor by wie die bevoegdheid om enige tender aan te neem of te verworp, berus.

(2) Indien die Administrateur se beslissing van die Raad se aanbeveling afwyk, stel die departementshoof die voorsitter daarvan in kennis.

(3) Indien geen tender vir aanname aanbeveel word nie, besluit die departementshoof, behoudens die bepalings van hierdie regulasies, of verdere stappe met die oog op die verkryging van die betrokke leveransie of diens of die vervreemding van die betrokke roerende goed, gedoen moet word, en indien wel, watter stappe gedoen moet word.

Kennisgiving van uitslag van tenders.

16.(1) Die departementshoof stel die suksesvolle tenderaar onverwyld per brief of telegram in kennis dat sy tender aangeneem is: Met dien verstande dat indien 'n bestelling vir die levering van die goedere of die verrigting van die diens waarvoor getender is, onverwyld aan die suksesvolle tenderaar uitgereik word, geen kennisgiving soos voornoem van die aanname van sy tender nodig is nie.

(2) Die pos van 'n brief of bestelling, of die inhanding van 'n telegram by 'n poskantoor, word geag voldoende kennisgiving aan die suksesvolle tenderaar van die aanname van sy tender te wees.

(3) Die departementshoof stel elke nie-suksesvolle tenderaar skriftelik in kennis dat sy tender nie aangeneem is nie.

(4) The head of the department shall cause a copy of the comparative schedule referred to in regulation 13 to be open for inspection by the public for a period of 30 days after the acceptance of a tender.

Amendment of tender documents.

17.(1) If, after the closing time for tenders but before notification of the acceptance of any tender has been given, the head of the department and the Board consider it desirable to amend or substitute specifications or conditions or to alter or replace samples, fresh tenders may be invited.

(2) If, after a tender has been accepted, the head of the department considers it necessary or advisable that the specifications or conditions of the contract be amended or substituted, he may make arrangements with the successful tenderer for a suitable amendment of the contract: Provided that no such arrangements which may be to the prejudice of the Province, shall be finalised until the approval of the Administrator thereto has been obtained.

Formal contracts.

18.(1) It shall be stated in the tender documents that the successful tenderer may be required to enter into a formal written contract with the Administration.

(2) The successful tenderer shall be required to enter into a formal contract —

(a) if the tender price for, or in the case of a period contract, the estimated value of, a supply or service exceeds R5 000 and such supply or service cannot be delivered or rendered within 4 months after the notification referred to in regulation 16(1); and

(b) in every other case where the Board so decides.

(3) Where a formal contract is to be entered into, the head of the department shall as soon as possible after the notification referred to in regulation 16(1) arrange for the preparation and signing of the contract documents.

(4) The Provincial Secretary or another person employed by the Province shall, if so authorized thereto in terms of section 28 of the Act, sign a formal contract on behalf of the Province.

(5) The costs connected with the signing of the formal contract shall be borne by the tenderer.

CHAPTER III.

INFORMAL TENDERS.

Invitation of informal tenders.

19.(1) If the head of the department estimates that —
(a) the cost of a supply to be procured by the Province, will not exceed R15 000; or

(b) the cost of a service to be procured by the Province, will not exceed R30 000; or

(c) the market value of moveable property to be disposed of by the Province, does not exceed R5 000,

and he is of the opinion that such procurement or disposal cannot be effected more advantageously by the in-

(4) Die departementshoof laat 'n afskrif van die vergelykende skedule in regulasie 13 genoem, vir 'n tydperk van 30 dae na die aanname van 'n tender, ter insae van die publiek lê.

Wysiging van tenderdokumente.

17.(1) Indien die departementshoof en die Raad na die sluitingstyd maar voor kennis van die aanname van 'n tender gegee is, dit wenslik ag om spesifikasies of voorwaardes te wysig of te vervang of om monsters te verander of te vervang, kan nuwe tenders aangevra word.

(2) Indien die departementshoof nadat 'n tender aangeneem is, dit nodig of wenslik ag dat die spesifikasies of voorwaardes van die kontrak gewysig of vervang word, kan hy reëlings vir 'n gepaste wysiging van die kontrak met die suksesvolle tenderaar tref: Met dien verstande dat geen sodanige reëlings wat tot nadeel van die Provincie kan strek, gefinaliseer word alvorens die goedkeuring van die Administrateur daar toe verkry is nie.

Formele kontrakte.

18.(1) In die tenderdokumente word vermeld dat daar van die suksesvolle tenderaar vereis kan word om 'n formele skriftelike kontrak met die Administrasie aan te gaan.

