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## GOVERNMENT NOTICE GOEWERMENSKENNISGEWING

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### DEPARTMENT OF PUBLIC SERVICE AND ADMINISTRATION DEPARTEMENT VAN STAATSDIENS EN ADMINISTRASIE

No. R. 904

23 September 2005

### STATE INFORMATION TECHNOLOGY AGENCY ACT, 1998:

#### GENERAL REGULATIONS

The Minister for the Public Service and Administration has, under section 23 of the State Information Technology Agency Act, 1998 (Act No. 88 of 1998), as amended, after consultation with all executing authorities and, where required, with the approval of the Ministers of Finance and Intelligence, made the regulations in the Schedule.

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## PART 1 INTERPRETATION

### 1. DEFINITIONS

In these Regulations any word or expression to which a meaning has been assigned in the State Information Technology Agency Act, 1998 (Act No. 88 of 1998), as amended, bears that meaning<sup>1</sup> and, unless the context otherwise indicates—

**“accounting authority”**, in relation to a department or public body, means the relevant person or body having financial accountability in accordance with the relevant legislation;

**“bid”** means a written offer for a contract in a prescribed or stipulated form submitted in response to an invitation for the provision of services or goods;

**“business agreement”** means a business agreement contemplated in section 20(1) of the Act;

**“business case”** means a plan to evaluate the benefits that will or are envisaged to result from the acquisition of the relevant information technology<sup>2</sup> goods or services;

**“designated department”** means a department which is the designated department in terms of regulation 7.3.1;

**“designated official”**, in relation to a designated department or a designated public body, means the official designated in terms of regulation 7.3.4;

**“designated public body”** means a public body which is the designated public body in terms of regulation 7.3.1;

**“GITO Council”** means the Government Information Technology Officer Council, the establishment of which was approved by the Cabinet on 4 August 2000 to serve as the recommending and advisory body to the Minister in matters relating to effective and efficient information technology and information management in the public service;

**“mandatory service”** means any goods or service envisaged in section 7(1)(a) of the Act;

**“optional service”** means any goods or service envisaged in section 7(1)(b) of the Act;

**“Preferential Procurement Policy Framework Act”** means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);

**“Public Finance Management Act”** means the Public Finance Management Act, 1999 (Act No. 1 of 1999);

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<sup>1</sup> The first time a word or expression defined in the Act is used in these Regulations, the definition in the Act is included in a footnote.

<sup>2</sup> The term “information technology” is defined in section 1 of the Act as “all aspects of technology which are used to manage and support the efficient gathering, processing, storing and dissemination of information as a strategic resource”.

**“service level agreement”** means a service level agreement referred to in section 20(2) of the Act;

**“standard certification”** means certification in terms of section 7(6)(b) of the Act for compliance with the standards set by the Agency in terms of section 7(6)(a) of the Act;

**“the Act”** means the State Information Technology Agency Act, 1998 (Act No. 88 of 1998), as amended by the State Information Technology Agency Amendment Act, 2002 (Act No. 38 of 2002);

**“transversal term contract”** means a contract with one or more suppliers for the supply of information technology goods or services over a period, required by more than one department or public body according to approved user requirement specifications, with overall pricing of goods being firm, unless otherwise provided for in the contract;

**“value proposal”** means a forecast of the cost of the information technology goods or services for the department or public body for the following 36 months based on the current position taking cognisance of the current rates and possible increases in rates and a description of other qualitative and quantitative benefits of the goods or services in question.

## 2. FOOTNOTES

The footnotes do not form part of these Regulations, but may be used as guidelines when applying these Regulations.

## 3. DATE OF COMMENCEMENT

These Regulations take effect on 3 October 2005.

**PART 2**  
**FUNCTIONS OF AGENCY, BUSINESS AGREEMENT AND DISPUTE**  
**RESOLUTION**

**4. FUNCTIONS OF AGENCY**

**4.1 MANDATORY SERVICES<sup>1</sup>**

**4.1.1 The Agency must—**

- (a) after consultation with all relevant stakeholders, develop a strategy regarding the convergence of information systems<sup>2</sup> and other systems for departments, and may do so for public bodies; and
- (b) at all times demonstrate the value added by a private telecommunication network<sup>3</sup> or value-added network service<sup>4</sup> provided by the Agency in terms of section 7(1)(a)(i) of the Act.

