

Day 2, Plenary – Corruption, Transition and Globalisation

INTERNATIONAL PUBLIC PROCUREMENT
Cassiem Gasiep

Mr. Chairperson, ladies and gentlemen,

Thank you for affording me the opportunity to address you on this very important subject. Personally, I would be very glad if there was no need for a conference of this nature. This can, however, only be achieved when we eliminate all forms of corruption by achieving a change of mindset of all human beings. Every person on this globe must view it as a principle of living that it is totally unacceptable to be dishonest. We are, however, dealing with human beings and it is accepted that as long as we are dealing with human beings, we have to be aware of the possibility of corruption and therefore have to put measures in place to counter and discourage corruption.

South Africa is the only country in the world where procurement is prescribed in the Constitution. Section 217 of our Constitution reads as follows:

- “217 (1) When an organ of state in the national, provincial or local sphere of government, or any other institution Identified in national legislation, contracts for goods or services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost effective.*
- (2) Subsection (1) does not prevent the organs of state or institutions referred to in that subsection from implementing a procurement policy providing for-*
- (a) categories of preference in the allocation of contracts; and*
 - (b) the protection and advancement of persons, or categories of persons, disadvantaged by unfair discrimination.*
- (3) National legislation must prescribe a framework within which the policy referred to in subsection (2) may be implemented.”*

The words “*fair, equitable, transparent, competitive and cost effective*”, when seen from a public sector procurement point of view, can be summarised in the statement that our public sector procurement system must be administered in all **honesty**.

As an estimated amount of some R64 billion per annum of the tax payers money is expended by the Government for the procurement of goods and services, our democratically elected Government is committed to good governance and to socio-economic reform in South Africa to ensure a better quality of life for all the residents of our country, *inter alia* through the procurement system. Good governance includes good financial governance. To ensure good financial management regarding public sector procurement, the following principles have to be maintained:

- (i) There shall be strict financial control.

- (ii) The public sector will do everything possible to counter corruption.
- (iii) No person / organisation who has not fulfilled his / her tax obligation or has not made the necessary arrangement to meet his / her obligations in this regard, will do business with the public sector. This measure is in place at central level.
- (iv) Procurement of all goods and services shall reflect value for money.
- (v) Government will ensure uniformity within the public sector procurement system.
- (vi) The public sector procurement system will be utilised as one of the tools to achieve the upliftment of the historical disadvantaged individuals and for the continuous development of the small, medium and micro enterprises.

The question arises how, with all these choice words enshrined in our Constitution and stating what principles we are maintaining, are we putting into practice what we are preaching. In this regard I can inform you of the following measures which are in place or are in process of being implemented in order to counter corruption in public procurement:

- (i) When specifications are compiled for general period contracts, specification meetings are convened and inputs are obtained from all participating consumer departments. In some instances potential suppliers are also invited to attend and participate at these meetings. The purpose of this exercise is to ensure that specifications are not bias towards specific suppliers, products or commodities.
- (ii) All tenders advertised by national government departments are advertised in the **Government Tender** Bulletin. This bulletin is also available on the internet under **NSTBIPWVIGOV.ZAS**. You are welcome to subscribe to the Government Tender Bulletin. This weekly magazine is available from the Government Printer at a subsidised rate of R 34,20 (±\$5,70) per annum for inland subscribers and R40,00 (±\$6,67) per annum for foreign subscribers. The address from where you can order this bulletin is as follows:

Government Printing Works
Private Bag X85
Pretoria
0001
Tel.: 27-12 – 3345007

- (iii) The evaluation, criteria for the evaluation of tenders must, where possible, form part of the tender documents. This promotes transparency as tenders are informed in advance how their tenders will be evaluated.
- (iv) The National State Tender Board is compiled from representatives from National Government departments, supplier organisations and organised labour. The officials form 70% of the membership, while three members each represent the two remaining parties. According to the comments received, the presence of persons from outside the Government on the tender boards gives credibility to the tendering system.

- (v) When tender committees, under delegated authority, award tenders, the committees are compiled from senior officials who are not directly involved in the evaluation of the relevant tenders.
- (vi) Tender authorities making decisions regarding the award of tenders, must make sound decisions that can be defended in any court of law. The results of tenders awarded by the National State Board are published in the Government Tender Bulletin, while unsuccessful tenderers are informed individually that their offers were not accepted.
- (vii) When requested in writing, reasons are given to all interested parties for the award of any tenders. Reasons for being unsuccessful are also given to individual tenderers if they request so in writing. No information which may be to the detriment of any tendered or which would infringe on his / her privacy, is revealed to any competitor.
- (viii) Accounting' officers have to accept accountability for all expenditures incurred within their various areas of responsibility. Before requesting the advertisement of a tender, the accounting officer must certify that funds are available for the specific purpose. It has happened that the parliamentary committee on public accounts resolved that unauthorised expenditure must be recovered from the relevant official.
- (ix) The Office of the Public Protector is available for any member of the public who is not satisfied with specific tendering procedures / awards. The Public Protector does not charge any fee from any complainant to investigate any irregularities. Furthermore, the court systems are available to all citizens.
- (x) There should be a strict code of conduct for all tender board members.
- (xi) Every person involved in the tendering process must at all time declare interest.
- (xii) When a tenderer / contractor is restricted, dissemination of such information should be forwarded to all tender boards. The tenderer should then be restricted throughout the public sector. When the tenderer contractor is restricted, the directors of that particular company must also be restricted for a similar period.
- (xiii) All allegations of misconduct must be investigated. When justified, the South African Police Service should be involved. Telephone numbers and names of contact persons must be easily accessible for reporting purposes.

Future Development.

At present we do have a diversity of tendering cultures in the public sector. We are working towards uniformity within the whole public sector procurement system. We envisage to have uniformity between central and provincial tendering systems not later than 1 April 2000, while parastatals and local authorities will be brought aboard as soon as possible. Furthermore, public sector procurement will be monitored continuously and the Minister of Finance is empowered to intervene immediately to rectify any abuse of the system.

International trade

How does the above mentioned measures influence international trade? The answer is very simple. The principles that are applicable to our tendering system for internal tenders, are also applicable on international tenders. We do have an additional condition, in cases when a tender requires imported contents in excess of \$10,0 million, the contractor does have to adhere to our industrial participation programme under the auspices of the Department of Trade and Industry. However, measures such as evaluation criteria to be part of the tender documents, reasons for awarding any tender, etc. are still applicable.

Conclusion

The public sector procurement system in South Africa is developed to meet our country's needs. We are in a process of reforming the public sector procurement system. The purpose of this reform is to make the tendering system more easily accessible to the small, medium and micro enterprises and by doing this, to ensure the inclusion of this sector into the main stream economy of our country. The purpose is not to prohibit large established companies from tendering, but to ensure a fair division of available finances and the creation of job opportunities by the public as well as the private sector. However, it is evident that we do have a sound and fair system and that we are striving to ensure that there is no room for any form of corruption. An environment free of corruption should be the ideal way of living for all citizens in Africa and in the rest of the world.