(2) Daar word van die suksesvolle tenderaar vereis om 'n formele kontrak aan te gaan —

(a) indien die tenderprys vir, of in die geval van 'n termynkontrak, die geraamde waarde van, 'n leweransie of diens R5 000 oorskry, en sodanige leweransie of diens nie binne 4 maande na die kennissaming in regulasie 16(1) genoem, gelewer of verrig kan word nie; en

(b) in elke ander geval waar die Raad aldus besluit.

(3) Waar 'n formele kontrak aangegaan moet word, tref die departementshoof so spoedig moontlik na die kennissaming in regulasie 16(1) genoem die nodige reëlings vir die voorbereiding en ondertekening van die kontrakdokumente.

(4) Die Provinciale Sekretaris of 'n ander persoon in diens van die Provincie, indien hy ingevolge artikel 28 van die Wet daar toe gemagtig is, teken 'n formele kontrak ten behoeve van die Provincie.

(5) Die koste verbonden aan die ondertekening van die formele kontrak word deur die tenderaar gedra.

HOOFSTUK III.

INFORMELE TENDERS.

Aanvrae van informele tenders.

19.(1) Indien die departementshoof beraam dat —

- (a) die koste van 'n leweransie wat die Provincie wil verkry, hoogstens R15 000 sal wees; of
- (b) die koste van 'n diens wat die Provincie wil verkry, hoogstens R30 000 sal wees; of
- (c) die markwaarde van roerende goed wat die Provincie wil verwereem, hoogstens R5 000 is,

en hy van oordeel is dat sodanige verkryging of verwereeming nie voordeeliger deur die aanvrae van formele

vitation of formal tenders, he may invite tenders (hereinafter referred to as informal tenders), by issuing tender documents to suitable persons who in his opinion are likely to submit tenders therefor.

(2) The tender documents mentioned in subregulation (1) shall contain the tender address and the date and hour up to which tenders will be received.

Application of provisions of Chapter II.

20. With the exception of regulations 5, 6, 14 and 15(2), the provisions of Chapter II shall *mutatis mutandis* apply in respect of informal tenders: Provided that in applying such provisions —

- (a) the references to the Board in regulations 11, 12(5)(b) and 17(1) shall be deemed to have been deleted; and
- (b) the reference to the Board in regulation 18(2)(b) shall be read as a reference to the head of the department.

Performance of functions of Board, chairman and secretary by another person.

21. If the tender address for informal tenders is not the address of the Board, the head of the department may authorize a person in the employ of the Province to exercise the powers conferred on and perform the duties imposed on the Board, the chairman and the secretary by regulations 9 and 10, and thereupon any reference in such regulations to the Board, the chairman and the secretary shall be construed as a reference to the person so authorized.

CHAPTER IV.

CONCLUSION OF CONTRACTS WITHOUT THE INVITATION OF TENDERS.

Procurement of supplies and services by negotiation.

- 22.(1) If the head of the department estimates that —
- (a) the cost of a supply to be procured by the Province, will not exceed R5 000; or
 - (b) the cost of a service to be procured by the Province, will not exceed R10 000,

and he is of the opinion that such procurement cannot be effected more advantageously by the invitation of tenders, the Administrator may, on the recommendation of the head of the department, conclude a contract with a suitable person for the provision of such supply or the rendering of such service.

(2) If the head of the department is satisfied that —

- (a) a supply required by the Province consists of goods of a proprietary nature which can to his knowledge be procured from a particular person only; or
- (b) it would be impracticable or impossible to procure a service required by the Province from anybody except a particular person,

he may dispense with the invitation of tenders and obtain a quotation in writing of prices, whereupon the Administrator may, on the recommendation of the head of the department, enter into a contract with that person for the provision of such supply or the rendering of such service.

tenders bewerkstellig kan word nie, kan hy tenders (hierna informele tenders genoem) aanvrae deur tenderdokumente aan geskikte persone wat na sy mening waarskynlik tenders daarvoor sal indien, uit te reik.

(2) Die tenderdokumente in subregulasie (1) genoem, bevat die tenderadres en die datum en uur tot wanneer tenders ontvang word.

Toepassing van bepalings van Hoofstuk II.

20. Met die uitsondering van regulasies 5, 6, 14 en 15(2) is die bepalings van Hoofstuk II *mutatis mutandis* ten opsigte van informele tenders van toepassing: Met dien verstaande dat by die toepassing van sodanige bepalings —

- (a) dit geag word dat die verwysings na die Raad in regulasies 11, 12(5)(b) en 17(1) geskrap is; en
- (b) die verwysing na die Raad in regulasie 18(2)(b) as 'n verwysing na die departementshoof vertolk word.

Vervulling van werksaamhede van Raad, voorsitter en sekretaris deur iemand anders.

