

BUITENGEWONE



EXTRAORDINARY

STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

REGULASIEKOERANT No. 901

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GOEWERMENSKENNISGEWING.

DEPARTEMENT VAN FINANSIES.

No. R. 99.]

[19 Januarie 1968.

STAATSTENDERRAADREGULASIES.

Hierby 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 van hierdie kennisgewing uitgevaardig het, wat voorsiening maak vir die instelling 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).

Goewermenskennisgewing No. R. 957 van 2 Julie 1965, soos gewysig by Goewermenskennisgewing No. R. 194 van 11 Februarie 1966, No. R. 1518 van 7 Oktober 1966 en R. 83 van 20 Januarie 1967 word hierby herroep.

BYLAE.

Woordbepaling.

1. In hierdie regulasies, tensy uit die sinsverband 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;

„binnelandse waarde”, met betrekking tot goedere wat in die Republiek ingevoer is of nog ingevoer moet word, die markprys waarteen sodanige of soortgelyke goedere, ten tyde van indiening van ’n tender in die gewone groot-handelhoeveelhede in die gewone loop van die handel aan alle kopers in die vernaamste markte van die gebied waaruit die goedere aldus uitgevoer is of sal word, vrylik vir gebruik daarin te koop aangebied word, met inbegrip van enige tantième en die koste van verpakking wat gewoonlik in daardie markte gebruik word, plus die ekstra koste van

A—22905

GOVERNMENT NOTICE.

DEPARTMENT OF FINANCE.

No. R. 99.]

[19 January 1968.

STATE TENDER BOARD REGULATIONS.

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 establishment 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. 957 of the 2nd July 1965, as amended by Government Notice No. R. 194, dated 11 February 1966, No. R. 1518, dated 7 October 1966 and R. 83, dated the 20th January 1967, is hereby withdrawn.

SCHEDULE.

Definition of Terms.

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

“Board” means the State Tender Board established in terms of regulation 2;

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

“Department” means the Accounting Officer of the relative State department or Office and State Buyer as provided for in regulation 54;

“domestic value”, in relation to goods imported or to be imported into the Republic, means the market price at which, at the time of tendering, such or similar goods 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 any royalty and the cost of packages ordinarily used in those markets plus the extra cost of

pak en verpakking vir uitvoer, vervoer na die hawe van verskeping of ander plek van finale versending in daardie gebied en alle koste verbonde aan die plasing van die goedere aan boord van 'n skip of enige voertuig by daardie hawe of plek, gereed vir uitvoer na die Republiek, maar uitgesonderd aksynsregte of verkoopsbelastinge opgelê of teruggewes, terugbetalings, kortings of kwytskeldings van doeaneregte wat toegestaan is by uitvoer van sodanige goedere deur die regering van daardie gebied; „Departement”, die Rekenpligtige Amptenaar van die betrokke Staatsdepartement of Kantoor en die Staatskoper soos in regulasie 54 bepaal;

„formele kontrak”, 'n geskrewe kontrak waarvan al die bepalinge vervat is in een enkele dokument wat onderteken is deur al die partye daarby betrokke;

„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”, die Staatskoper se Kantoor, ingestel ingevolge subregulasie (1) van regulasie 10;

„koste gelewer by die fabriek”, die buitelandse koste plus direkte invoerkoste soos skeepsvragekoste, alle landingskoste, 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;

„Minister”, die Minister van Finansies;

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

„Raad”, die Staatstenderraad, ingestel ingevolge regulasie 2;

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

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

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

„Staatskoper”, die Staatskoper, aangestel ingevolge subregulasie (2) van 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, die lede en plaasvervangers wat in subregulasie (2) vermeld word, en ander lede tot 'n maksimum van tien, en hul plaasvervangers, aangestel uit beamptes of werknemers in die Staatsdiens.

(2) Een lid met plaasvervanger word ten opsigte van elk van die volgende, uitgesonderd die Nywerheid in die Republiek, wat deur twee lede met plaasvervangers verteenwoordig sal word, aangestel uit 'n lys nominasies wat hulle vir dié doel aan die Minister voorlê:—

Die Afrikaanse Handelsinstituut.
Die Krygstuigproduksieraad.
Nywerheid in die Republiek.
Die Suid-Afrikaanse Buro vir Standaarde.
Die Suid-Afrikaanse Landbou-unie.
Die Vakverenigings in die Republiek.
Die Vereniging van Kamers van Koophandel van Suid-Afrika.

(3) Die Voorsitter en ander lede (uitgesonderd die Adjunk-voorsitter) en hul plaasvervangers word deur die Minister aangestel vir dié tydperk wat die Minister bepaal in die geval van die Voorsitter, en vir 'n

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 goods on board ship or on any vehicle at that port or place, ready for export to the Republic but shall not include excise duties or sales taxes imposed or drawbacks, refunds, rebates or remissions of customs duty granted on export of such goods 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;

“formal contract” means a written contract, all the terms of which are embodied in a single document which is signed by all the parties thereto;

“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 subcontractors;

“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;

“Office” means the Office of the State Buyer established in terms of subregulation (1) of regulation 10;

“Republic” means the Republic of South Africa and includes the Territory of South West Africa;

“State Buyer” means the State Buyer appointed in terms of subregulation (2) of 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, the members and alternates referred to in subregulation (2) and other members to a maximum of ten, and their alternates, appointed from officers or employees in the Public Services.

(2) One member and an alternate shall be appointed in respect of each of the following, except Industry in the Republic which shall be represented by two members and alternates, from a list of nominations submitted by them to the Minister for the purpose:—

The Afrikaanse Handelsinstituut.
The Association of Chambers of Commerce of South Africa.

Industry in the Republic.
The Munitions Production Board.
The South African Agricultural Union.
The South African Bureau of Standards.
The Trade Unions in the Republic.

(3) 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

tydperk van hoogstens drie jaar in die geval van die ander lede en hul plaasvervangers, en hulle kom in aanmerking vir heraanstelling aan die einde van hul onderskeie ampstermyne.

