



PPADB CIRCULAR NO. 7 OF 2021
(Made in terms of Section 28 of the PPADB Act)

REF: PPADB 3/1/1/1 I

13th August 2021

The Permanent Secretary to The President
All Permanent Secretaries
Director, Public Service Management
The Commander, Botswana Defence Force
The Commissioner, Botswana Police Service
Attorney General
Auditor General
The Governor, Bank of Botswana
The Registrar of The High Court of Botswana
The President, Industrial Court
The Director General, Directorate on Intelligence and Security
The Director General, National Strategy Office
The Director General, Directorate on Corruption and Economic Crime
The Ombudsman
Clerk of The National Assembly
The Secretary, Independent Electoral Commission
All District Commissioners
All Chairpersons, Ministerial Tender Committees
All Chairpersons, District Administration Tender Committees
All Chief Executive Offices, Parastatals
All Chairpersons, Land Boards
All Local Authorities

RE: SUSPENSION OF THE FOLLOWING CONTRACTORS, THEIR DIRECTORS, SHAREHOLDERS AND SENIOR OFFICERS HOLDING KEY OPERATIONAL POSITIONS FROM PUBLIC PROCUREMENT AND ASSET DISPOSAL:

Rev. No: 00

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a. SUNSTABLE BUILDERS (PTY) LTD

b. RELIABILITY MAINTENANCE (PTY) LTD T/A FASTRAK CONSTRUCTION

- 1) Be advised that the Public Procurement and Asset Disposal Board (the Board/ PPADB) in the exercise of its powers in accordance with Sections 50, 116, 123, 124, 125 and 126 of the PPAD Act, considered matters relating to the below mentioned contractors emanating from the investigations and recommendations of the Suspension and Delisting Committee. The Board's decisions are as enunciated below;

2) SUNSTABLE BUILDERS (PTY) LTD

The Board at its sitting of the 2nd July 2021 found thus against the Contractor;

- a. The contractor was on the 3rd June 2021 found guilty of submitting a forged PPADB registration certificate purporting to be registered at Grade B when the Contractor was at the time of submission, evaluation and adjudication of a tender registered at Grade A. The Contractor was as a result awarded the tender when they were not eligible to be awarded same in contravention of Clause 3.6 and Clause 4.4 of the Code of Conduct for Contractors. Having been accorded an opportunity to make submissions in mitigation before sentencing, Sunstable Builders (Pty) Ltd, its sole Director and Shareholder Lisbeth Mosebola and people holding key operational position in the Company are suspended from public procurement & asset disposal for a period of 30 months effective 2nd July 2021. The Contractor shall therefore remain suspended until 2nd January 2024.
- b. The Contractor being registered under the Codes and sub-codes indicated in the attached certificate should not be engaged for any works under the same Code or any other codes that the Contractor may subsequently apply for (following issuance of this circular) until the period of suspension has lapsed.

3) RELIABILITY MAINTENANCE (PTY) LTD T/A FASTRAK CONSTRUCTION

The Board at its sitting of the 25th March 2021 found thus against the Contractor;

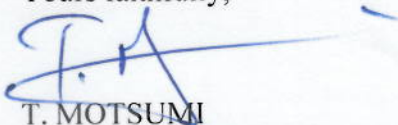
- a. Having been found guilty on the 18th February 2021, for submitting false information to PPADB in support of its application for registration with regard to past projects carried out in contravention of Clause 4.1 of the Code of Conduct for Contractors and having been accorded an opportunity to make submissions in mitigation before sentencing, Reliability Maintenance (Pty) Ltd T/A Fastrak Construction, its defaulting Directors being Richard Sibanda, Lungisani Pahla, Hlanganaso Hadebe, the erstwhile sole shareholder being Nkazimula Sibanda and the current shareholders Sambulo Sibanda and Austin Abraham are suspended from participating in Government procurement and asset disposal in terms of Regulation 7(1) (a) (ii) of the Suspension and Delisting Regulations, **for a period of 30 months effective 25th March 2021. The Contractor shall therefore remain suspended until 25th September 2023.**
 - b. The Contractor being registered under Code 14-Roads-Ancillary Works, Subcode 03-Road Routine Maintenance (Labour Based) should not be engaged for any works under the same Code or any other codes that the Contractor may subsequently apply for (following issuance of this circular) until the period of suspension has lapsed.
- 4) In accordance with Section 125 of the PPAD Act the suspended contractors are debarred by the Board from registering a newly incorporated entity/ies for the duration of their suspension respectively.
 - 5) It is highlighted to the two (2) Contractors and the larger public that in terms of Section 126 of the PPAD Act, where the defaulting shareholders, directors and senior officers of the suspended contractor join another contractor in key operational positions, such contractor shall be debarred from bidding on new tenders until the period of suspension has lapsed.
 - 6) Procuring Entities, Ministerial Tender Committees, District Administration Tender Committees, Land Boards, Parastatals, all Government Departments and all entities falling within the ambit of application of the PPAD Act are herein