21. Indien die tenderadres vir informele tenders nie die adres van die Raad is nie, kan die departementshoof 'n persoon in diens van die Provinsie magtig om die bevoegdhede uit te oefen en die pligte te vervul wat by regulasies 9 en 10 aan die Raad, die voorsitter en die sekretaris verleen of opgeloë word, en daarna word enige verwysing in sodanige regulasies na die Raad, die voorsitter en die sekretaris as 'n verwysing na die persoon aldus gemagtig, uitgelê.

HOOFSTUK IV.

AANGAAN VAN KONTRAKTE SONDER DIE AANVRA VAN TENDERS.

Verkryging van leweransies en dienste deur onderhandeling.

- 22.(1) Indien die departementshoof beraam dat —
- (a) die koste van 'n leweransie wat die Provinsie wil verkry, hoogstens R5 000 sal wees; of
 - (b) die koste van 'n diens wat die Provinsie wil verkry, hoogstens R10 000 sal wees,
- en hy van oordeel is dat sodanige verkryging nie voordeiger deur die aanvra van tenders bewerkstellig kan word nie, kan die Administrateur, op aanbeveling van die departementshoof, 'n kontrak met 'n geskikte persoon vir die voorsiening van sodanige leweransie of die verrigting van sodanige diens aangaan.

- (2) Indien die departementshoof oortuig is dat —
- (a) 'n leweransie wat deur die Provinsie benodig word, uit goedere van 'n patentregtelike aard bestaan wat na sy wete alleenlik van 'n besondere persoon verkry kan word; of
 - (b) dit ondoenlik of onmoontlik sal wees om 'n diens wat deur die Provinsie benodig word, van enigemand behalwe 'n besondere persoon te verkry, kan hy van die aanvra van tenders afsien en 'n skriftelike prysopgawe verkry waarna die Administrateur, op aanbeveling van die departementshoof, 'n kontrak met daardie persoon vir die voorsiening van sodanige leweransie of die verrigting van sodanige diens kan aangaan.

(3) If the head of the department is of the opinion that owing to the urgent need for a supply or service required by the Province, it is impracticable or impossible to invite tenders therefor, the Administrator may, on the recommendation of the head of the department, enter into a contract with a suitable person for the provision of such supply or the rendering of such service.

(4) If after the conclusion of a supply contract, the head of the department finds that an additional number or quantity of the same goods is required, the Administrator may, on the recommendation of the head of the department, enter into a contract with the contractor concerned for the provision of the required additional number or quantity of goods.

Procurement of supplies under State contract or through Republic's representative abroad.

23. Nothing in these regulations shall be construed as preventing the Administrator from arranging for the procurement of supplies for the Province —

- (a) under a contract of the State Tender Board; or
- (b) through the agency of a representative of the Republic abroad.

Sale of movable property by auction or out of hand.

24. If the head of the department is of opinion that movable property of the Province cannot be disposed of more advantageously by the invitation of tenders, the Administrator may, on the recommendation of the head of the department, authorize the sale thereof —

- (a) by public auction; or
- (b) out of hand, if the estimated market value thereof does not exceed R500.

CHAPTER V.

GENERAL.

Security.

25.(1) When a contractor is required to furnish security for the due execution of his contract, this requirement shall be stated in the tender documents.

(2) Security shall be furnished by a contractor —

- (a) if a payment is to be made to the Province in terms of the contract, including a payment in respect of the disposal of provincial movable property, unless the amount due is paid in full on delivery of the property;
- (b) if it is a service contract the estimated value of which exceeds R10 000; and
- (c) if, in the case of any other contract, the head of the department considers it necessary.

(3) The amount of the security required shall —

- (a) if a payment is to be made to the Province, be equivalent to such payment;

(3) Indien die departementshoof van oordeel is dat weens die dringende behoefte aan 'n leveransie of diens wat deur die Provinse benodig word, dit ondoenlik of onmoontlik is om tenders daarvoor aan te vra, kan die Administrateur, op aanbeveling van die departementshoof, 'n kontrak met 'n gesikte persoon vir die voorsiening van sodanige leveransie of die verrigting van sodanige diens aangaan.

(4) Indien die departementshoof nadat 'n leveransiekontrak aangegaan is, vind dat 'n bykomstige getal of hoeveelheid van dieselfde goedere benodig word, kan die Administrateur, op aanbeveling van die departementshoof, 'n kontrak met die betrokke kontrakteur vir die voorsiening van die benodigde bykomstige getal of hoeveelheid goedere aangaan.

Verkryging van leveransies kragtens Staatskontrak of deur Republiek se buitelandse verteenwoordiger.

23. Geen bepaling van hierdie regulasies word uitgelê as sou dit die Administrateur verhoed om reëlings te tref vir die verkryging van leveransies vir die Provincie —

- (a) kragtens 'n kontrak van die Staatstenderraad; of
- (b) deur bemiddeling van 'n verteenwoordiger van die Republiek in die buitenland.