(4) 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.

(5) Wanneer die Voorsitter, die Adjunk-voorsitter en die lid in subregulasie (4) 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.

(6) Wanneer die Voorsitter of Adjunk-Voorsitter afwesig is, kan die beamppte in regulasie 12 genoem, gekoöpteer word as lid van die Raad.

(7) Die Staatskoper benoem 'n beamppte of werknemer uit die personeel van die Kantoor wat volledige rekords moet hou van die vergaderings van die Raad en sodanige ander pligte moet uitvoer as wat by hierdie regulasies of deur die Staatskoper aan hom opgedra word.

(8) Die Raad vergader by 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 (4) genoem, bepaal, en enige vergadering aldus belê, kan verdaag of uitgestel word deur die Voorsitter, Adjunk-voorsitter of die lid, na gelang van die geval.

3. (1) Ingeval daar 'n staking van stemme op 'n vergadering van die Raad plaasvind, het die Voorsitter sowel 'n beslissende as 'n beraadslagende stem.

(2) 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 enige lid eis dat 'n vergadering van die Raad belê word.

(2) 'n Besluit wat geneem is deur lede regstreeks 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 raadgewende 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 openbaar gemaak word sonder dat die toestemming van die Raad vooraf verkry is nie.

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

(3) Nieteenstaande die bepalings van subregulasie (1) kan die Voorsitter of die Staatskoper 'n onsuksesvolle tenderaar, benewens die inligting voorgeskryf in subregulasie (1) van regulasie 40, voorsien van sodanige feitelike inligting as wat hy in die omstandighede van elke geval nodig ag.

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

period not exceeding 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.

(4) 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.

(5) In the absence at any particular meeting of the Chairman, the Deputy Chairman and the member referred to in subregulation (4), the members present shall elect from amongst themselves a member to act as Chairman at that meeting.

(6) In the absence of the Chairman or the Deputy Chairman the officer referred to in regulation 12 may be co-opted as a member of the Board.

(7) The State Buyer shall nominate an officer or employee from the 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.

(8) 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 subregulation (4), 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. (1) In the event of equality of votes at a Board meeting, the Chairman shall have a casting vote as well as a deliberative vote.

(2) 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 approaching individual members directly but in the latter case any member may demand that a meeting of the Board be convened.

(2) A resolution taken by members approached directly, 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 organisation represented on the Board is under consideration, the member representing such department or organisation 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 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.

(3) Notwithstanding the provisions of subregulation (1), the Chairman or the State Buyer may furnish an unsuccessful tenderer with such factual information in addition to that prescribed in subregulation (1) of regulation 40 as he may, in the circumstances of each case, deem necessary.

7. Expert advice may be engaged by the Board with the consent of the Treasury. Any officer or employee in the Public Service may be required by the Board to give expert or technical advice.

8. (1) Die funksies van die Raad is—

(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 tenders en briefprysnoterings 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 waar doenlik behoorlike spesifikasies en beskrywings opgestel word vir alle leweransies, dienste en verkope waarvoor daar tenders gevra moet word;

(e) om benodigdhede sover moontlik te standaardiseer deur onnodige artikels en onnodige grade en verskeidenhede 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) om te verseker dat die kontrakvoorwaardes vir leweransies, dienste en verkope op 'n eenvormige wyse opgestel word en om voorsiening te maak vir toereikende beveiliging vir behoorlike lewering, intrekking weens kontrakbreuk en ander sake in belang van die Regering;

(g) om verbrekings van die tendervoorwaardes of kontrakte te behandel 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 tenders en briefprysnoterings te vra of aan te neem;

(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 of deur die Minister verleen of opgelê word, uit te oefen of uit te voer.

(2) Behoudens sodanige voorwaardes as wat hy mag opleë en behoudens die bepalinge van subregulasie (3), kan die Raad sodanige van sy funksies as waaroor hy van tyd tot tyd mag besluit, aan die Staatskoper of aan 'n departement, deleger.

(3) Die Raad moet minstens een maal elke jaar alle delegasies wat hy kragtens subregulasie (2) verleen het, hersien, en ten tyde van sodanige hersiening kan hy enige sodanige delegasie intrek of wysig of die voorwaardes waarop dit verleen is, verander.

9. (1) Met die goedkeuring van die Minister, kan die Raad een of meer Komitees van die Raad instel en 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 kragtens subregulasie (1) ingestel is, bestaan uit die Voorsitter, die Adjunk-voorsitter en minstens twee ander lede, en die bepalinge van subregulasies (4), (5), (6), (7) en (8) van regulasie 2 en van regulasies 4, 5, 6 en 7 is *mutatis mutandis* op sodanige Komitee van toepassing.

(3) Drie lede maak op enige vergadering van 'n Komitee 'n kworum uit.

8. (1) The functions of the Board shall be—

(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 tenders and letter quotations;

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

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

(e) to standardise 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;

(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 authorise departments to invite or accept tenders and letter quotations;

(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 or perform such other powers or duties as may be conferred or imposed by these regulations or by the Minister.

(2) The Board may, subject to such conditions as it may impose and subject to the provisions of subregulation (3), delegate to the State Buyer or a department, such of its functions as it may from time to time decide.

(3) The Board shall, at least once in every year, review all delegations granted by it in terms of subregulation (2) and at such review may withdraw or modify any such delegation or may alter the conditions upon which it was granted.

9. (1) The Board may, with the approval of the Minister, institute one or more Committees of the Board and may 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 subregulation (1) shall consist of the Chairman, the Deputy Chairman and at least two other members and the provisions of subregulations (4), (5), (6), (7) and (8) of regulation 2 and of regulations 4, 5, 6 and 7 shall apply *mutatis mutandis* in respect of any such Committee.

(3) Three members shall form a quorum at any meeting of a Committee.

(4) In geval van 'n staking van stemme op enige vergadering van 'n Komitee, moet die saak wat oorweeg word na die Raad verwys word vir uitsluitel.