advised of the Board's decision. All are advised not to engage in public procurement or asset disposal (including Micro Procurement) with the suspended contractors and the above-named defaulting Directors, Shareholders and Senior Officials holding key operational positions in the Contractors' operations until the periods of suspension have lapsed.

- 7) Procuring Entities are herein informed that the suspended contractors are not to benefit from public procurement and asset disposal. Procuring Entities are further advised that where they currently have ongoing contract (s) with a suspended contractor, they are empowered by Regulation 7B (1) of the Suspension and Delisting Regulations to decide, in consultation with the Board, whether or not to cancel any ongoing contracts with a delisted contractor, taking into consideration the factors prescribed in Regulation 7B (1) (a) to (f). Procuring Entities are to note that the decision of whether or not to cancel any ongoing contracts with a delisted contractor must be made in consultation with the Board. All Procuring Entities must therefore submit their position on the matter to the Board for consideration speaking to each contract entered into with the affected Contractors, if any.
- 8) The Suspension and Delisting Regulations and Code of Contractors are annexed hereto to guide all on offences and penalties that can be imposed against Contractors.
- 9) Information on suspended or delisted Contractors is available in the PPADB website: www.ppadb.co.bw.

Thank you.

Yours faithfully,



T. MOTSUMI

ACTING EXECUTIVE CHAIRPERSON

Public Procurement And Asset Disposal Board

Registered Contractor List

Company Name	Locality	Dist Name	Dist Name	Phone	Email
Sunstable Builders (Pty) Ltd	Babonong	Lisbeth	Mosebola	2845020	imosebola@yahoo.com
			Approved Submits	Approval Grade	Exp Date
Works		01-Building Construction Works and Maintenance	01-Building Construction	B	24/11/2023
Works		02-Electrical Engineering Works	01-Electrical Installations	OC	24/11/2023
Works		02-Electrical Engineering Works	02-High voltage re-termination	OC	24/11/2023
Works		02-Electrical Engineering Works	06-Fire Detection Systems	OC	24/11/2023
Works		02-Electrical Engineering Works	04-Automated Machinery and control systems	OC	24/11/2023
Works		02-Electrical Engineering Works	07-Security Systems Installations (CCTV, Access Control, Alarms etc.)	OC	24/11/2023
Works		02-Electrical Engineering Works	05-Photovoltaic systems	OC	24/11/2023
Works		02-Electrical Engineering Works	03-Airfield lightning	OC	24/11/2023
Works		03-Civil Engineering Works	01-Construction (Earthworks for Roads, Infrastructure, Airfields and Railways)	OC	24/11/2023
Works		03-Civil Engineering Works	04-Road Surfacing	OC	24/11/2023
Works		03-Civil Engineering Works	05-Bridges	OC	24/11/2023
Works		08-Mechanical Engineering Works	01-Air conditioning/Refrigeration systems	OC	24/11/2023
Works		08-Mechanical Engineering Works	06-Liquid Petroleum Gas Installations and	OC	24/11/2023

Public Procurement And Asset Disposal Board

Works	Equipment	OC	24/11/2023
08-Mechanical Engineering Works	05-Compressed air equipment installation	OC	24/11/2023
Services	01-Building cleaning services (including windows, carpets and others)	NA	24/11/2023
Services	03-Petroleum storage and equipment cleaning	NA	24/11/2023
Services	04-Hazardous Material	NA	24/11/2023
Supplies	01-Printed Matter/Books, newspapers, journals, postcards, promotional material, content provided etc)	NA	24/11/2023
Supplies	02-Plates, cylinders and other media for use in printing	NA	24/11/2023
Supplies	03-Dressings	NA	24/11/2023
Supplies	04-Medical Consumables, Surgical and Orthopedic and Laboratory Reagents	NA	24/11/2023
Supplies	05-Medical, Surgical Equipment (including hospital furniture), Spares and Accessories	NA	24/11/2023
Supplies	01-Electrical and Electronic Equipment, Spares and Accessories (includes ICT, photographic equipment and others)	NA	24/11/2023
Supplies	03-Mechanical Equipment, Machines,	NA	24/11/2023