Verkoop van roerende goed per veiling of uit die hand.

24. Indien die departementshoof van oordeel is dat roerende goed van die Provinse nie voordeeliger deur die aanvra van tenders vervreem kan word nie, kan die Administrateur, op aanbeveling van die departementshoof, magtiging verleen vir die verkoop daarvan —

- (a) per openbare veiling; of
- (b) uit die hand indien die geraamde markwaarde daarvan hoogstens R500 is.

HOOFSTUK V.

ALGEMEEN.

Sekerheidstelling.

25.(1) Wanneer van 'n kontrakteur vereis word om sekerheid vir die behoorlike uitvoering van sy kontrak te stel, word hierdie vereiste in die tenderdokumente gemeld.

(2) Sekerheid word deur 'n kontrakteur gestel —

- (a) indien 'n betaling aan die Provinse ingevolge die kontrak gedoen moet word, met inbegrip van 'n betaling ten opsigte van die vervreemding van roerende goed van die Provinse tensy die verskuldigde bedrag by lewering van die eiendom ten volle betaal word;
- (b) indien dit 'n dienskontrak is waarvan die beraamde waarde R10 000 oorskry; en
- (c) indien die departementshoof in die geval van enige ander kontrak dit nodig ag.

(3) Die bedrag van die sekerheid wat vereis word, is —

- (a) indien 'n betaling aan die Provinse gedoen moet word, gelyk aan sodanige betaling;

(b) subject to the proviso to subregulation (4), in the case of any other contract, be equivalent to 10 per cent of the value or, if such value cannot be accurately determined in advance, the estimated value, of the contract.

(4) The security shall consist of —

- (a) a guarantee by a banking institution registered under the Banks Act, 1965 (Act 23 of 1965), or by a registered insurer authorized in terms of the Insurance Act, 1943 (Act 27 of 1943), to carry on guarantee business; or
- (b) a cash deposit, negotiable government stock or negotiable municipal stock acceptable to the head of the department:

Provided that the head of the department may in the case of a service contract accept a security bond by two or more persons, acceptable to him, who bind themselves as sureties and co-principal debtors *in solidum* for the due execution, observance and fulfilment of the contract.

Withdrawal of tender and failure to execute contract.

26.(1) If a tenderer amends or withdraws his tender after the closing time but prior to his being notified of the acceptance thereof or, after having been notified of the acceptance of his tender —

- (a) gives notice of his inability to execute the contract in accordance with his tender; or
- (b) in a case where it is required that a formal written contract be entered into or that security be furnished, fails to sign such contract or to furnish security, as the case may be, within the period fixed by the head of the department; or
- (c) fails to execute the contract,

he shall in addition to any other legal remedies which the Province may have, be liable to the Province for all additional expense incurred by its having to accept a less favourable tender and, if fresh tenders are invited, also for the cost thereof: Provided that the Administrator may release a tenderer from such liability if he is of opinion that the circumstances justify such action.

(2) In the circumstances mentioned in subregulation (1) the head of the department may invite fresh tenders or, in the manner hereinbefore provided, submit a recommendation for the acceptance of another tender from those already received.

Cession of contract.

27. The transfer, assignment, cession or sub-letting by a contractor of any of his rights or obligations under a contract, shall be null and void, unless —

- (a) provision is made therefor in the contract; or
- (b) the Administrator has after the conclusion of the contract granted permission thereto.

Sanctions.

28.(1) In this regulation "associated" means associated as a director of a company, a shareholder of a

(b) behoudens die voorbehoudsbepaling by subregulasie (4), in die geval van enige ander kontrak, gelyk aan 10 persent van die waarde of, indien sodanige waarde nie vooruit presies bepaal kan word nie, die geraamde waarde, van die kontrak.

(4) Die sekerheid bestaan uit —

- (a) 'n garansie deur 'n bankinstelling wat kragtens die Bankwet, 1965 (Wet 23 van 1965), geregistreer is of deur 'n versekeraar wat ingevolge die Versekeringswet, 1943 (Wet 27 van 1943), gemagtig is om garansiebesigheid te dryf; of
- (b) 'n kontantdeposito, verhandelbare staatseffekte of verhandelbare munisipale effekte wat vir die departementshoof aanvaarbaar is:

Met dien verstande dat die departementshoof in die geval van 'n dienskontrak 'n borgakte deur twee of meer persone wat vir hom aanvaarbaar is en wat hulle as borge en mede-hoofskuldenaars *in solidum* vir die behoorlike uitvoering, nakoming en vervulling van die kontrak verbind, kan aanvaar.

Terugtrekking van tender of versuim om kontrak uit te voer.

