

# Extension of validity period

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Those of you who are familiar with responding to tenders will know that it is common practice for procuring entities to extend the bid price validity period. We received the undermentioned queries regarding the extension of the validity period of the bid price.

The client stated that they are 3 companies bidding on an Organ of State tender. It is quite a complicated tender and the Organ of State asked for an extension of validity. The client thinks that there are other forces at play and wants to request that the tender must be cancelled. The question is: if they decline the extension of validity, is there any law forcing the Organ of State to cancel the tender?

We are not legal consultants or attorneys thus we cannot give a legal opinion. We can give advice on the tender processes. Here is our take on the scenario mentioned above:

- Organs of State do have the authority to extend the validity period of a tender;
- If you decline to meet the validity period, your tender response will be marked as non-responsive and your tender response will not be considered for evaluation;
- There is no law which we are aware of that a tender must be cancelled if one of the responders declines the validity extension;
- According to Regulation 13 of the Preferential Procurement Regulations, 2017, a tender can be cancelled:
  - Due to a **change in circumstances**;
  - There are **no funds** available;
  - **No acceptable tender** offerings have been received;
  - There is a **material irregularity** in the tender process;

The best advice we can give is to be aware of any extensions of validity that might arise from the tender that you are responding to. Remember to keep an eye on your fax machine – if you still have land-line fax machine – Organs of State likes to fax extensions of validity. Normally an email would be the preferred communication method.

If you do receive a request for extension of validity it is good practice to double check your cost prices from 3<sup>rd</sup> party suppliers to ensure that the prices are still in order. If the prices are in order, then sign the extension of validity and sent it back before the deadline.

If you cannot extend the validity period and decline the extension of validity, your tender response will be marked as non-responsive and will not be evaluated any more.

To learn more about this and many other tender conditions attend our “Become a Tender Expert” 2-Day workshops presented in Johannesburg, Pretoria, Durban, Port Elizabeth, and Cape Town. Book and pay online at <https://howtotender.co.za/tender-expert-form/>

Contact us at [estelle@howtotender.co.za](mailto:estelle@howtotender.co.za) should you require more information.

*You can also purchase a Tender Manual (Handbook) on our website <https://howtotender.co.za/> which is a step by step guide how to respond to a South African Tender. It includes examples of completed SBD forms.*