Public Procurement And Asset Disposal Board

Supplies	Fire and ICT Supplies	Spares and Accessories	NA	24/11/2023
Supplies	207-Food Products and Beverages	01-General Food Supplies	NA	24/11/2023
Supplies	208-Transport Equipment & Accessories	02-General spares and Accessories (including Tyres)	NA	24/11/2023
Supplies	208-Transport Equipment & Accessories	03-Earthmoving Equipment	NA	24/11/2023
Supplies	208-Transport Equipment & Accessories	04-Bicycles, spares and accessories	NA	24/11/2023
Supplies	211-General Supplies	01-Chemicals	NA	24/11/2023
Supplies	211-General Supplies	02-Stationery	NA	24/11/2023
Supplies	211-General Supplies	03-Art & Crafts	NA	24/11/2023
Supplies	211-General Supplies	04-Clothing, apparel& fabrics	NA	24/11/2023
Supplies	211-General Supplies	05-Furniture (including school, domestic office furniture)	NA	24/11/2023
Supplies	211-General Supplies	07-Sports and Recreation Equipment, Spares and Accessories	NA	24/11/2023
Supplies	211-General Supplies	08-Forestry products and equipment	NA	24/11/2023
Supplies	211-General Supplies	09-Laboratory equipment, spares and accessories e.g. test tubes, bunsen burners etc	NA	24/11/2023
Supplies	211-General Supplies	10-Musical instruments, audio visual equipment and accessories	NA	24/11/2023
Supplies	211-General Supplies	11-Toiletry and hygiene products	NA	24/11/2023
Supplies	211-General Supplies	12-Glass Products	NA	24/11/2023

Public Procurement And Asset Disposal Board

Supplies	211-General Supplies	13-Mobile Toilets	NA	24/11/2023
Supplies	211-General Supplies	14-Camping Equipment and accessories	NA	24/11/2023
Supplies	211-General Supplies	15- Prefabs	NA	24/11/2023
Supplies	211-General Supplies	17-Paper and paper boards	NA	24/11/2023
Supplies	211-General Supplies	18-Catering equipment	NA	24/11/2023
Supplies	211-General Supplies	19-Hardware tools and construction materials	NA	24/11/2023
Supplies	211-General Supplies	20-Educational aids (interviews, Educational videos, CD's educational charts and Braille)	NA	24/11/2023
Supplies	216-Gases	01-Domestic	NA	24/11/2023
Supplies	217-Media Supplies	01-Print Media Content	NA	24/11/2023
Supplies	217-Media Supplies	03-Other Media Content	NA	24/11/2023
Supplies	218-Psychosocial Material	01-Psychosocial Material	NA	24/11/2023
Works	02-Electrical Engineering Works	08-Radio/Telemetry	OC	24/11/2023
Works	13-Fencing-Buildings, Roads and Others (100% Citizen)	01-Fencing works	B	24/11/2023
Works	13-Fencing-Buildings, Roads and Others (100% Citizen)	02-Electrical fencing	B	24/11/2023
Works	14-Roads -Ancillary Works	01-Road Marking	OC	24/11/2023
Works	14-Roads -Ancillary Works	02-Signs	OC	24/11/2023
Works	14-Roads -Ancillary Works	03-Road Routine Maintenance (Labour Based)	OC	24/11/2023
Works	14-Roads -Ancillary Works	04-Road Guard Rails/Kerbing	OC	24/11/2023
Works	14-Roads -Ancillary Works	05-Road Bush	OC	24/11/2023

Public Procurement And Asset Disposal Board

	Works	Cleaning/De-Stumping
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**PUBLIC PROCUREMENT AND ASSET DISPOSAL
(SUSPENSION AND DE-LISTING OF CONTRACTORS)
REGULATIONS**

S.I. 52, 2009
S.I. 27, 2013

(Section 50)
(26th June, 2009)

ARRANGEMENT OF REGULATIONS:

REGULATIONS

1. Citation
2. Establishment of Suspension and De-listing Disciplinary Committee
3. Procedure at meetings
4. Lodging of complaint
5. Complaint by Board
6. Consideration of complaint
7. Decision of the Board
- 7A. Endorsement of conviction in register
- 7B. Termination of contracts
8. Register of suspended or de-listed contractors