26.(1) Indien 'n tenderaar sy tender na die sluitingstyd maar voordat hy van die aanname daarvan in kennis gestel is, wysig of terugtrek, of nadat hy van die aanname van sy tender in kennis gestel is —

- (a) kennis gee van sy onvermoë om die kontrak ooreenkomsdig sy tender uit te voer; of
- (b) in 'n geval waar dit vereis word dat 'n formele skriftelike kontrak aangegaan word of dat sekerheid gestel word, versuim om binne die tydperk wat die departementshoof vasstel, so 'n kontrak te teken of die sekerheid te stel, na gelang van die geval; of
- (c) versuim om die kontrak uit te voer,

is hy benewens enige ander regsmiddels wat die Provincie mag hê, teenoor die Provincie aanspreeklik vir alle bykomende uitgawe deur die Provincie aangegaan deurdat hy 'n minder voordelige tender moes aanneem en, indien nuwe tenders aangevra word, ook vir die koste daarvan: Met dien verstande dat die Administrateur 'n tenderaar van sodanige aanspreeklikheid kan ontferf indien hy van oordeel is dat die omstandighede sodanige optrede regverdig.

(2) In die omstandighede in subregulasie (1) genoem, kan die departementshoof nuwe tenders aanvra of, op die wyse hierbo bepaal, 'n aanbeveling vir die aanname van 'n ander tender uit die wat reeds ontvang is, voorlê.

Sessie van kontrak.

27. Die oormaak, oordrag, sessie of onderverhuur deur 'n kontrakteur van enige van sy regte of verpligte onder 'n kontrak is nietig tensy —

- (a) voorsiening daarvoor in die kontrak gemaak word; of
- (b) die Administrateur na die aangaan van die kontrak toestemming daartoe verleen het.

Sanksies.

28.(1) In hierdie regulasie beteken "geassosieer" geassosieer in die hoedanigheid van 'n direkteur van 'n

private company, a partner, a member of any other body of persons, an employee or an agent.

(2) If the Board is satisfied that a person —

- (a) has been guilty of the conduct referred to in regulation 26(1); or
- (b) has failed to confirm a telegraphic tender; or
- (c) has claimed higher deductions than those permitted in terms of regulation 12; or
- (d) has, in connection with the execution of his contract or with the aim of influencing the award of a contract in his favour —
 - (i) directly or indirectly offered, promised, or given a bribe or other consideration to any person connected with the conduct of the affairs of the Province; or
 - (ii) acted in a fraudulent manner, in bad faith or in any other improper manner; or
- (e) has, with the aim of influencing the award of a contract in his favour, directly or indirectly approached any person connected with the conduct of the affairs of the Province; or
- (f) has failed to comply with any term or condition of his contract or has executed his contract in an unsatisfactory manner; or
- (g) has, without provision therefor in the contract and without the Administrator's permission, transferred, assigned, ceded or sub-let any of his rights or obligations under his contract, or has attempted to do so; or
- (h) has, in connection with tenders invited by or a supply or service required by or a contract entered into with another person, been guilty of any conduct as aforesaid; or
- (i) has been convicted of an offence in connection with the conduct of his affairs,

the Board may, in addition to any legal remedies which the Province may have, on the recommendation of the head of a department exclude tenders of such person from consideration for a period specified by it.

(3) An exclusion in terms of subregulation (2) may be applied by the Board to tenders of —

- (a) a person who is or was or becomes associated with the person whose tenders are subject to such exclusion; and
- (b) a person with whom the person whose tenders are subject to such exclusion, is or was or becomes associated.

(4) Whenever it comes to the notice of the Board that tenders of a person have been excluded from consideration by the State Tender Board or the South African Railways and Harbours Tender Board or the tender board of any other Province or of the Territory of South West Africa, the Board may exclude tenders submitted to the Province by such person from consideration for the same period.

(5) The Board may revoke or amend its decision in terms of this regulation relating to the exclusion of tenders from consideration.

maatskappy, 'n aandeelhouer van 'n private maatskappy, 'n venoot; 'n lid van enige ander liggaam van persone, 'n werknemer of 'n agent.