**4.1.2 The Agency must—**

- (a) after consultation with the GITO Council and with the approval of the Minister, prepare a comprehensive disaster recovery strategy and business continuity plan and procedures for mandatory services used by departments;
- (b) ensure that the plan take due cognisance of the business and enterprise architecture of departments and complies with legislation regarding archiving and security and any other relevant legislation;
- (c) test the plan and procedures, at such intervals as the Minister determines from time to time and timeously inform departments of defects, problems and risks;

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<sup>1</sup> See section 7(1)(a) of the Act which provides that the Agency must on request of a department in terms of section 7(4) or may on the request of a public body in terms of section 7(5) provide systems and services listed in section 7(1)(a)(i) to (iii).

<sup>2</sup> The term "information systems" is defined in section 1 of the Act as "applications and systems to support the business whilst utilising information technology as an enabler or tool".

<sup>3</sup> The term is defined in the Telecommunications Act, 1996 (Act No. 103 of 1996) as "a telecommunication system provided by a person for purposes principally or integrally related to the operations of that person and which is installed onto two or more separate, non-contiguous premises and where the switching systems (nodes) of at least two of these premises are interconnected to the public switched telecommunication network as contemplated in section 41" of that Act.

<sup>4</sup> The term is defined in the Telecommunications Act, 1996, as "a telecommunication service provided by a person over a telecommunication facility, which facility has been obtained by that person in accordance with the provisions of section 40(2) of the [Telecommunications] Act, to one or more customers of that person concurrently, during which value is added for the benefit of the customers, which may consist of—

- (a) any kind of technological intervention that would act on the content, format or protocol or similar aspects of the signals transmitted or received by the customer in order to provide those customers with additional, different or restructured information;
- (b) the provision of authorised access to, and interaction with, processes for storing and retrieval of text and data;
- (c) managed data network services".

- (d) submit the results of the test contemplated in paragraph (c) to the Minister within 30 days of receipt thereof and the GITO Council for information;
- (e) review the plan and procedures and, after consultation with the GITO Council and with the approval of the Minister, amend the plan or procedures as may be required from time to time; and
- (f) recover the costs related to the plan and procedures according to the rates determined in terms of section 16(2) of the Act.

#### **4.2 SETTING OF STANDARDS<sup>5</sup>**

4.2.1 Before setting or amending standards regarding the interoperability of information systems between departments and a comprehensive information systems security<sup>6</sup> environment for departments in terms of section 7(6)(a) of the Act, the Agency must—

- (a) consult with departments and the GITO Council in order to assess the status of implemented systems and the proposed requirements;
- (b) conduct an implementation impact analysis and develop a business case demonstrating the cost-effectiveness of such standards; and
- (c) give due consideration to all representations received from departments and the GITO Council before submitting proposed standards, or an amendment thereof, to the Minister and the Minister of Intelligence for approval as required by section 7(6)(a)(i) and (ii) of the Act.

4.2.2 The Agency must set the standards, contemplated in section 7(6)(a) of the Act, not later than a date determined by the Minister.

4.2.3 The standards set in terms of section 7(6)(a) of the Act must be made available to all heads of departments and on the Agency's web site.

#### **4.3 CERTIFICATION OF INFORMATION TECHNOLOGY GOODS AND SERVICES<sup>7</sup>**

4.3.1 The Agency must, within a period determined by the Minister, conduct standard certification in respect of all information technology goods or services, which were acquired by departments before the commencement of these Regulations.

4.3.2 The Agency must conduct the standard certification, referred to in regulation 4.3.1, according to a plan, including the time frames, approved by the designated official.

4.3.3 The Agency must conduct standard certification of information technology goods or services -

- (a) acquired on or after the commencement of these Regulations by a department from the Agency in terms of section 7(4)(a)(i) or (b)(i) of the Act before conclusion of the relevant service level agreement; and

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<sup>5</sup> See section 7(6)(a) of the Act.