Staatskoper en Kantoor van die Staatskoper.

10. (1) Ten einde die werk verbonde aan die uitvoering van die Raad en die Staatskoper se funksies te behartig, moet in Pretoria 'n kantoor, bekend as die Kantoor van die Staatskoper, ingestel word.

(2) Behoudens die wette wat die Staatsdiens beheer, moet die Minister—

(a) 'n Staatskoper aanstel, wat die bevoegdhede en pligte wat aan die Staatskoper by hierdie regulasies verleen of opgelê word, uitoefen of uitvoer; en

(b) sodanige ander beamptes of werknemers as wat nodig mag wees om die bepalings van hierdie regulasies uit te voer, aanstel.

(3) 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 die Kantoor gesentraliseer.

11. Die funksies van die Staatskoper is—

(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, uitgesonderd dié in verband met pryse of voorkeure wat geëis word;

(b) om magtiging te verleen ooreenkomstig die tweede voorbehoudsbepaling van paragraaf (b) van subregulasie (2) van regulasie 13;

(c) om tenders wat laat ontvang word as aanbiedings ooreenkomstig die bepalings van subregulasie (1) van regulasie 30, vir oorweging toe te laat;

(d) om formele kontrakte aan te gaan ooreenkomstig die bepalings van regulasie 45;

(e) om goedkeuring te heg aan die sessie van kontrakte ooreenkomstig die bepalings van regulasie 47;

(f) om te verseker dat kontrakte behoorlik uitgevoer word;

(g) om in oorleg met departemente te bepaal watter leweransies of dienste die geskikste vir 'n besondere behoefte is;

(h) om toesig te hou oor die verkoop van Regerings-eiendom per openbare veiling behoudens dié opdragte wat die Tesourie mag gee; en

(i) om dié ander bevoegdhede of pligte wat hierdie regulasies of die Minister of die Raad aan hom mag verleen of oplê, uit te oefen of uit te voer.

12. Wanneer die Staatskoper afwesig is, verrig 'n senior beampte van die Kantoor vir die doel benoem deur die Staatskoper in oorleg met die Tesourie of, by ontstentenis van 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 paragrafe (a) en (b) 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 bestel word ooreenkomstig die bepalings van regulasie 42;

(b) waar tenders vir items wat op goedgekeurde lyste voorkom, ooreenkomstig die bepalings van regulasie 43 gevra word;

(c) waar, ooreenkomstig regulasie 14, magtiging verleen is om daarvan af te sien om tenders of briefprysnoterings te vra.

(4) In the event of equality of votes at any meeting of a Committee the matter under consideration shall be referred to the Board for decision.

State Buyer and Office of the State Buyer.

10. (1) For the purpose of carrying out the work incidental to the performance of the functions of the Board and the State Buyer there shall be established in Pretoria an office to be known as the Office of the State Buyer.

(2) The Minister shall appoint, subject to the laws governing the Public Service—

(a) a State Buyer who shall exercise the powers and perform the duties assigned to the State Buyer by these regulations; and

(b) such other officers or employees as may be necessary for carrying out the provisions of these regulations.

(3) 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 centralised in the Office.

11. The functions of the State Buyer shall be—

(a) to authorise, where necessary, communication between departments and tenderers in order to elucidate doubtful points in tenders other than those relating to prices or preferences claimed;

(b) to grant authority in terms of the second proviso to paragraph (b) of subregulation (2) of regulation 13;

(c) to admit late tenders for consideration as offers in terms of subregulation (1) of regulation 30;

(d) to enter into formal contracts in terms of regulation 45;

(e) to approve the cession of contracts in terms of regulation 47;

(f) to ensure that contracts are properly executed;

(g) to determine in consultation with departments which supplies or services are best suited to the particular requirement;

(h) to exercise supervision over the sale of Government property by public auction subject to such directions as may be given by the Treasury; and

(i) to exercise such other powers or perform such other duties as may be conferred or imposed upon him by these regulations or by the Minister or the Board.

12. In the absence of the State Buyer, a senior officer in the 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) and (b) of subregulation (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 ordered in terms of regulation 42;

(b) where tenders for items appearing on approved lists are invited in terms of regulation 43;

(c) where authority has been given to dispense with the invitation of tenders or letter quotations in terms of regulation 14.

(2) (a) Behoudens die bepalings van paragraaf (b) vra die Kantoor 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 as R100 bedra nie, word tenders, waar doenlik, plaaslik gevra en kan hulle deur die betrokke departement aangeneem word: Met dien verstande dat in sulke gevalle van die tenders afgesien kan word as 'n departement van mening is dat so 'n gedragslyn voordeliger in die belang van die Regering is: Voorts met dien verstande dat die Staatskoper genoemde bedrag in sekere gevalle van R100 tot R250 kan verhoog en ook op versoek van departemente wat die goedkeuring van die Tesourie vir dié versoek verkry het.

(3) (a) Die geraamde waarde dek of sluit die totale waarde van al die items op 'n rekwisisie of bestelling in 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 paragraaf (b) van subregulasie (2) te bring nie.

14. (1) Waar dit geag word ondoenlik te wees of nie in die belang van die Regering nie om tenders kragtens die bepalings van paragraaf (a) van subregulasie (2) 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 van die Raad verkry word.

(2) Wanneer die Raad magtiging kragtens subregulasie (1) verleen, moet hy aandui van wie die briefprysnoterings verkry moet word en sodanige noterings word, tensy die Raad anders gelas, deur die Kantoor verkry.

Die Vra van Tenders.

15. (1) Tensy die Raad anders gelas, word tenders slegs in die Republiek gevra en word die sluitingsdatum en -uur, die plek waarheen dit gestuur moet word en sodanige verdere besonderhede as wat nodig mag wees, daarin gemeld.

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

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

17. (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, seevervoer of die pakketpos kan ook gebruik word.