(2) Indien die Raad oortuig is dat 'n persoon —

- (a) hom aan die gedrag in regulasie 26(1) genoem, skuldig gemaak het; of
- (b) versuim het om 'n telegrafiese tender te bevestig; of
- (c) op hoër afstrekking as die ingevolge regulasie 12 toegelaat, aanspraak gemaak het; of
- (d) in verband met die uitvoering van sy kontrak of met dié doel om die toekenning van 'n kontrak in sy guns te beïnvloed —
 - (i) regstreeks of onregstreeks aan iemand betrokke by die behartiging van die Provincie se sake, 'n oomkooprys of ander vergoeding aan gebied, beloof of gegee het; of
 - (ii) op 'n bedrieglike wyse, te kwader trou of op 'n ander onbehoorlike wyse opgetree het; of
- (e) met die doel om die toekenning van 'n kontrak in sy guns te beïnvloed, regstreeks of onregstreeks iemand betrokke by die behartiging van die Provincie se sake genader het; of
- (f) versuim het om enige beding of voorwaarde van sy kontrak na te kom of sy kontrak op 'n onverbredigende wyse uitgevoer het; of
- (g) sonder voorsiening daarvoor in die kontrak en sonder die Administrateur se toestemming, enige van sy regte of verpligte onder die kontrak oorgemaak, oorgedra, gesedeer of onderverhuur het, of gepoog het om dit te doen; of
- (h) in verband met tenders aangevra deur of 'n leweransie of diens benodig deur of 'n kontrak aangaan met 'n ander persoon, hom aan enige gedrag hierbo genoem, skuldig gemaak het; of
- (i) aan 'n misdryf in verband met die behartiging van sy sake skuldig bevind is,

kan die Raad, benewens enige ander regsmiddels wat die Provincie mag hê, op aanbeveling van 'n departementshoof tenders van so 'n persoon vir 'n tydperk deur die Raad vermeld, van oorweging uitsluit.

(3) 'n Uitsluiting ingevolge subregulasie (2) kan deur die Raad toegepas word op tenders van —

- (a) 'n persoon wat met die persoon wie se tenders aan sodanige uitsluiting onderhewig is, geassosieer is of was of raak; en
- (b) 'n persoon met wie die persoon wie se tenders aan sodanige uitsluiting onderhewig is, geassosieer is of was of raak.

(4) Wanneer dit ook al tot die kennis van die Raad kom dat tenders van 'n persoon deur die Staatstenderraad of die tenderraad van die Suid-Afrikaanse Spoerweë en Hawens of die tenderraad van 'n ander Provincie of van die Gebied Suidwes-Afrika van oorweging uitgesluit is, kan die Raad tenders wat deur sodanige persoon by die Provincie ingedien word, van oorweging vir dieselfde tydperk uitsluit.

(5) Die Raad kan sy besluit ingevolge hierdie regulasie met betrekking tot die uitsluiting van tenders van oorweging, herroep of wysig.

(6) Decisions by the Board relating to the exclusion of tenders from consideration and any revocation or amendment thereof shall be communicated by the secretary in writing to the persons affected and the tender boards referred to in subregulation (4).

(7) A decision in terms of rule 21 of the Tender Board Rules published under Administrator's Notice 1 of 4 January 1971, that tenders of a person shall not be considered for a specified time shall, if still of force at the date of the coming into operation of these regulations, be deemed to have been taken in terms of this regulation.

Samples.

29.(1) Samples must be supplied by a tenderer at his expense and risk.

(2) The Administration accepts no liability for the cost of samples which are lost or which are damaged or destroyed in the process of testing or examination.

(3) When no longer required by the Administration, samples supplied by a tenderer will be returned to him at his expense and risk.

Inspection and rejection of supplies.

30.(1) The head of the department shall arrange for the systematic inspection, sampling and testing of supplies, and supplies which are not in accordance with the specifications or approved samples shall be rejected.

(2) The supplier shall, in the event of the rejection of any supplies in terms of subregulation (1), be liable for the costs incurred by the Administration in connection with the inspection, sampling or testing thereof.

Transaction with provincial officials.

31. Except with the approval of the Administrator no agreement shall be concluded for the procurement by the Province of a supply or service from, or for the disposal by the Province of movable property to, a person in the employ of the Province. Provided that this prohibition shall not apply to an agreement arising out of the acceptance of a tender or a sale at a public auction or at tariff rates fixed for the general public.

Reasons for recommendations and decisions not to be disclosed.

32. Except as otherwise provided in these regulations, the reasons for recommendations and decisions relating to tenders or relating to the conclusion of contracts shall not be disclosed.

Departure from regulations.

33. If the Administrator is satisfied that the existence of special circumstances warrants a departure from the applicable provisions of the foregoing regulations, he may on the recommendation of the Provincial Secretary determine some other manner in which supplies or services may be procured or movable property may be disposed of.

(6) Besluite van die Raad met betrekking tot die uitsluiting van tenders van oorweging en enige herroeping of wysiging daarvan word deur die sekretaris skriftelik aan die persone wat geraak word en die tendarde in subregulasie (4) genoem, meegegee.

(7) 'n Besluit ingevolge reël 21 van die Tenderraadreëls gepubliseer by Administrateurskennisgewing 1 van 4 Januarie 1971, dat tenders van 'n persoon vir 'n vermelde tydperk nie oorweeg word nie, word, indien dit nog op die datum van inwerkingtreding van hierdie regulasies van krag is, geag ingevolge hierdie regulasie geneem te gewees het.