<sup>6</sup> The term "information systems security" is defined in section 1 of the Act as "to preserve the availability, integrity and confidentiality of information systems and information according to affordable security practices".

<sup>7</sup> See section 7(6)(b) of the Act.

- (b) procured on or after commencement of these Regulations by a department through the Agency in terms of section 7(4)(a)(ii) or (b)(ii) in accordance with the applicable provisions of Part 3 of these Regulations.

#### **4.4 RESEARCH<sup>8</sup>**

##### **4.4.1 The Agency must-**

- (a) include in its business plan for the next financial year the priorities and rationale for research planned to be carried out in terms of section 7(6)(d) of the Act; and
- (b) submit the plan to the Minister and the GITO Council for information.

##### **4.4.2 For purposes of research envisaged in section 7(6)(d) of the Act, the Agency must annually submit to the Minister and the GITO Council for information a report on—**

- (a) all research activities carried out in the previous year; and
- (b) in respect of each research activity-
  - (i) its objectives;
  - (ii) the resources utilised;
  - (iii) the expenditure incurred; and
  - (iv) the value added to any one or more department or public body or Government as a whole and the innovations arising there from, and the strategic impact thereof.

##### **4.4.3 Before undertaking research envisaged in section 7(6)(d) of the Act that would be directly relevant to the area of responsibility of a department or public body, the Agency must consult with that department or public body.**

##### **4.4.4 The Agency must endeavour not to duplicate completed or pending research regarding information technology conducted by, or on behalf of, departments and public bodies.**

#### **4.5 AUTHENTICATION PRODUCTS OR SERVICES<sup>9</sup>**

If the Agency decides not to provide authentication products or services as envisaged in section 7(7) of the Act and more than one preferred authentication service provider are available, the Agency must identify one of such providers by means of a competitive bidding process in accordance with its procurement policy and procedures.

#### **4.6 DUPLICATION<sup>10</sup>**

The Agency must compile and maintain an up-to-date inventory of all information systems of departments to serve as basis for determining duplication of information systems.

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<sup>8</sup> See section 7(1)(b)(v) and (6)(d) of the Act.

<sup>9</sup> See section 7(6)(c) and (7) of the Act. If necessary, any further regulations pertaining to selling or provisioning authentication products and services for departments will be incorporated prior to such products and services being required.

<sup>10</sup> See section 7(8)(a) of the Act.



## **5. BUSINESS AGREEMENT<sup>11</sup>**

### **5.1 GENERAL**

- 5.1.1 All departments in a province may enter into a single business agreement with the Agency, provided that it is co-signed by the head of every such department or an employee duly authorised by such head.
- 5.1.2 A department or public body may include terms additional to, but not contradictory with, the mandatory clauses of the business agreement, referred to in regulation 5.2, to provide for its specific requirements.
- 5.1.3 All services that a department or a public body acquires from the Agency must be listed in an appendix to the business agreement.

### **5.2 MANDATORY CLAUSES OF BUSINESS AGREEMENT<sup>12</sup>**

A business agreement must provide—

- (a) that, before the conclusion of any service level agreement, the Agency must submit to the department or public body in respect of every service, a value proposal containing—
  - (i) a detailed service specification for the department or public body to use for assessing value for money;
  - (ii) the current cost of rendering the service; and
  - (iii) a forecast of what the service will cost for such period as the parties agree, but not less than 36 months (if applicable);
- (b) that the cost for the physical relocation of assets transferred to the Agency is for the account of the Agency;
- (c) that any change to the Act or any other legislation that may materially affect the business agreement entitles any party to the agreement to request the re-negotiation thereof;
- (d) for the generic detail that is required on each invoice, the supplementary information to be submitted with each invoice and the period for submitting invoices;
- (e) that, if a department or public body disputes the correctness of the invoices, the Agency must prove the correctness of the invoice;
- (f) for the due date for payment and that a department or public body may not withhold payment for particular mandatory or optional service if in disagreement with the Agency on any issue not related to the particular service;
- (g) that, if a department or public body is not satisfied with a service provided by the Agency, the department or public body may refer the matter for dispute resolution as contemplated in paragraph (j);
- (h) that the supporting service level agreement must—
  - (i) contain the metrics applicable to the particular service;
  - (ii) contain as an appendix a detailed user requirement specification of the relevant mandatory or optional service,

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<sup>11</sup> See section 20 of the Act.