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

18. 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 „of soortgelyke of daarmee gelykstaande” bygevoeg word om die styl, tipe of gehalte van die vereiste artikel aan te dui.

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

(2) (a) Subject to the provisions of paragraph (b), tenders shall be invited by the Office 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 R100, tenders shall, where practicable, be invited locally and may be accepted by the department concerned: Provided that in such cases tenders may be dispensed with if a department considers this course to be more advantageous in the interests of the Government: Provided further that the State Buyer may authorise 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) of subregulation (2).

14. (1) Where it is considered to be impracticable or not in the interests of the Government to invite tenders in terms of paragraph (a) of subregulation (2) 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 the Board.

(2) In granting authority in terms of subregulation (1), the Board shall indicate from whom the letter quotations are to be obtained and such quotations shall, unless the Board directs otherwise, be obtained by the Office.

Invitation of Tenders.

15. (1) Unless the Board directs otherwise, tenders shall be invited in the Republic only and shall indicate the due date and hour, the place to which they are to be sent, and such further particulars as may be necessary.

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

16. 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 on behalf of the Board without the prior consent of the Board.

17. (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.

18. 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 “or similar or equal” shall be added to indicate the style, type or quality of the article required.

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

(2) 'n Nominale koste kan gevorder word vir afdrucke, 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.

20. (1) Monsters ter ondersteuning van 'n tender word deur die tenderaar op sy eie koste en risiko verskaf. Daar is 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 aanspreeklikheid vir die koste van sodanige monsters nie tensy dit in die tendervorm aldus gespesifiseer en deur die Tesourie goedgekeur is.

(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.

21. (1) Die sluitingsdatums van 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 verander as dit, onder omstandighede, in die belang van die Regering dienstig is.

22. (1) Tensy die Raad anders gelas, word daar van tenderaars vereis om hul aanbiedings vir dertig dae vanaf die sluitingsdatum van die tenders van krag te laat bly.

(2) Die tydperk waarvoor aanbiedinge van krag moet bly, word bereken vanaf die sluitingsdatum van die tenders, dog sluit dit nie in nie, en as die tydperk wat aldus bereken is op 'n Sondag, openbare vakansiedag of 'n ander dag waarop die Kantoor nie werk nie, verstryk, moet dit van krag bly tot sluitingstyd van die daaropvolgende werksdag van die Kantoor.

23. (1) Tenderaars kan tender vir een of meer van die items of vir 'n gedeelte van 'n item wat in die tendervorm gespesifiseer word.

(2) As dit nodig is om 'n ander hoeveelheid as dié wat teenoor enige item gevra word, of 'n gedeelte van 'n item, aan te neem, het die tenderaar die keuse om aanname te weier as die hoeveelheid wat aangeneem moet word—

(a) minder is as dié waarvoor hy getender het;

(b) meer is as dié waarvoor hy getender het, dog in so 'n geval kan hy slegs die oorskryding weier.

24. Wanneer die datum vir die ontvangs van tenders op 'n Sondag, openbare vakansiedag of 'n ander dag waarop die Kantoor nie werk nie, val, word tenders ingewag tot op die sluitingsuur op die daaropvolgende werksdag van die Kantoor.

25. Tenders wat namens die Raad gevra word, word aan die Staatskoper geadresseer en moet deur die tenderaar ingedien word in 'n verseëelde omslag waarop die tendernommer, die sluitingsdatum en die naam en adres van die tenderaar buiteop geëndosseer is.

(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.

20. (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 reconsignated 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.

(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.

21. (1) The due dates of 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 if circumstances make this expedient in the interests of the Government.

22. (1) 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.

(2) The period for which offers are to hold good shall be calculated from, but shall not include, the due date of tenders, and if the period so calculated expires on a Sunday, public holiday or other non-working day of the Office it shall hold good until the close of business on the following working day of the Office.

23. (1) Tenderers may tender for one or more items or for part of an item, specified in the tender form.

(2) If it is necessary to accept a quantity other than that called for against any item or part of an item, the tenderer shall have the option of refusing acceptance if the quantity to be accepted is—

(a) less than that for which he has tendered;

(b) more than that for which he has tendered, but in such case only to the extent of the excess.

24. When the date for the receipt of tenders falls on a Sunday, public holiday or other non-working day of the Office, tenders shall be received up to the stipulated hour on the following working day of the Office.

25. Tenders invited on behalf of the Board shall be addressed to the State Buyer 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.

26. Tenders wat oop of sonder die endossement op die omslag, soos in regulasie 25 vereis, ontvang word, moet verseël word nadat die verwysingsnommer van die tender vasgestel is, en daar moet 'n aantekening op die koevert gemaak word wat die volgende meld—

- (a) die naam en adres van die tenderaar;
- (b) die datum en tyd van ontvangs;
- (c) die betrokke tendernommer en die sluitingsdatum;

en

- (d) die toestand waarin dit ontvang is.

27. Tenders wat op of voor die sluitingsdatum en -uur per telegraaf ontvang word, word toegelaat as die naam van die tenderaar, die tendernommer, die prys en die afleweringbasis ten opsigte van elke item waarvoor getender 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*-wyse; en
- (b) sodanige bevestiging gepos of afgelewer moet word binne 24 uur na die sluitingsdatum en -uur van die tender.

Die Oopmaak van Tenders.

28. (1) So gou doenlik ná die sluitingsdatum en -uur vir die ontvangs van tenders, moet die beampptes of werknemers aan wie die Staatskoper daardie plig opgedra het, alle tenders wat behoorlik ontvang is in die openbaar oopmaak.

(2) 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.

29. Nadat die beampptes of werknemers aan wie die Staatskoper daardie plig opgedra het al die tenders oopgemaak en 'n lys daarvan opgestel het, word dit deur die Kantoor oorweeg, indien dit nodig geag word in oorleg met die betrokke departement, met die doel om aanbevelings kragtens subregulasie (1) van regulasie 31 by die Raad te doen.