Monsters.

29.(1) Monsters word deur 'n tenderaar op sy koste en risiko voorsien.

(2) Die Administrasie aanvaar geen aanspreeklikheid nie vir die koste van monsters wat verlore gaan of in die loop van toetsing of ondersoek beskadig of vernietig word.

(3) Wanneer monsters deur 'n tenderaar voorsien nie meer deur die Administrasie benodig word nie, word hulle aan hom op sy koste en risiko teruggestuur.

Inspeksie en afkeuring van leveransies.

30.(1) Die departementshoof tref reëlings vir die stelselmatige inspeksie, neem van monsters en toetsing van leveransies, en leveransies wat nie in ooreenstemming met die spesifikasies of goedgekeurde monsters is nie, word aangekeur.

(2) In die geval van die afkeuring van leveransies ingevolge subregulasie (1), is die leveransier aanspreeklik vir die koste deur die Administrasie in verband met die inspeksie, neem van monsters en toetsing daarvan aangegaan.

Transaksies met provinsiale amptenare.

31. Uitgesonderd met die goedkeuring van die Administrateur word geen ooreenkoms vir die verkryging deur die Provinsie van leveransies of dienste van, of vir die vervreemding deur die Provinsie van roerende goed aan, 'n persoon in diens van die Provinsie, aangaan nie: Met dien verstande dat hierdie verbod nie van toepassing is nie op 'n ooreenkoms wat uit die aanname van 'n tender ontstaan of op 'n verkoop per openbare veiling of teen tariewe vir die publiek vasgestel.

Redes vir aanbevelings en besluite word nie bekend gemaak nie.

32. Uitgesonderd soos anders in hierdie regulasies bepaal, word redes vir aanbevelings en besluite met betrekking tot tenders of met betrekking tot die aangaan van konakte, nie bekend gemaak nie.

Afwyking van regulasies.

33. Indien die Administrateur oortuig is dat die bestaan van spesiale omstandighede 'n afwyking van die toepaslike bepalings van die voorafgaande regulasies regverdig, kan hy op aanbeveling van die Provinsiale Sekretaris 'n ander wyse bepaal waarop leveransies of dienste verkry kan word of roerende goed vervreem kan word.

Applicable laws and jurisdiction.

34.(1) It shall be stated in the tender documents and in any contract entered into that —

- (a) unless the Administrator decides otherwise, the laws of the Republic shall apply in respect of the tender and the contract; and
- (b) in the event of a dispute arising in connection with the tender or the contract, the tenderer or the contractor, as the case may be, agrees to submit himself to the jurisdiction of a competent court in the Republic.

(2) A contractor shall choose a *domicilium citandi et executandi* in the Republic which shall be set out in the contract.

Furnishing of information to Provincial Auditor.

35. The head of the department shall furnish the Provincial Auditor with —

- (a) a copy of every contract of the State Tender Board which makes provision for the procurement of supplies by the Province thereunder;
- (b) details of each tender which has been accepted;
- (c) a copy of the comparative schedule and recommendation referred to in regulation 13;
- (d) if it is a matter considered by the Board, a copy of the Board's recommendation;
- (e) details of any arrangements made in terms of regulation 17(2);
- (f) details of contracts entered into in accordance with the provisions of regulation 22;
- (g) details of all disposals of movable property by public auction or out-of-hand and, if by public auction, a copy of the auction list;
- (h) details of each case where the contractor has failed to execute his contract;
- (i) details of each case where the Administrator has in terms of regulation 27 granted permission to a contractor to transfer, assign, cede or sub-let any of his rights or obligations under his contract;
- (j) details of the procurement of supplies through the agency of a representative of the Republic abroad;
- (k) details of decisions of the Board in terms of regulation 28; and
- (l) details of and the reasons for any departure determined in terms of regulation 33.

Delegation of powers and duties.

36.(1) The Administrator may, on such conditions as he deems fit, delegate any power conferred or duty imposed on him by these regulations, excluding the powers conferred by regulation 12(4), the proviso to regulation 17(2), the proviso to regulation 26(1) and regulation 33, to the Provincial Secretary or other person employed by the Province.

Toepaslike reg en regsbevoegdheid.

34.(1) Daar word in die tenderdokumente en in enige kontrak wat aangegaan word, vermeld dat —

- (a) tensy die Administrateur anders besluit, die reg van die Republiek ten opsigte van die tender en die kontrak van toepassing is; en
- (b) in geval 'n geskil in verband met die tender of die kontrak ontstaan, die tenderaar of die kontrakteur, na gelang van die geval, instem om hom aan dieregsbevoegdheid van 'n bevoegde hof in die Republiek te onderwerp.