<sup>12</sup> See section 20(1)(c), read with section 23(1)(b)(i), of the Act.

- compiled in conjunction with the department or public body, to benchmark the value added by the Agency;
- (iii) specify the areas targeted for cost reduction and for service improvement for the specific year under consideration and, in respect of the areas so targeted, contain milestones related to the achievement of the targets;
  - (iv) contain information technology service management best practices;<sup>13</sup>
  - (v) be aligned with the disaster recovery strategy and business continuity plan and procedures, referred to in regulation 4.1.2;
  - (vi) be annually reviewed;
  - (i) for the kind of breaches that will entitle the Agency or the department or public body to terminate the business and associated service level agreement and the procedure for such termination;
  - (j) for the dispute resolution procedure as set out in regulation 6.

## **6. DISPUTE RESOLUTION<sup>14</sup> AND NON-COMPLIANCE WITH REGULATIONS**

### **6.1 DISPUTES**

- 6.1.1 A department and the Agency must make every reasonable effort to settle a dispute between them amicably through conciliation and negotiation within 30 days after the aggrieved party gave written notice to the other party.
- 6.1.2 If a dispute cannot be so settled or the subject-matter of the dispute necessitates settlement before the end of the 30 day-period referred to in regulation 6.1.1, either party to the dispute may refer the matter to the Minister for mediation.
- 6.1.3 If mediation fails, either party may refer the dispute for arbitration to the office of the State Attorney, which is located closest to the department's head office.
- 6.1.4 The State Attorney must act as arbitrator and his or her decision will be final and binding on the parties.

### **6.2 NON-COMPLIANCE WITH REGULATIONS**

- 6.2.1 Any department, public body, the Agency or any other interested person may report any alleged non-compliance with any provision of these Regulations to the Minister or an official of the Department of Public Service and Administration designated by the Minister for this purpose.
- 6.2.2 The Minister must take steps to ensure-
  - (a) the investigation of the alleged non-compliance; and

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<sup>13</sup> See for example Information Technology International Library (ITIL) and British Standard (BS) 15000.

<sup>14</sup> See section 23(1)(b)(iii) and (2)(d) of the Act.

- (b) if he or she is of the opinion that such non-compliance occurred, that it be remedied (if possible) and reported to the relevant authorities.

### **PART 3**

#### **PROCUREMENT<sup>1</sup>**

## **7. GENERAL PROCUREMENT REQUIREMENTS**

### **7.1 OBJECTIVES OF PROCUREMENT**

The procurement of information technology goods and services through the Agency in terms of section 7 of the Act must serve specifically as a medium for departments and public bodies to—

- (a) leverage economies of scale to provide cost effective procurement by using the collective purchasing power of departments and public bodies which so choose;
- (b) ensure that all procurement results in value-for-money, including, if economically feasible, paying for usage only;
- (c) ensure security and interoperability of information systems of departments;
- (d) promote the South African information technology industry, with a particular emphasis on broad-based black economic empowerment, as defined in section 1 of the Broad-based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003); and
- (e) stimulate competitive bidding.

### **7.2 OTHER APPLICABLE LEGISLATION**

7.2.1 When carrying out its procurement function as provided for in section 7(3), (4)(a)(ii) and (b)(ii) and (5)(b) of the Act,<sup>2</sup> the Agency must comply with—

- (a) section 217 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);
- (b) the Public Finance Management Act;
- (c) the Preferential Procurement Policy Framework Act;
- (d) these Regulations; and
- (e) any other law.

7.2.2 When procuring electronic communications products, as envisaged in the Electronics Communications Security (Pty) Ltd Act, 2002 (Act No. 68 of 2002), section 17 of that Act must be complied with.