30. (1) Enige tender wat ná die sluitingsdatum en -uur aankom, word nie oorweeg nie en word, waar doenlik, onmiddellik onoopgemaak aan die tenderaar teruggestuur met 'n verduidelikende brief: Met dien verstande dat as geen tender voor of op die sluitingsdatum en -uur ontvang is nie en 'n tender daarna ontvang word, die Staatskoper die tender wat laat ontvang is as 'n aanbod kan toelaat.

(2) Nieteenstaande die bepalings van subregulasie (1) kan die Raad 'n laat tender toelaat as hy oortuig is dat—

- (a) die tender betyds gepos is om die Staatskoper normaalweg teen die sluitingsdatum en -uur te bereik maar dat dit in versending deur die pos vertraag is;

- (b) in die geval van 'n telegrafiese tender, dit op of voor die sluitingsdatum en -uur deur die Poskantoor in Pretoria ontvang is; of

- (c) die feit dat die tender laat is te wyte is aan omstandighede wat buite die beheer van die tenderaar was en wat hy nie redelikerwys kon voorsien het nie.

Voorlegging van Tenders, met Aanbevelings, aan die Raad.

31. (1) Alle tenders wat betyds ontvang of kragtens hierdie regulasies toegelaat is, moet oorweeg word en aanbevelings moet deur die Kantoor aan die Raad voorgelê word vir oorweging, uitgesonderd waar die Raad die mag om self 'n tender aan te neem, aan die Staatskoper of 'n departement gedelegeer het.

(2) Die Raad kan 'n tender wat ontvang of toegelaat is nadat tenders gevra is, oorweeg al sou dit nie aan die tendervoorwaardes voldoen nie.

26. Tenders received open or without the endorsement on the cover referred to in regulation 25 shall, after the tender reference has been ascertained, be sealed and a note shall be made on the envelope indicating—

- (a) the name and address of the tenderer;
- (b) the date and time of receipt;
- (c) the relative tender number and due date; and
- (d) the condition in which it was received.

27. 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 and the delivery basis in respect of each item tendered for 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.

Opening of Tenders.

28. (1) As soon as practicable after the due date and hour for receiving tenders, the officers or employees to whom that duty shall be assigned by the State Buyer shall open in public all tenders duly received.

(2) 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.

29. All tenders, after being opened and listed by the officers or employers to whom that duty has been assigned by the State Buyer, shall be considered by the Office, if necessary in consultation with the department concerned, for the purpose of making recommendations to the Board in terms of subregulation (1) of regulation 31.

30. (1) Any tender arriving after the due date and hour shall not be considered and, where practicable, shall be returned immediately to the tenderer unopened with an explanatory letter: Provided that if no tender has been received on or before the due date and hour, and a tender is received subsequently, the State Buyer may admit the late tender as an offer.

(2) Notwithstanding the provisions of subregulation (1), the Board may admit the late tender if it is satisfied that—

- (a) the tender was posted in sufficient time to reach the State Buyer in the normal course by the due date and hour but was delayed in transmission through the post;

- (b) in the case of a telegraphic tender, it was received by the Post Office in Pretoria at or before the due date and hour; or

- (c) the lateness of the tender was due to circumstances which were beyond the control of the tenderer and which could not reasonably be foreseen by him.

Submission of Tenders to Board with Recommendations.

31. (1) All tenders which have been received timeously or which have been admitted in terms of these regulations shall be considered, and recommendations shall be submitted by the Office to the Board for consideration, except where the Board has delegated to the State Buyer or a department, the power to accept a tender.

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

Voorkeur.

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

(b) Waar tenders alleenlik vir ingevoerde goedere met mekaar vergelyk 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 skeepsvragkoste van die verskillende verskeppingshawes af, word bygereken.

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

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

33. (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 te bowe gaan nie.

(ii) 2 Persent—indien die plaaslike inhoud in verhouding tot die tenderprys meer as 5 persent is, maar nie 10 persent te bowe gaan nie.

(iii) 3 Persent—indien die plaaslike inhoud in verhouding tot die tenderprys meer as 10 persent is, maar nie 20 persent te bowe gaan nie.

(iv) 4 Persent—indien die plaaslike inhoud in verhouding tot die tenderprys meer as 20 persent is, maar nie 30 persent te bowe gaan nie.

(v) 5 Persent—indien die plaaslike inhoud in verhouding tot die tenderprys meer as 30 persent is, maar nie 40 persent te bowe gaan nie.

(vi) 6 Persent—indien die plaaslike inhoud in verhouding tot die tenderprys nie meer as 40 persent is, maar nie 50 persent te bowe gaan nie.

(vii) 7 Persent—indien die plaaslike inhoud in verhouding tot die tenderprys meer as 50 persent is, maar nie 60 persent te bowe gaan nie.

(viii) 8 Persent—indien die plaaslike inhoud in verhouding tot die tenderprys meer as 60 persent is, maar nie 70 persent te bowe gaan nie.

(ix) 9 Persent—indien die plaaslike inhoud in verhouding tot die tenderprys meer as 70 persent is, maar nie 80 persent te bowe gaan nie.

(x) 10 Persent—indien die plaaslike inhoud meer as 80 persent van die tenderprys uitmaak.

(2) Benewens voornoemde voorkeure kan die Raad—

(a) 'n addisionele voorkeur toestaan, mits sodanige addisionele voorkeur tesame met die bestaande invoerreg op die betrokke leweransies nie 15 persent te bowe gaan nie;

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

Preferences.

32. (1) (a) Where tenders for goods produced, manufactured or assembled in the Republic and tenders for imported goods are compared, any preference to be accorded in terms of regulation 33 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 produced, manufactured or assembled 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.

33. (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.

(2) In addition to the foregoing preferences the Board may 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) 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*-produksie, vervaardiging of montering van leweransies in die Republiek en van 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, kan van die kontrakteur vereis word om dokumentêre getuienis, in sodanige vorm as wat die Raad mag voorskryf, in te dien met die strekking dat die aanspraak 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 leweransies waarvoor daar getender is uit 'n ander land as die Republiek kom, mag die Raad na goeddunke eis dat die tenderaar die binnelandse waarde van die aangebode leweransies verstrek.

