	MEMO	Procurement & Supply chain management (P&SCM)
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RECONSIDERATION OF SUPPLIER REGISTRATION STATUS

Eskom, a State Owned Enterprise [SOE]

Eskom, is required by law, in terms of Section 217 of the Constitution to have an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective.

Purpose

The purpose of this memorandum is to reinforce communication to business and Eskom suppliers around supplier registration reconsideration process including Eskom's stance on ethics particularly within Group Procurement & Supply Chain and Eskom's zero tolerance to fraud and corruption

National Treasury

National Treasury [NT], through the National Treasury Instruction SCM Instruction Note 3 of 2016/17 titled [*Preventing And Combating Abuse In The Supply Chain Management System*], require that Eskom, as a State Owned Entity (SOE), must establish a system that deals with the management of complaints and or allegations of abuse in the Supply Chain Management System.

Eskom Procurement Procedure – 32-1034

Eskom, through its own procurement procedure, 32-1034, under paragraph 3.8.9 [*Reconsiderations of Supplier Registration Status*], even before the issue of the NT instruction note, established and maintained a committee, The Supplier Status Reconsideration Standing Committee better known as Supplier Standing committee to deal with these reported matters.

Eskom, through this procedure, made provision for fifteen [16] instances of specific and three[3] instances of general grounds to reconsider the registration status of a supplier on the Eskom Supplier Database and ultimately deregistered on National Treasury's data base. These instances are as follows:

Eskom may reconsider the registration status of a Supplier registered on the Eskom Vendor Database due to:

- a. Conduct which poses a threat to Eskom Supply Chain Management System;
- b. Conduct which reflects an abuse of Eskom Supply Chain Management System;
- c. any conduct of the Supplier, its employee/s or any related person which is the direct or indirect cause of any disciplinary action taken against an employee of Eskom for any misconduct pertaining to any aspect of Eskom supply chain management;
- d. the Supplier, its employee/s or any related person promoting or inciting labour unrest, other than a protected strike, at any site or premises under the control and supervision of Eskom or, where another supplier has a contract with Eskom for the supply of goods or services, of that other Supplier where such labour unrest has a detrimental or potentially detrimental impact for Eskom on any aspect of supply chain management;
- e. the Supplier, its' employee/s or any related person deliberately attempts to frustrate or obstruct, directly or indirectly, the ability of Eskom and/or of another Supplier under a contract with or order from Eskom to carry out the obligations, duties or responsibilities in terms of any contract, order, instruction or legislative obligation;
- f. the Supplier, its employee/s or any related person making use of any labour, material, transport, equipment, intellectual property or any asset/s, belonging to or under the control and supervision of Eskom or which Eskom is entitled to use, without the written consent of Eskom and either for the benefit or gain by the Supplier or by a person other than Eskom or to the prejudice or potential prejudice of Eskom;
- g. the Supplier, its employee/s or any person under his control or a related person being found in the unauthorised possession of, or engaged in removing without permission, any property belonging to Eskom, any employee of Eskom or another Supplier of Eskom;
- h. the Supplier, its employee/s or any related person being found by a court, commission, tribunal, administrative body or regulatory institution in any proceedings, matter or investigation before it:
 - guilty of any offence in terms of the Prevention and Combatting of Corrupt Activities Act 12 of 2004;
 - guilty of an offence;
 - conduct prohibited by legislation;
 - liable to pay an admission of guilt fine or penalty, and
 - the conduct in question relates to, impacts upon or pertains to any aspect of Eskom's supply chain management system.
- i. the Supplier, its employee/s or any related person acquiring from any source, not authorised in writing by Eskom, or using, without the written permission of Eskom, any confidential information of Eskom, including any intellectual property of Eskom, or confidential information of another supplier in the possession of or under the control of Eskom, with a view to obtaining a competitive advantage over other suppliers or potential suppliers of goods or services to Eskom;

- j. the Supplier, its employee/s or any related person disclosing any confidential information of Eskom, including any intellectual property of Eskom, or confidential information of another supplier in the possession of or under the control of Eskom, to a third party for any procurement-related purpose where that confidential information was obtained in the course of or incidental to carrying out contractual obligations;
- k. if the Supplier is unwilling to satisfy the requirements for registration as a Supplier to Eskom or no longer meets the criteria for registration as a supplier of a specific kind, class or category of goods or services to Eskom;
- l. if the Supplier is unwilling to satisfy the requirements for registration on the CSD or has failed to register on CSD within a specified period of time;
- m. the Supplier, its employee/s or any related person making any false statement or any misrepresentation either knowingly, negligently or innocently, to Eskom which:
 - induces or is calculated to induce Eskom to register that Supplier as Supplier on the Eskom Vendor Database, to award a tender to that Supplier, to enter into a contract with that Supplier or issue him with an order; or
 - relates or pertains to the performance of the contractual obligations between Eskom and that Supplier;
- n. the Supplier, its employee/s or any related person wilfully makes any false statement or any misrepresentation to Eskom in order to:
 - prevent another person from being registered as a Supplier on the Eskom Vendor Database or from being registered with a particular Supplier profile;
 - prevent a contract being entered into or an order being issued by Eskom with or to another registered Supplier;
 - induce Eskom to reconsider the registration of or to de-register another Supplier on the Eskom Vendor Database;
- o. the Supplier having a history of poor performance on a minimum of three or more task orders/purchase orders or contracts with Eskom, including poor performance in respect of compliance with policies or procedures regarding safety, health, quality control or environment, or having committed a serious and gross breach of contract;
- p. the Supplier, its employee/s or any related person makes any false statement or any misrepresentation either knowingly, negligently or innocently, in order to register on the CSD which induces or is calculated to induce Eskom to register that Supplier as Supplier on the Eskom Vendor Database, to enter into a contract with that Supplier or issue that Supplier with an order.