SCHEDULE

1. These Regulations may be cited as the Public Procurement and Asset Disposal (Suspension and De-listing of Contractors) Regulations. Citation
2. (1) There is hereby established a body to be known as the Suspension and De-listing Disciplinary Committee (hereinafter referred to as "the Disciplinary Committee"). Establishment of Suspension and De-listing Disciplinary Committee
(2) The composition of the Disciplinary Committee shall be as provided in a notice published in the *Gazette*.
3. (1) The Disciplinary Committee shall meet at such times and at such places as the Chairperson may determine after consultation with the Board. Procedure at meetings
(2) The Chairperson shall give members at least seven days' notice of any meeting of the Disciplinary Committee, except in an emergency or as directed by the Board.
(3) The quorum for a meeting of the Disciplinary Committee is half the number of its members.
(4) The Board may direct the Disciplinary Committee with respect to any aspect of its procedure.
4. (1) Any person with a financial or contractual interest in a contract under the Act may lodge a complaint of any incidence of non-compliance with the code of conduct or terms of the contract by a contractor who is party to such contract with the Board. Lodging of complaint

(2) The non-compliance with the code of conduct or terms of the contract complained of under subregulation (1) shall arise from circumstances relating to the implementation by the contractor of the terms of the contract in which the complainant has a financial or contractual interest.

(3) The complainant shall substantiate the complaint of non-compliance to the satisfaction of the Board.

(4) The Board shall, upon receipt of a complaint under subregulation (1), submit the complaint to the Disciplinary Committee to be investigated.

(5) The code of conduct referred to in subregulation (1) shall be as set out in the Schedule to these Regulations.

5. Where the Board, in the execution of its functions under the Act, finds an instance of questionable conduct implying non-compliance with the code of conduct or terms of contract by a contractor, the Board shall forward a complaint to the Disciplinary Committee to be investigated.

6. (1) The Disciplinary Committee shall, upon receipt of a complaint submitted to it by the Board under regulation 4 (4) or 5 —

- (a) investigate the complaint received by making reference to —
 - (i) the requirements of the code of conduct or terms of the contract, and
 - (ii) the procuring or disposing entity concerned and its records and decisions on the matter, if any;

- (b) seek the advice of experts where necessary;
- (c) compare the acts of the contractor under enquiry with established practices of contractors in a similar field; and
- (d) conduct such further investigation as may be necessary for the making of an informed determination by the Disciplinary Committee on the matter.

(2) The Disciplinary Committee may, at any stage of the investigations, hold a hearing with the contractor under enquiry.

(3) The Disciplinary Committee shall, before the hearing under subregulation (2), furnish the contractor under enquiry, in writing, with the particulars of the complaint or allegations made against such contractor.

(4) The Disciplinary Committee shall give the contractor an opportunity to reply to the complaints or allegations made under subregulation (2).

(5) The Disciplinary Committee shall, after it has concluded its investigations and hearings and made its determination, forward its recommendations on the matter to the Board not later than 30 days after receipt of the complaint.

(6) A contractor required to appear before the Disciplinary Committee shall appear in person and not by means of legal representation.

Complain by Board

Consideration of Complaint

7. (1) The Board shall, on receipt of the recommendations of the Disciplinary Committee under regulation 6 (5), make a decision on the matter as follows—

Decision of the Board

(a) find in favour of the complainant and impose any of the following orders, or combination thereof, against the contractor—

- (i) reprimand the contractor formally in writing;
- (ii) suspend the contractor for a specified period of time from participating in Government procurement and asset disposal;
- (iii) suspend the contractor conditionally on terms, pending fulfilment by the contractor of the conditions of suspension imposed;
- (iv) issue a remedial order, where the contractor shall be ordered to comply with remedial measures within a specified time, failing which the contractor shall be suspended for a specified period of time from participating in Government procurement and asset disposal; or
- (v) de-list and remove the contractor from the register of contractors; or

(b) find in favour of the contractor and dismiss the complaint.

(2) Where the Board orders that a contractor be de-listed under subsection (1) (a) (v)—

- (a) the contractor shall submit to the Board, within seven days of receipt of the Board's decision, all Board certificates in the contractor's possession; and
- (b) the Board shall notify, in writing, the procuring or disposing entity that the contractor has been de-listed.

(3) The Board may require a contractor to make restitution of any proceeds or other benefits received by the contractor relating to a contract under enquiry, which proceeds or benefit the Board has proven that the contractor was not entitled to.

(4) The decision of the Board under this regulation shall be made within 30 days of receipt of the recommendations of the Disciplinary Committee under regulation 6 (5).

7A. The Board, on the recommendation of the Disciplinary Committee, shall determine the period within which the particulars of a contractor shall remain endorsed in the register of contractors in accordance with the provisions of the Corruption and Economic Crime Act, and during such period no offer in respect of any contract from the contractor may be considered by a procuring or disposing entity.

