

SPPRA CIRCULAR NO.: 3/2015

ADDRESSED TO: **THE HEAD OF THE TECHNICAL SECRETARIAT, THE
CHAIRMAN OF THE GOVERNMENT TENDER BOARD
AND ALL CONTROLLING OFFICERS AND CHIEF
EXECUTIVE OFFICERS OF PROCURING AND
REQUESTING ENTITIES**

SUBJECT: **NOTICES OF INTENTION TO AWARD CONTRACTS**

EFFECTIVE DATE: **10 JUNE 2015**

STATUTORY REFERENCE: **SECTION 66 AS READ WITH SECTION 45 OF THE
PUBLIC PROCUREMENT ACT, 2011**

1. This SPPRA Circular has been issued in terms of Section 66 as read with Section 45 of the Public Procurement Act, 2011, which provide as follows:

s45 (1) The awarding of contract shall be recommended to the best evaluated tenderer, as determined by the evaluation methodology and criteria specified in the invitation document.

s45 (2) The contract award decision shall be taken by the appropriate approvals authority, but the award decision does not constitute a contract.

s45 (3) Following the contract award decision, the procuring entity shall prepare a notice indicating the name of the best evaluated tenderer, the value of the proposed contract and any evaluation scores. The notice shall be-

- a) *sent directly to all tenderers who submitted tenders by letter and, where appropriate, by fax or email; and,*
- b) *published on the Government's public procurement website.*

s45 (4) A procuring entity shall allow a period of at least ten working days to elapse from the date of despatch and publication of the notice in accordance with subsection (3) before a contract is awarded.

s45 (5) The provisions of subsections (3) and (4) shall not apply –

- a) *where the value of the procurement does not exceed the threshold specified in public procurement regulations (until such time that the Public Procurement Regulations are published the following shall prevail: below E20,000 and E50,000 for goods/services and works, respectively); or,*
- b) *in any other circumstances specified in public procurement regulations.*

2. The Agency has noted that a number of procuring entities are not complying with these provisions of the Act, particularly with the requirement to notify tenderers, publish the notice, and allow ten working days to elapse after the issue of a contract award decision by the approvals authority.
3. Further, the Agency hereby amplifies that, in line with section 45(2) of the Act, stated hereinabove, the award decision does not constitute a contract. Therefore, the notice should be termed a “notice of intention to award a contract” and the attached template (TEMPLATE NO.: SPPRA/2015/02) should be populated fully, as a bare minimum, for its issue.
4. For the purpose of complying with Section 45(3)(b), please be advised that, in the absence of a government website for procurement, the Agency's website will be utilised for the purpose of publication of tenders and notices. The web address is: www.sppra.co.sz.
5. This circular serves as an instruction to all procuring entities and tender boards to ensure that, prior to an award of contract, the above indicated template and procedures as stipulated in the Act are fully and strictly complied with.

B.J. Motsa

EXECUTIVE DIRECTOR

SWAZILAND PUBLIC PROCUREMENT REGULATORY AGENCY

TEMPLATE NO.: SPPRA/2015/02

TEMPLATE FOR USE BY PROCURING ENTITIES, THE TECHNICAL SECRETARIAT,
AND TENDER BOARDS

TENDER NOTICE: INTENTION TO AWARD A CONTRACT

(Also published in terms of section 45(3)(b) of the Public Procurement Act No. 7 of 2011 on the public procurement website: www.sppra.co.sz)

DATE OF FIRST PUBLICATION OF THIS NOTICE	
TENDER NO	
NAME OF TENDER	
APPROVALS AUTHORITY	
PROCURING ENTITY	
REQUESTING ENTITY	

In terms of section 45 of the Public Procurement Act No. 7 of 2011 (the Act), following a competitive bidding process, notice is hereby given that a contract award decision for the above cited tender has been reached by the approvals authority as follows:

DETAILS OF BEST EVALUATED RESPONSIVE TENDERER	
NAME	
NATIONALITY	
PROPOSED CONTRACT PRICE	
TOTAL EVALUATION SCORE	

It must be noted that, in terms of section 45(2) of the Act, the above contract award decision does not constitute a contract.

Further, in terms of section 45(4), 46, and 47 of the Act, all tenderers who submitted bids are hereby notified that a period of ten (10) working days is hereby allowed for submission of any application for review from the above stated date of first publication of this notice.

DETAILS OF ALL OTHER EVALUATED RESPONSIVE TENDERERS				
NAME	NATIONALITY	BID PRICE AS READ OUT	EVALUATED PRICE	TOTAL EVALUATION SCORE

SECRETARY TO THE TENDER BOARD