### **7.3 DESIGNATED DEPARTMENTS AND PUBLIC BODIES AND DESIGNATED OFFICIALS**

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<sup>1</sup> See sections 7(3) to (8) and 23(1) and (2) of the Act.

<sup>2</sup> Procurement through the Agency as provided for in section 7(4)(a)(ii) and (b)(ii) of the Act, is construed to mean that the Agency must procure on behalf of departments. The Agency is not the supplier of the required information technology goods or services, but merely act as the procurement agency (procurement administration) between the department and suppliers. When a department procures through the Agency, existing contracts pertaining to the goods or services to be procured, are not be assigned to the Agency. (See section 19(2A) and (3A) of the Act which only deals with the transfer of assets and assignment of contracts, rights and obligations in respect of assets where a mandatory or optional service is acquired from the Agency directly and not procured through it.)

- 7.3.1 For purposes of the procurement of information technology goods and services through the Agency by a department or public body-
- (a) in the case of a mandatory service-
    - (i) falling under a line function responsibility of a department, that department is the designated department;
    - (ii) not so falling under a line function responsibility of a department and intended for use by-
      - (aa) more than one department or public body, the Minister must select a department or public body as the designated department or public body, as the case may be; and
      - (bb) one department or public body only, that department or public body is the designated department or public body;
  - (b) in the case of a transversal term contract, referred to in regulation 10, the designated department is the Department of Public Service and Administration or such other department as the Minister selects;<sup>3</sup>
  - (c) in the case of an optional service (other than any goods or services which are the subject matter of a transversal term contract, referred to in regulation 10 or a list of prospective suppliers on quotation, referred to in regulation 11)-
    - (i) for more than one department or more than one public body, the Minister must select a department or public body as the designated department or public body, as the case may be;
    - (ii) for one department or public body only, that department or public body is the designated department or public body;
  - (d) in the case of a mandatory service or optional service (other than the goods or service which are the subject matter of a transversal term contract, referred to in regulation 10 or a list of prospective suppliers on quotation, referred to in regulation 11) for both one or more department and one or more public body, the Minister must select one such department as the designated department.
- 7.3.2 The Minister may delegate any power conferred on the Minister by regulation 7.3.1 to an official of the Department of Public Service and Administration on such conditions as the Minister considers necessary.
- 7.3.3 If doubt exists as to whether a particular mandatory service is a line function responsibility of a particular department or which department has such responsibility (if any), the Minister must, in consultation with the Minister of Finance for purposes of regulation 7.3.1(a)(i) only, issue a directive.

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<sup>3</sup> For example the Department of Public Service and Administration will be the designated department for all transversal term contracts regarding general requirements, e.g. computers, etc. In the case of a transversal term contract specific to the functions of a particular department, that department should be selected as the designated department.

- 7.3.4 The accounting authority of a department or public body which is a designated department or public body by virtue of regulation 7.3.1 must, from time to time, designate an official of that department or public body to act as the designated official of the department or public body for a particular case or category of cases or all cases.

**7.4 REPORTING TO MINISTER OF FINANCE**

- 7.4.1 The Agency must report to the Minister of Finance, or an official designated by him or her, on the following supplier performance criteria (if applicable) in respect of all contracts for information technology services and goods for departments concluded with suppliers pursuant to section 7 of the Act:
- (a) Broad-based black economic empowerment, as defined in section 1 of the Broad-based Black Economic Empowerment Act, 2003;
  - (b) quality;
  - (c) pricing;
  - (d) support;
  - (e) delivery; and
  - (f) such other criteria as that Minister may determine.
- 7.4.2 The Minister of Finance, or an official authorised by him or her, shall determine the intervals at which such reporting must take place.
- 7.4.3 Where a department manages a contract, referred to in regulation 7.4.1, it must supply the required information to the Agency.