Provided that, the period within which the particulars of a contractor shall remain in the register shall not be more than five years.

Endorsement of conviction in register.

Cap. 08:05

Termination of
contracts

Cap. 08:05.

7B. (1) Where a contractor has been de-listed and removed from the register of contractors under regulation 7(1)(a) (y) or the register has been endorsed in accordance with the Corruption and Economic Crime Act, a procuring or disposing entity may, in consultation with the Board, terminate any contract entered into with the contractor whose name has been endorsed in the register:

Provided that, in considering the termination of the contract, the procuring or disposing entity shall take into account the following circumstances —

- (a) the extent and duration of the contract concerned;
- (b) whether it is likely to conclude a similar contract with another contractor or within a specified time frame;
- (c) the extent to which the contract has been executed;
- (d) the urgency of the services to be delivered or supplied in terms of the contract;
- (e) whether any costs will follow such termination; and
- (f) any other factor which in the opinion of the procuring or disposing entity, may impact on the termination of the contract.

(2) The Board shall, during the period referred to in subregulation (1), disqualify a contractor whose contract has been terminated from making any offer or obtaining any contract relating to the procurement of specific works, services or supplies.

(3) The procuring or disposing entity shall take the decision to terminate a contractor's contract —

(a) where the contractor has been convicted of an offence under section 28 or 29 of the Corruption and Economic Crime Act, after any appeal against the conviction or sentence, or both, has been finalised by a court; or

(b) where there has been a breach of contract or the provisions of the code of conduct by the contractor.

(4) Where a procuring or disposing entity has decided to terminate the contract of a contractor, the procuring or disposing entity shall, within 14 days of the decision, notify, in writing —

(a) the contractor whose contract has been terminated; and

(b) all other procuring or disposing entities of the decision and request such bodies not to enter into contracts with the contractor for such period within which such contractor has been de-listed.

8. (1) The Board shall maintain an up-to-date register of suspended or de-listed contractors.

(2) The register shall be open to the public for examination.

Register of
suspended or
de-listed
contractors

SCHEDULE

(reg 4(5))

CODE OF CONDUCT FOR CONTRACTORS

1. GENERAL

- 1.1 A contractor shall ensure that competent persons carry out the contractual obligations of the contractor.
- 1.2 A contractor shall ensure that certified copies of all mandatory certificates, professional qualifications, accreditation and affiliation of employees are kept in the office and shall be made available to the Board promptly on request.
- 1.3 A contractor shall ensure that all relevant requirements are provided for in procurement documents that services and products are delivered on time in line with the procurement documents' service requirements.

2. DISCLOSURE OF INFORMATION

- 2.1 A contractor shall not disclose information acquired from or through its association or relationship with the Board or its Committees, or a Government department or agency which has not been made public on a potential or current service provider for the contractor's advantage, material gain and advancement.
- 2.2 A contractor shall not use its, or his or her association or relationship (other than as allowed in the association agreement) with the Board or its Committees, or Government departments or agencies for the contractor's advantage, material gain or advancement.

3. COLLUSION AND FRONTING

- 3.1 A contractor shall not manipulate his or her true shareholding, directorship, management, employees or financial resources in order to be compliant with the requirements of section 121 of the Act regarding categorisation of contractors in terms of ownership, etc.
- 3.2 A contractor shall not be involved in fronting, tokenism, window dressing and "rent a Motswana" practices during the tendering stage or when seeking registration in the register of contractors under section 116 of the Act. For the purposes of this code, the terms "fronting", "tokenism", "window dressing" and "rent a Motswana" mean the misrepresentation of a material fact of the ownership, management and control, as well as in the skilled and specialist positions (core to the purpose of existence) of a contractor in order to appear compliant with citizen reservation and citizen preferential treatment and for material gain, advancement or advantage in the procurement process.
- 3.3 A contractor shall not sublet or sub-contract without declaration at tender stage a disproportionate amount of work, or the core aspect of the assignment to a contractor who does not qualify for reservation or preferential treatment. This may also take the form of utilizing the resources (human, equipment, facilities, material, financial, etc) of a contractor who does not qualify for reservation or preferential treatment. In this regard the true material benefit and advancement does not meaningfully and tangibly accrue to the contractor the due reservation or preferential treatment.
- 3.4 A contractor shall not have a predominance of non-executive directors or tokenism whose qualification and experience does not correlate to the core business of the contractor. Passive ownership of an entity can also lead to some form of fronting.
- 3.5 A contractor shall not engage in any collusive practices that have a direct or indirect adverse impact on the cost of engagement to the procuring or disposing entities.