



GOVERNMENT GAZETTE

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CONTENTS

Page

GOVERNMENT NOTICE

No. 140 Amendment of Tender Board Regulations: Tender Board of Namibia Act, 1996 1

Government Notice

MINISTRY OF FINANCE

No. 140

2013

AMENDMENT OF TENDER BOARD REGULATIONS: TENDER BOARD OF NAMIBIA ACT, 1996

Under section 20 of the Tender Board Act, 1996 (Act No. 16 of 1996), I amend the regulations as set out in the Schedule.

S. KUUGONGELWA-AMADHILA
MINISTER OF FINANCE

Windhoek, 19 April 2013

SCHEDULE

Definitions

1. In these regulations “the Regulations” means the Tender Board Regulations published under Government Notice No. 237 of 12 September 1996.

Amendment of regulation 1 of the Regulations

2. Regulation 1 of the Regulations is amended as follows:

(a) by the substitution for the definition “bona fide Namibian dealer or merchant” of the following definition:

“*bona fide* Namibian dealer or merchant” means any person who -

- (a) is the holder of a general dealer’s licence;
- (b) is the holder of a wholesaler’s licence;
- (c) is a company incorporated in Namibia in terms of the Companies Act, 1973 (Act No. 61 of 1973);
- (d) is a close corporation registered in Namibia in terms of the Close Corporation Act, 1988 (Act No. 26 of 1988),

and is a registered tax payer with the department of Inland Revenue;”.

(b) by the substitution for the definition of “company” of the following definition:

““company” means an association or body corporate or unincorporated, or a close corporation, or partnership or trust, whether created or recognised under a law in Namibia or elsewhere, and whether created for profit or non-profit purposes;”.

(c) by the substitution for the definition of “goods procured or manufactured in Namibia” of the following definition -

“goods procured or manufactured in Namibia” means goods which have a local content of at least 60 percent of the manufacturing costs of the goods, as represented by the materials produced, direct labour performed, and the last process of manufacture of the goods accomplished, in Namibia, provided -

- (a) the last process of manufacture is substantial and sufficient to change the nature of the product and give it new characteristics;
- (b) the final product represents a completely new product or at least an important state in the process of manufacture; and
- (c) each type of article qualifies separately in its own right, but does, in relation to the process of manufacture, not include -
 - (i) any packaging or bottling, or placing in flasks, bags, cases or boxes, or fixing on cards or boards, of goods, or any other simple packaging procedure;
 - (ii) any assembling of goods involving the contraction of an article by putting together finished components which may require slight modifications, such as painting or trimming, before assembling, but excluding gluing, screwing, nailing, sewing and minor welding and riveting procedures, with or without the addition of local parts or components of minor importance such as screws, nuts and bolts;
 - (iii) any simple mixing or blending procedure of imported ingredients which does not result in the manufacture of a different product; and
 - (iv) any procedure to ensure the preservation of goods in good condition during transportation or storage, such as ventilation, spreading out, drying, freezing or placing in brine, sulphur-dioxide or other aqueous solutions, the removal of damaged parts or any cleaning or similar procedure;”.

Amendment of regulation 4 of the Regulations

3. Regulation 4 of the Regulations is amended by inserting after subregulation (5) of the following subregulations:

“(6) The Board may, cancel in part or wholly such an award, if it is satisfied that an award given or about to be given compromises the interest of the State.

(7) In terms of subregulation (6) a cancelled a tender, or a part of it must be readvertised by the Board.”.

Amendment of regulation 6 of the Regulations

4. Regulation 6 of the Regulations is amended by inserting after subregulation (5) of the following subregulations:

“(6) A tenderer and the client ministry may not enter into any correspondence between the period immediately after closing of a tender and the award of a tender by the Board, unless where the Board requests such information as it may determine in terms of section 15(1) of the Act.

(7) Tenders may be specific on particular brands of goods, if so warranted.

Amendment of the Regulations

5. The Regulations are amended by inserting after regulation 9 of the following regulation:

“Local labour and produce

9A. (1) A tenderer may not be allowed to import any labour, goods or services for supply in terms of a government tender except where -

- (a) in the case of a controlled commodity, proof has been provided by the respective controlling authority that local sources have been exhausted; or
- (b) in the case of labour, other goods or services, the tenderer must provide proof to the satisfaction of the board that sourcing locally is not possible or could not be satisfied as requested.

(2) The Board may, if it suspects that information submitted by the tenderer is not accurate, cause further verification or investigations to be conducted with the assistance of any other person or body as the Board may consider appropriate.