**8. MANNER OF PROCUREMENT <sup>4</sup>**

**8.1 PREPARATION FOR SOLICITING BIDS**

- 8.1.1 The designated department or public body must-
- (a) determine the need to procure information technology goods or services; and
  - (b) compile a business case<sup>5</sup> and the user requirements specifications for the need.
- 8.1.2 If so requested by the designated official, the Agency must, at the cost of the department or public body in question, advise on the preparation of the business case or user requirement specifications or both.
- 8.1.3 For purposes of the procurement for departments, the designated department must establish a committee constituted of the accounting authorities of all relevant departments, or their authorised representatives-
- (a) to make proposals regarding the business case and user requirement specifications and to approve such case and specifications; and

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<sup>4</sup> See section 23(1)(a), read with section 7(3), (4)(a)(ii) and (5)(b) of the Act.

<sup>5</sup> See regulation 14.3 regarding the inclusion of the available funding for the acquisition.

- (b) to authorise the accounting authority of the designated department to award the bid on their behalf.
- 8.1.4 The designated department or public body must submit the business case and the user requirement specifications to the Agency for evaluation of completeness and correctness regarding the technical and procurement requirements.
- 8.1.5 For purposes of advertising, the Agency must compile the bid documentation consisting of-
  - (a) the evaluation criteria for the bid in accordance with the Preferential Procurement Policy Framework Act, including, but not limited to, specific goals for-
    - (i) black economic empowerment; and
    - (ii) procuring from suppliers situated in the specific province where the goods or services are required;
  - (b) tax clearance certificate requirements;
  - (c) if the value of the envisaged contract exceeds R10 million, a National Industrial Participation Programme certificate issued by the Department of Trade and Industry;
  - (d) in respect of departments, a condition that all informational technology goods and services offered must meet the standards set in terms of section 7(6)(a) of the Act and where the standards can be accessed.
- 8.1.6 When determining specific goals in terms of regulation 8.1.5(a) in respect of a province, the Agency must consult the Director-General: Office of the Premier of that province.
- 8.1.7 Before the bid is advertised-
  - (a) the designated department or public body must approve the final bid documentation; and
  - (b) the Agency must compile a value proposal on the cost for the designated department or public body in respect of advertising and evaluation of the bid.

## **8.2 PROCUREMENT SCHEDULE**

- 8.2.1 Within 10 working days after receipt of the business case from the designated department or public body for a bid in terms of regulation 8.1.4, the Agency must submit to the designated official for approval-
  - (a) a procurement schedule for the execution of the request for a bid;
  - (b) a detailed costing for the subsequent contract management, if required.
- 8.2.2 The Agency must comply with the approved procurement schedule.
- 8.2.3 The Agency must immediately notify the designated official of the designated department or public body in writing if at any time it is unable to comply with the approved procurement schedule and the reasons for such inability.<sup>6</sup>

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<sup>6</sup> Also see regulation 17.2.1(b).

**8.3 ADVERTISEMENT OF BIDS**

- 8.3.1 The Agency must arrange for the advertising of all invitation for bids in the Government Tender Bulletin, the Agency's website and all other media considered appropriate to solicit the desirable number of bids.
- 8.3.2 The Agency must also advertise in the relevant province a bid for information technology goods or services required by—
- (a) a province or one or more provincial departments; or
  - (b) a national department for use in a province.

**8.4 CLOSING OF BIDS**

- 8.4.1 The bids must close at such office as the Agency may determine.
- 8.4.2 The Agency must ensure that—
- (a) all bids are opened in public; and
  - (b) the names of all bidders and, if possible, the total bid prices, are declared in public.

**8.5 DUTIES OF DESIGNATED OFFICIAL**

Subject to applicable legislation, the designated official of a designated department or public body must—

- (a) prepare and obtain the approval of the relevant authority in the department or public body for the business case and user requirement specification;
- (b) determine the appropriate evaluation criteria and the weightings to be applied during evaluation;
- (c) obtain the appointment of officials to participate in the evaluation of bids with due regard to the requirements of the relevant department or public body;
- (d) if so requested, advise the accounting authority of the designated department or public body on the final award of a bid upon receipt of the recommendation of the Recommendation Committee, referred to in regulation 14;
- (e) obtain acceptance of information systems for implementation and operation according to the approved acceptance test plans;
- (f) obtain the required approval for additions or modifications to contracts concluded on or after the commencement of these Regulations, including extensions of such contracts;
- (g) obtain the required approval for maintenance requests;<sup>7</sup>
- (h) compile a budget for the requested information technology goods or service and the maintenance thereof (if applicable); and
- (i) perform such other functions as are provided for in these Regulations.

