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PROCLAMATION NOTICE 261 OF 2025

REGULATION IN TERMS OF SECTION 23 OF THE STATE INFORMATION TECHNOLOGY AGENCY ACT, 1998, AS AMENDED

I, Solly Malatsi, the Minister of Communications and Digital Technologies, hereby, after consultation with the relevant stakeholders and the Minister of Finance, insert the following in the General Regulations published under section 23 of the State Information Technology Act, 1998, as amended:

17.8 EFFICIENCY OF PROCUREMENT

17.8.1 If a designated department having complied with regulation 8.1.1, is of the opinion that –

(a) the Agency will not be able to satisfy the department's requirements; or

(b) the department, in accordance with –

(i) the Public Finance Management Act and its regulations and instructions, and the Preferential Procurement Policy Framework Act and its regulations; or

(ii) on commencement of the Public Procurement Act, 2024 (Act No. 28 of 2024), that Act and its regulations and instructions,

(herein called "the general procurement prescripts"), will be able to do so faster or at a lower cost, the department may give written notice to the Agency.

The notice must set out the business case and the user requirement specifications, and the period within which the department requires the information technology goods or services.

17.8.2 Following the receipt of a notice to the Agency in terms of regulation 17.8.1 –

(a) the Agency must respond to the department within 10 working days indicating whether it has the capacity to procure the information technology goods or services required by the department within the period specified by the department, and if so the procurement schedule and the costing, envisaged in regulation 8.2.1;

(b) if the Agency –

(i) does not respond within 10 working days referred to in paragraph (a); or

(ii) responds to indicate that it is unable to meet the department's requirements within the period specified by the department; or

(iii) responds that it is able to procure the information technology goods or services required by the department within the period specified by the department and provides the procurement schedule for doing so and cost, but the department, is of the opinion that it can nonetheless procure the required information technology goods or services in accordance with the general procurement prescripts faster, or at a lower cost,

the department may proceed to procure the required information technology goods or services in accordance with the general procurement prescripts, after notifying the Agency and the relevant treasury of its decision.

17.8.3 When a department acquires goods or services in terms of regulation 17.8.2 the department must comply with any applicable standards set by the Agency in terms of section 7(6)(a) of the Act and are in force at that time.

17.8.4 If the department receives a notice from the Agency in terms of regulation 17.8.2 that the Agency is able to procure the information technology goods or services required by the department within the period specified by the department and provides the procurement schedule for doing so, and the department does not elect to procure the required information technology goods or services in accordance with the general procurement prescripts, then if the department wishes the Agency to effect the procurement the department must notify the Agency to proceed with the procurement through the Agency, in terms of the applicable provisions of these Regulations.

Regulation 17.8 will take effect from 1 June 2025.

MR S MALATSI

MINISTER OF COMMUNICATIONS AND DIGITAL TECHNOLOGIES

DATE: 20 May 2025

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