ADDITIONAL GROUNDS FOR RECONSIDERATION

The Committee may review the registration status of a Supplier, its employee/s or any related person where:

1.1.1 a natural person who is registered as a Supplier on the Eskom Supplier Database:

- (i) dies; or
- (ii) is declared by a court of law to be of unsound mind and as such incapable of managing his affairs; or
- (iii) a legal person registered as a partnership, joint venture or business trust dissolves the partnership, joint venture or business trust of its own choice.

Ethics

Eskom Employees

Eskom deems ethical conduct, in general but in particular in the procurement process, of the highest importance. Ethical conduct is then prescribed through an approved "The Eskom Code of Ethics (Standard 32-527)". All employees are required to attend ethics training and live these values. Eskom reserve the right to take disciplinary action against any employee who is found to have contravened this standard

Eskom Vendors

Eskom deems ethical conduct, in general but in particular in the procurement process, of the highest importance of equal importance and applicable to all Vendors doing or intending to do business with Eskom and captured Eskom Supplier Integrity Pact [*Unique Identifier: 240-113650212*]

The process of Vendor Registration Status Reconsideration is as follows:

1.1.1 Lodging an allegation involving a threat or abuse to Eskom supply chain management

- (i) Applications for information via the PAIA process or requests for reasons regarding a decision made by any adjudication authority within Eskom should not be referred to the Committee for adjudication. These requests need to be channelled via the appropriate channels regarding PAIA or the relevant any P&SCM: GM in instances where bidders request reasons for not being awarded a tender.
- (ii) An allegation of abuse or threat to Eskom supply chain management may be lodged by any member of the public, Eskom official or any party by using any one of the following mechanisms:
 - investigate@eskom.co.za;
 - 0800 112 722;
 - suppliercomplaints@eskom.co.za; or
 - Intranet Forensic mechanism for employees.

1.1.2 Investigation by A&F

- (i) Upon receipt of an allegation, the Senior Manager: A&F shall enter the allegation onto a Register and commence an investigation into each allegation. Forensic may receive matters for further investigation from the Committee.

1.1.3 Referral to the Committee

- (i) After the investigation, A&F shall submit an Investigation Report; extension letter, if applicable; and all other documents necessary for the Committee to make a decision. Whistle-blower information should be protected and a confirmation of this protection should be made within the Report.

The Committee will advise the Supplier of its decision after the reconsideration process has been finalised. NT will be advised of the outcome if necessary.

1.1.4 General aspects

1.1.4.1 Internal review

Eskom reserves the right to have any decision taken by the Committee or its successor reconsidered by the ETC but is not obliged to do so. It may reconsider a decision of the Committee upon the request of any person and where the person has presented sound and reasonable reasons why the decision should be reviewed within 6 months of the Notice of Outcome being issued.

1.1.4.2 Sanctions

In the event that the Committee finds that the conduct of the Supplier did pose a threat or abuse of Eskom's supply chain management system the Committee may impose one of the following sanctions:

- (i) a final warning;
- (iii) a final warning with remedial action to be implemented by the Supplier within 30 days;
- (iv) Implement specific remedial action with regard to the supervision and control of the business, operations or management of that Supplier;
- (v) to provide specific training or opportunities to the Supplier in order to assist the supplier to obtain specific qualifications;
- (vi) suspension of registration which may include a posting block, purchasing block, mark for deletion or payment block for a specific period of time;
- (vii) restriction on supplier registration which shall include a purchase block or mark for deletion for a specific period of time;
- (viii) Any other sanction as deemed fit by the Committee.
- (ix) Communication of the above sanction to National Treasury.

The standing committee have scheduled monthly meetings and submissions for adjudication; can be submitted to Takalani Balibali [BalibaTP@eskom.co.za], at least two weeks before the meeting sitting.

Committee meetings for 2018 are scheduled as follows:

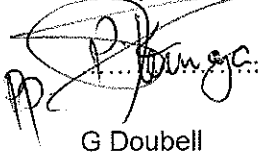
Month	Day
January	30
February	21

March	29
April	26
May	24
June	28
July	26
August	30
September	27
October	25
November	29
December	12

Conclusion

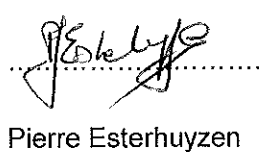
Eskom has a zero tolerance approach to fraud and corruption either by its suppliers or employees. Supplier or employees found to be guilty will be dealt with accordingly.

Compiled by:


G Doubell

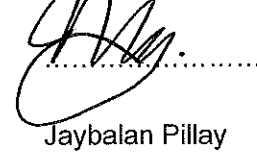
Policy & Procedure Manager

Supported by:


Pierre Esterhuyzen

Chairperson: Standing Committee

Approved by:


Jaybalan Pillay

CPO (P&SCM)