(e) As die 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 tref tussen die 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 dit 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.

34. (1) In geval van gelykheid nadat die bepalings van regulasies 32 en 33 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 kan kontrakte in onderstaande volgorde toegeken word:—

(a) Aan koöperatiewe verenigings;

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

(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 subregulation (1).

(b) The question of bona fide production, manufacture or assembly of supplies in the Republic and of 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 may be required to furnish documentary evidence, in such form as the Board may determine, 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 domestic value of the supplies offered.

(e) Should the 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 subregulation (2), draw a comparison between the 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.

34. (1) In case of equality after the provisions of regulations 32 and 33 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) deur 'n muntstuk op te gooi of lootjies te trek.

35. Ondanks die bepalings van regulasies 32, 33 en 34 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.

Besluit van die Raad.

36. Die Raad neem nie noodwendig die laagste of enige tender aan nie of verstrek 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 of gedeelte van 'n item van 'n tender aan te neem.

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

(2) As die Voorsitter nie met 'n besluit van die Raad in verband met enige ander saak as dié genoem in subregulasie (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 Voorsitter die Raad in kennis van sy voorname om die uitvoering van die Raad se besluit uit te stel in afwagting van die Tesourie se beslissing, wat hy so gou moontlik na ontvangs daarvan aan die Raad moet oordra.

Kennisgewing van Aanname van Tenders.

38. Die Staatskoper of die Departement stel suksesvolle tenders onverwyld in kennis dat hul tenders aangeneem is.

39. 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 van sodanige aanname aan die tenderaar te wees.

Inligting wat Beskikbaar Gestel kan Word.

40. (1) Ná die aanname van tenders word die tenderdokumente nie vir die publiek beskikbaar gestel nie, maar onderstaande inligting kan deur die Staatskoper verstrek word:—

(a) Die name en adresse van alle tendersaars;

(b) die pryse genoteer en die afleweringsterms deur alle tendersaars gemeld;

(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 subregulasie (1) van regulasie 33 vir leweransiers 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.

Wysiging van Tenders.

41. (1) Indien dit wenslik geag word om monsters, spesifikasies, afdrukke of voorwaardes te wysig, te verander of te vervang ná die sluitingsdatum van tenders en voordat daar kennis van aanname gegee is, moet nuwe tenders gevra word indien die Raad aldus gelas. Die Raad kan egter, behoudens die bepalings van regulasie 23, magtiging verleen tot 'n vermindering of 'n vermeerdering

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

35. Notwithstanding the provisions of regulations 32, 33 and 34, 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.

Board's Decision.

36. 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 or part of an item of a tender.

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

(2) If the Chairman does not agree with any decision of the Board regarding any matter other than that referred to in subregulation (1), he may refer such decision for review to the Treasury whose decision shall be final. The Chairman 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 which he shall communicate to the Board as soon as possible after it is received.

Notification of Acceptance of Tenders.

38. Successful tenderers shall be promptly notified by the State Buyer or the Department of the acceptance of their tenders.

39. 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.

Information Which May be Made Available.

40. (1) After the acceptance of tenders, the tender documents shall not be made available to the public but the following information may 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 subregulation (1) of regulation 33 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.

Amendments to Tenders.

41. (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, subject to the provisions of regulation 23 authorise an increase or decrease in the number of articles or quantity involved

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 magtiging daartoe verleen om die beste reëlins doenlik 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.

42. Wanneer die pryse genoteer in 'n tender wat ooreenkomstig die bepalings van hierdie regulasies vir leweransies of dienste gevra word, as buitensporig beskou word, of as leweransies of dienste nie in die Republiek of deur tussenkoms van agente in die Republiek verkry kan word volgens bepalings en voorwaardes wat aanneemlik vir die Raad is nie, kan sodanige leweransies of dienste, met die goedkeuring van die Raad, deur die Staatskoper of die betrokke departement uit die buiteland bestel word.

Lys van Goedgekeurde Tenderaars.

43. (1) Waar die Raad dit gerade ag dat die indiening van tenders vir spesifieke artikels of dienste beperk moet word tot tenderaars wat voldoen aan die vereistes van subregulasie (3), 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 wyse wat hy dienstig ag, 'n kennisgewing publiseer waarby fabrikante en ander belanghebbendes gevra word om aansoek om insluiting in die lys op of voor 'n gemelde datum in te dien.

(3) Ná 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 persone wat hy in alle opsigte geskik ag om Regeringskontrakte te onderneem.

(4) Die Raad kan insgelyks die naam van 'n 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 aansoek 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 persone wie se name in die betrokke goedgekeurde lys ingesluit is.

Kontrakte, sekerheidstellings en Aflewerings.

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

(a) Vir 'n bepaalde hoeveelheid wat nie sonder weder-sydse 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.

45. (1) Formele kontrakte word met kontrakteurs aangegaan slegs waar die Raad aldus besluit.

without calling for fresh tenders when it considers 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 authorise the best arrangement practicable with the contractor, provided that if such arrangement is to the disadvantage of the Government, Treasury approval shall be obtained.

Overseas Orders.

42. When prices quoted in a tender invited in terms of these regulations for supplies or services are considered to be excessive or when supplies or services cannot be obtained in the Republic or through agents in the Republic on terms or conditions acceptable to the Board, such supplies or services may with the approval of the Board be ordered from abroad by the State Buyer or the department concerned.

Lists of Approved Tenderers.

43. (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) 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 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 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 persons whose names are included in the relative approved list.

Contracts, Securities and Deliveries.

44. 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.

45. (1) Formal contracts shall be entered into with contractors only where the Board so decides.

(2) Sodanige kontrakte word deur die Staatskoper of 'n departement aan wie die Raad hierdie funksie gedelegeer het, geteken en geadministreer.