**8.6 DISPUTE RESOLUTION CLAUSES IN CONTRACTS**

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<sup>7</sup> The maintenance requests can be for adaptive, perfective or corrective maintenance.



Each contract concluded with one or more suppliers in respect of any services or goods to be procured through the Agency must provide for the resolution of any disputes between a department or public body and a supplier in connection with or arising out of the contract, irrespective of whether the department or public body is a party to that contract.

**9. MANDATORY SERVICES**

- 9.1 Before the advertising of a bid for a mandatory service for one or more department, the designated department must, subject to regulation 8.1.3-
- (a) after consultation with the GITO Council, approve the business case and user requirement specifications; and
  - (b) approve the final bid documentation.
- 9.2 For the purposes of regulation 9.1, the Agency must propose solutions based on the business case and user requirement specification.
- 9.3 Any such proposed solutions must—
- (a) be complete and integrated;
  - (b) cover the complete life cycle of the solution in technical and financial terms inclusive of all acquisition, implementation, operation and support costs; and
  - (c) demonstrate conformance to the business case and user requirement specification.
- 9.4 The Agency must conduct standard certification for a mandatory service for one or more department before the accounting authority of the designated department awards the bid, or if not possible, before the implementation of the mandatory service.
- 9.5 Upon awarding a bid for a mandatory service for one or more department or public body by the accounting authority of the designated department or public body, the Agency must, after consultation with the GITO Council, conclude the necessary contracts with the successful bidder or bidders.
- 9.6 The designated official of the designated department or public body must, on behalf of the department or public body, conduct such acceptance testing of the mandatory service as it considers appropriate before solution acceptance, implementation and payment of any contractual fees.

**10. TRANSVERSAL TERM CONTRACTS FOR GOODS AND SERVICES**

- 10.1 The Agency must, in the best interest of the State and timeously, ensure the procurement of information technology goods or services for the repetitive requirements of departments through the conclusion of appropriate transversal term contracts by means of a competitive bidding process.

- 10.2 Either the Agency or a department may submit to the Minister, or an official authorised by him or her, a need for the procurement of information technology goods or services for the repetitive requirements of departments. If the Minister, or an official authorised by him or her, approves the need for such goods or services, the department envisaged in regulation 7.3.1(b) will be the designated department.
- 10.3 Before the advertising of a bid for information technology goods or services for the repetitive requirements of departments, the designated department must, subject to regulation 8.1.3-
- (a) after consultation with the GITO Council, approve the business case and user requirement specifications; and
  - (b) approve the final bid documentation.
- 10.4 Before awarding a bid for a transversal term contract for departments, the Agency must conduct standard certification in respect of the relevant goods or services.
- 10.5 Upon the awarding of the relevant bid by the designated department, the Agency must, after consultation with the GITO Council, conclude the necessary transversal term contracts with the successful bidder or bidders.
- 10.6 The transversal term contract, referred to in this regulation, may be in the form of-
- (a) a transversal framing term contract which provides for the supply of information technology goods or services or both by means of quotes;<sup>8</sup>
  - (b) a transversal services' term contract which provides for the supply of information technology services at the contracted prices; or
  - (c) a transversal goods' term contract which provides for the supply of information technology goods at the contracted prices.
- 10.7 A transversal framing term contract, transversal services' term contract or transversal goods' term contract may be-
- (a) a multiple suppliers' contract which provides for a choice of the relevant goods or services or both from more than one supplier; or
  - (b) a single supplier contract which provides for a choice of the relevant goods or services or both from a single supplier.
- 10.8 During the validity of a transversal term contract-
- (a) a department or public body may not request a bid for the goods or services that are the subject matter of that contract;
  - (b) a department may procure such goods or services only from the relevant supplier or suppliers under that contract; and

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<sup>8</sup> Based on the user requirement specification a department can procure a product with the accompanying services to operationalise the product e.g. where a department may solicit quotations from a number of suppliers of record management software but the quote will be dependent on the number of licences required, the customisation required to meet the needs of the department, the training to be provided to the department and the continued support to the department after acceptance and the regular update of the software.