(2) 'n Kontrakteur kies 'n *domicilium citandi et executandi* in die Republiek wat in die kontrak uiteengesit word.

Verstrekking van inligting aan Provinciale Ouditeur.

35. Die departementshoof verstrek aan die Provinciale Ouditeur —

- (a) 'n afskrif van elke kontrak van die Staatstenderraad wat vir die verkryging daarkragtens van leveransies deur die Provincie voorseening maak;
- (b) besonderhede van elke tender wat aangeneem is;
- (c) 'n afskrif van die vergelykende skedule en aanbeveling in regulasie 13 genoem;
- (d) indien dit 'n aangeleentheid is wat deur die Raad oorweeg is, 'n afskrif van die Raad se aanbeveling;
- (e) besonderhede van enige reëlings wat ingevolge regulasie 17(2) getref is;
- (f) besonderhede van kontrakte ooreenkomsdig die bepalings van regulasie 22 aangegaan;
- (g) besonderhede van alle vervreemdings van roerende goed per openbare veiling of uit die hand en, indien per openbare veiling, 'n afskrif van die vanduselys;
- (h) besonderhede van elke geval waar die kontrakteur versuim het om sy kontrak uit te voer;
- (i) besonderhede van elke geval waar die Administrateur aan 'n kontrakteur ingevolge regulasie 27 toestemming verleen het om enige van sy regte en verpligte onder die kontrak oor te maak, oortreda, te sedeer of onder te verhuur;
- (j) besonderhede van die verkryging van leveransies deur bemiddeling van 'n verteenwoordiger van die Republiek in die buitenland;
- (k) besonderhede van besluite van die Raad ingevolge regulasie 28; en
- (l) besonderhede van en die redes vir enige afwykings ingevolge regulasie 33 bepaal.

Delegasie van bevoegdhede en pligte.

36.(1) Die Administrateur kan op die voorwaardes wat hy goeddink enige bevoegdheid of plig by hierdie regulasies aan hom verleen of opgelê, uitgesondert die bevoegdhede aan hom by regulasie 12(4), die voorbehoudsbepaling by regulasie 17(2), die voorbehoudsbepaling by regulasie 26(1) en regulasie 33 verleen, aan die Provinciale Sekretaris of 'n ander persoon in diens van die Provincie, deleger.

(2) The Provincial Secretary as well as the head of a department may, on such conditions as he deems fit, delegate any power conferred or any duty imposed on him by these regulations to a person employed by the Province.

(3) The Administrator, the Provincial Secretary or the head of a department shall not be divested of any power delegated by him under subregulation (1) or (2) and may amend or withdraw any decision of his delegatee.

Repeal of Tender Board Rules.

37.(1) The Tender Board Rules published under Administrator's Notice 1 of 4 January 1971 and the amendments thereto are hereby repealed.

(2) Notwithstanding the repeal of the rules referred to in subregulation (1), they shall, subject to the provisions of sections 27 and 28 of the Act, continue to apply in respect of —

- (a) a contract concluded before the date of the coming into operation of these regulations; and
- (b) offers by way of tender or otherwise invited before the date of the comming into operation of these regulations and any contract arising out of the acceptance on or after that date of any such offer, unless the offerer or the contractor, as the case may be, has agreed that the provisions of these regulations shall apply in respect thereof.

(2) Die Proviniale Sekretaris asook 'n departementshoof kan op die voorwaardes wat hy goeddunk enige bevoegdheid of plig by hierdie regulasies aan hom verleen of opgelê, aan 'n persoon in diens van die Provinie deleger.

(3) Die Administrateur, die Proviniale Sekretaris of 'n departementshoof word nie van enige bevoegdheid kragtens subregulasie (1) of (2) deur hom gedelegeer, ontdoen nie, en kan enige besluit van sy gedelegeerde wysig of herroep.

Herroeping van Tenderraadreëls.

37.(1) Die Tenderraadreëls gepubliseer by Administrateurskennisgewing 1 van 4 Januarie 1971 en die wysings daarvan word hierby herroep.

(2) Ondanks die herroeping van die reëls in subregulasie (1) genoem, bly hulle, behoudens die bepalings van artikels 27 en 28 van die Wet, van toepassing ten opsigte van —

- (a) 'n kontrak voor die datum van inwerkingtreding van hierdie regulasies aangegaan; en
- (b) aanbiedinge by wyse van tender of andersins voor die datum van inwerkingtreding van hierdie regulasies aangevra en enige kontrak wat uit die aanname op of na daardie datum van enige sodanige aanbod ontstaan, tensy die aanbieder of die kontrakteur, na gelang van die geval, toestem dat die bepalings van hierdie regulasies ten opsigte daarvan van toepassing sal wees.

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