(3) Wanneer 'n formele kontrak kragtens subregulasie (1) aangegaan moet word, word dié feit in die tenderuitnodiging gemeld.

46. (1) Sekerheid word van 'n kontrakteur gevra slegs ten opsigte van kontrakte waar—

- (a) betaling aan die Staat gedoen moet word;
- (b) Staatseiendom aan kontrakteurs oorhandig word; of
- (c) die Raad vóór die vra van tenders aldus besluit.

(2) Die sekerheid wat ingevolge subregulasie (1) gestel moet word, word op die volgende basis bepaal, tensy die Raad in 'n besondere geval anders gelas:—

(a) Die geraamde bedrag wat aan die Staat betaal moet word;

(b) die waarde van die Staatseiendom wat te eniger tyd in die besit van die kontrakteur mag wees; en

(c) 10 persent van die waarde van die kontrak, in die geval van kontrakte vermeld in paragraaf (c) van genoemde subregulasie.

(3) Sekerheid bestaan uit—

(a) 'n garansie deur 'n bank, versekeringsmaatskappy of garansiëorporasie of 'n deponering van kontant of verhandelbare Regerings- of verhandelbare, goedgekeurde munisipale effekte; of

(b) sodanige ander vorm as wat die Raad mag goedkeur.

(4) Wanneer sekerheid ingevolge subregulasie (1) gestel moet word, word dié feit vermeld wanneer tenders gevra word.

47. 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.

48. 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 besendings beskikbaar is, sodat reëlings vir die inspeksie of verskeping daarvan getref kan word.

49. Tensy die Raad in die teendeel besluit, 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.

50. (1) (a) Leweransies wat gelewer word, word stelsmatig 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 voldoen aan die gehalte 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.

(2) Such contracts shall be signed and administered by the State Buyer or a department to whom the Board has delegated this function.

(3) When a formal contract has to be entered into in terms of subregulation (1), this fact shall be stated in the tender invitation.

46. (1) Security shall be required of contractors only in respect of contracts where—

(a) payment has to be made to the State;

(b) State property is handed to contractors; or

(c) the Board so decides prior to the invitation of tenders.

(2) The security to be provided in terms of subregulation (1) shall be determined on the following basis unless the Board otherwise directs in a particular case:—

(a) The estimated amount to be paid to the State;

(b) the value of the State property which may be in possession of the contractor at any time; and

(c) 10 per cent of the value of the contract in the case of contracts mentioned in paragraph (c) of the said subregulation.

(3) Security shall consist of—

(a) a guarantee by a bank, insurance company or guarantee corporation or a deposit of cash or negotiable Government or negotiable approved municipal stocks; or

(b) such other form as the Board may approve."

(4) When security has to be provided in terms of subregulation (1), this fact shall be stated in the tender invitation.

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

48. 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.

49. Unless the Board decides 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.

50. (1) (a) Deliveries of supplies 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) Die Raad kan reëlings tref vir addisionele inspeksies, ontledings of toetse wat nodig geag word, en enige verteenwoordiger van die Kantoor moet, op vertoon van 'n skriftelike magtiging van die Staatskoper, onmiddellik tot enige 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 kan 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.

51. (1) As 'n tenderaar sy tender wysig of terugtrek na die sluitingsdatum 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 Raad 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 of sekerheid te stel waar dit ingevolge regulasie 45 of 46 ver eis word; of

(c) versuim om uitvoering aan die kontrak te gee, verbeur hy die deposito wat by die indiening van die tender vereis mag gewees het of moet hy alle addisionele uitgawes betaal wat die Regering aangaan deurdat hy of nuwe tenders moet vra, of 'n minder gunstige tender moet aanneem, of minder gunstige reëlings moet tref: Met dien verstande dat die Raad na goeë dunde afstand kan doen van die toepassing van hierdie subregulasie, of die toepassing daarvan kan verander na gelang omstandighede dit mag regverdig; voorts met dien verstande dat waar die tenderaar reeds in kennis gestel is dat sy tender aangeneem is en 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 enigeen van die gebeurtenisse gemeld in paragraaf (a), (b) of (c) van subregulasie (1) voorval 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, indien nodig, ná oorlegpleging met die betrokke departement, sy aanbevelings om of sodanige tender aan te neem, of as geen ander tender aanneemlik is nie, om sulke ander reëlings 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 33, 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 52 mag oplê, of enige ander regsmiddel waaroor hy beskik—

(a) alle koste, verliese of skade aan die kant van die Staat 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 te bowe gaan nie, oplê.

52. (1) As die Raad daarvan oortuig is dat 'n persoon—

(a) 'n Regeringskontrak onbevredigend uitgevoer het of uitvoer; of

(c) The Board may arrange for any additional inspections, analyses or tests considered necessary and any representative of the 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 may authorise the acceptance of supplies not conforming strictly to the specification provided such acceptance is not to the disadvantage of the Government.

Penalties.

51. (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 Board 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 or to provide security when required to do so in terms of regulation 45 or 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 subregulation as circumstances may warrant provided further that where the tenderer has been informed that his tender has been accepted and such waiver or variation is to the disadvantage of the Government or where the deposit forfeited is less than the additional expenses incurred, Treasury approval shall be obtained.

(2) Whenever any of the events referred to in paragraph (a), (b) or (c) of subregulation (1) occurs 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, 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 subregulation (1) of regulation 33, 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 52, 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.