- (c) a public body may, if it decides to procure such goods or services through the Agency, procure them only from the relevant supplier or suppliers under that contract.
- 10.9 The Agency must designate a person or unit of the Agency to be the single point of contractual and technical responsibility for each transversal term contract.
- 10.10 The following applies to procurement from a transversal framing term contract:
  - (a) The Agency must make available a value proposal for the transversal framing term contract to every prospective department or public body;
  - (b) a department or public body may engage directly with prospective suppliers based on a user requirement specification approved by the relevant department or public body;
  - (c) suppliers must submit quotes based on the user requirement specification;
  - (d) the department or public body selects the specific supplier;
  - (e) the department or public body directly places the order with the selected supplier and furnish a copy of the order to the relevant contract manager of the Agency;
  - (f) the department or public body must make payment in respect of the order directly to the supplier; and
  - (g) if the transversal framing term contract requires a specific formal agreement, such agreement must be concluded between the department or public body and the supplier. The department or public body may request the Agency to assist with the management of such agreement.
- 10.11 The following applies to procurement from a transversal services' term contract or a transversal goods' term contract:
  - (a) The Agency must make available a value proposal for the transversal goods' or services' term contract to every prospective department or public body;
  - (b) a department or public body must place an order directly with the supplier and furnish a copy of the order to the relevant contract manager of the Agency; and
  - (c) the department or public body must make payment in respect of the order directly to the supplier.
- 10.12 The Agency must maintain a database on its website of all the existing transversal term contracts, which must include at least the following:
  - (a) The contract number;
  - (b) the contract title and a short description;
  - (c) the suppliers;
  - (d) the names and contact details of the contract managers of the suppliers;
  - (e) the price lists of goods and services, if applicable, and the last date when updated; and

- (f) the names and contact details of the Agency's contract manager for the transversal term contract.
- 10.13 When any change to the information referred to in regulation 10.12 occurs, the Agency must immediately update its website.
- 11. PROCUREMENT ON QUOTATION BASIS**
- 11.1 The Agency must compile and maintain a list of prospective suppliers on quotation on its website, from which information technology goods or services may be procured directly from the list of suppliers by a department or public body by means of quotations only.
- 11.2 For purposes of compiling the list of prospective suppliers on quotation, the Agency must advertise an invitation to prospective suppliers to apply for evaluation and listing as a potential supplier in the Government Tender Bulletin, the Agency's website and, if considered necessary, in other appropriate media.
- 11.3 Before finalising the list of prospective suppliers on quotation available for departments, the Agency must conduct standard certification in respect of the goods or services in question.
- 11.4 The Agency must make all reasonable efforts to include on the list of prospective suppliers on quotation —
- (a) small businesses, as defined in section 1 of the National Small Business Act, 1996 (Act No. 102 of 1996); and
  - (b) businesses located in all provinces.
- 11.5 The Minister of Finance, or an official authorised by him or her, must, from time to time, determine the maximum amount for which a department may place an order for information technology goods or services from the list of prospective suppliers on quotation.
- 11.6 When a department or public body requests information technology goods or services obtainable from the list of prospective suppliers on quotation, the following applies:
- (a) A department or public body must obtain at least three quotations per purchase on a rotation basis depending on the number of suppliers on the list and the frequency of purchases;
  - (b) if it is not practicable to obtain three quotations or to select suppliers on a rotational basis, the reason for the deviation must be approved by the relevant accounting authority of the department or public body and recorded for auditing purposes;
  - (c) if none of the suppliers on the list is able to provide the goods or services on the list, the department or public body may obtain such goods and services from other suppliers and must inform the Agency accordingly; and
  - (d) a department may only place orders with suppliers on the list, or other suppliers in terms of regulation 11.6(c), in accordance with the maximum amount determined in terms of regulation 11.5.
- 11.7 The Agency must update the list of prospective suppliers on quotation at least on a quarterly basis.