52. (1) If the Board is satisfied that any person—

(a) has executed or is executing a Government contract unsatisfactorily; or

(b) 'n beampte of werknemer in die Staatsdiens omkoopgeld of ander vergoeding aangebied, belooft of gegee het in verband met die verkryging of die uitvoering van 'n kontrak; of

(c) op 'n bedrieglike wyse of te kwader trou of op 'n ander onbevredigende wyse 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 wetteregterlike vereistes na te kom, as gevolg waarvan hy strafregtelik skuldig bevind is; of

(d) voor of nadat die vra van 'n tender geadverteer is, 'n beampte of werknemer in die Staatsdiens genader het met die doel om die toekenning van die betrokke tender in sy guns te beïnvloed; of

(e) sy tender ná die sluitingsdatum en -uur dog voordat hy in kennis gestel is van die aanname daarvan, gewysig of teruggetrek het; of

(f) wanneer hy in kennis gestel is dat sy tender aangeneem is, die Raad 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 bepalinge van die tendervorm,

kan die Raad, ná oorweging van al die omstandighede, besluit—

(i) dat, behoudens die bepalinge van regulasie 51, die betrokke kontrak en enige ander kontrak gehou deur die betrokke persoon gekanselleer word; of

(ii) dat geen tender vir 'n tydperk wat hy mag bepaal van daardie persoon oorweeg 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 wat 'n persoon opgelê is 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 wat aldus beperk is, aktief geassosieer is.

(4) Vir die toepassing van hierdie regulasies beteken die woord „persoon” ook 'n gemagtigde werknemer of agent van sodanige persoon.

(5) Die Raad kan 'n besluit van enige ander tenderraad van die Staat, met inbegrip van dié van die Suid-Afrikaanse Spoorweë en Hawens, die Provinsiale Administrasies en die Administrasie van Suidwes-Afrika, in verband met die beperking van tenderaars, van toepassing maak op die persoon wat aldus beperk is.

53. Die Staatskoper moet Staatsdepartemente, die Tenderaad 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 52 geneem is en ook van alle herroepings of wysigings daarvan.

Algemeen.

54. Wanneer 'n bevoegdheid of 'n plig ooreenkomstig die bepalinge van hierdie regulasies deur 'n departement of deur die Staatskoper uitgeoefen of uitgevoer moet word, 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 beampte of werknemer aan wie hulle sodanige bevoegdheid of plig gedelegeer het.

(b) has offered, promised or given a bribe or any other consideration to an officer or employee in the Public Service in relation to the obtaining or the execution of a contract; or

(c) 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 business failed to observe statutory requirements resulting in a criminal conviction; or

(d) has, either before or after a tender invitation has been advertised, canvassed any officer or employee in the Public Service with a view to influencing in his favour the award of the tender involved; or

(e) has varied or withdrawn his tender after the due date and hour but before he has been notified of its acceptance; or

(f) when notified that his tender has been accepted, has notified the Board of his inability to execute the contract in terms of his 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 after consideration of all the circumstances resolve—

(i) subject to the provisions of regulation 51 that the particular contract and any other contract held by the person concerned be cancelled; or

(ii) that no tender from that person, 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, shall apply also to any other enterprise under the same or different name with which the person restricted is actively associated.

(4) For the purpose of this regulation the term “person” shall include an authorised employee or agent of such person.

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

53. 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 52 and any rescission or variation thereof.

General.

54. 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 or employee delegated thereto by them.

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

56. Geen kommunikasie, van watter aard ook al, in verband met 'n kwessie wat 'n tender raak mag gedurende die tydperk tussen die sluitingsdatum van daardie tender en die datum van kennisgewing aan die suksesvolle tenderaar, tussen 'n beamppte of werknemer van die Regering of van 'n behoorlik aangestelde toetsonderneming of 'n persoon wat in 'n konsulerende hoedanigheid vir die Regering optree en 'n lid van die publiek plaasvind nie, tensy die Staatskoper uitdruklik vooraf toestemming daartoe verleen het, en sodanige toestemming mag nie sonder die Raad se voorafgaande toestemming gegee word ten opsigte van enige kwessie in verband met pryse en voorkeure nie.

57. Geen bepaling in hierdie regulasies word geag 'n departement te verbied om voorrade te koop van of reëlings te tref vir die lewering van dienste deur 'n ander departement, 'n provinsiale administrasie of die Suidwes-Afrika-administrasie nie, en voorrade wat meer is as wat 'n departement nodig het, moet aan ander departemente en administrasies aangebied word voordat dit aan die publiek verkoop word.

58. 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.

59. 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”.

60. (1) Wanneer 'n tender of prysnotering vir 'n lewering of diens aan die Regering van 'n beamppte of werknemer in 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 beamppte of werknemer in die Staatsdiens nie daarvan uitgesluit om van die Regering te koop deur middel van tender, op openbare veilinge of teen tariewe wat vir verkope aan die publiek voorgeskryf is nie.

61. As dit in belang van die Staat dienstig geag word om in buitengewone omstandighede van die bepalings van hierdie regulasies af te wyk, kan die Tesourie, op aanbeveling van die Raad of ná oorlegpleging met die Voorsitter en die Staatskoper, magtiging tot sodanige afwyking verleen; met dien verstande dat in geval van die laasgenoemde alternatief die Raad op die eerste vergadering wat ná sodanige afwyking, gehou word daarvan in kennis gestel word.

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

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

56. Without the express prior permission of the State Buyer, no communication of any nature shall take place between any officer or employee of the Government or of a duly appointed testing house or a person acting in a consulting capacity to the Government and a member of the public on a question affecting a tender during the period between the due date of that tender and the date of notification to the successful tenderer, and such permission shall not be given in respect of any question affecting prices or preferences without the prior permission of the Board.

57. Nothing in these regulations shall be deemed to prohibit a department from purchasing stores from or arranging for the rendition of services by another department, a Provincial Administration or the South West Africa Administration and stocks surplus to the requirements of a department shall be offered to other departments and administrations before being disposed of to the public.

58. 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.

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

60. (1) When a tender or quotation for a supply or service to the Government is received from an officer or employee in 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 officer or employee in 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.

61. If in exceptional circumstances it is deemed expedient in the interests of the Government to depart from the provisions of these regulations, the Treasury may on the recommendation of the Board or after consultation with the Chairman and the State Buyer authorise such departure; provided that in the case of the latter alternative the Board shall at the first meeting held after such departure has been authorised be informed thereof.

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

INHOUD.

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