

Reference: RCS/C.5

TREASURY CIRCULAR MUN NO. 20/2017

THE MAYOR, CITY OF CAPE TOWN: MS P DE LILLE
THE MAYOR, WEST COAST DISTRICT MUNICIPALITY: MR JH CLEOPHAS
THE MAYOR, MATZIKAMA MUNICIPALITY: MS G STEPHAN
THE MAYOR, CEDERBERG MUNICIPALITY: MR J BARNARD
THE MAYOR, BERGRIVIER MUNICIPALITY: MR EB MANUEL
THE MAYOR, SALDANHA BAY MUNICIPALITY: MR M KOEN
THE MAYOR, SWARTLAND MUNICIPALITY: MR T VAN ESSEN
THE MAYOR, CAPE WINELANDS DISTRICT MUNICIPALITY: DR H VON SCHLICHT
THE MAYOR, WITZENBERG MUNICIPALITY: MR BC KLAASEN
THE MAYOR, DRAKENSTEIN MUNICIPALITY: MR CJ POOLE
THE MAYOR, STELLENBOSCH MUNICIPALITY: MS G VAN DEVENTER
THE MAYOR, BREEDE VALLEY MUNICIPALITY: MS A STEYN
THE MAYOR, LANGEBOEG MUNICIPALITY: MR HM JANSEN
THE MAYOR, OVERBERG DISTRICT MUNICIPALITY: MR S FRANKEN
THE MAYOR, THEEWATERSKLOOF MUNICIPALITY: MS CJM VOSLOO
THE MAYOR, OVERSTRAND MUNICIPALITY: MR RJ SMITH
THE MAYOR, CAPE AGULHAS MUNICIPALITY: MR PJ SWART
THE MAYOR, SWELLENDAAM MUNICIPALITY: MR NG MYBURGH
THE MAYOR, EDEN DISTRICT MUNICIPALITY: MR M BOOYSEN
THE MAYOR, KANNALAND MUNICIPALITY: MS M BARRY
THE MAYOR, HESSEQUA MUNICIPALITY: MR G RIDDELS
THE MAYOR, MOSSEL BAY MUNICIPALITY: MR HJ LEVENDAL
THE MAYOR, GEORGE MUNICIPALITY: MR MG NAIK
THE MAYOR, OUDTSHOORN MUNICIPALITY: MR CF SYLVESTER
THE MAYOR, BITOU MUNICIPALITY: MR MP LOBESE
THE MAYOR, KNYSNA MUNICIPALITY: MS E BOUW-SPIES
THE MAYOR, CENTRAL KAROO DISTRICT MUNICIPALITY: MR N CONSTABLE
THE MAYOR, LAINGSBURG MUNICIPALITY: MR AA MARTHINUS
THE MAYOR, PRINCE ALBERT MUNICIPALITY: MR G LOTTERING
THE MAYOR, BEAUFORT WEST MUNICIPALITY: MR J VAN DER LINDE

THE MUNICIPAL MANAGER, CITY OF CAPE TOWN: MR A EBRAHIM
THE MUNICIPAL MANAGER, WEST COAST DISTRICT MUNICIPALITY: MR H PRINS
THE MUNICIPAL MANAGER, MATZIKAMA MUNICIPALITY: MR DP LUBBE
THE MUNICIPAL MANAGER, CEDERBERG MUNICIPALITY: MR L VOLSCHENK (ACTING)
THE MUNICIPAL MANAGER, BERGRIVIER MUNICIPALITY: ADV H LINDE
THE MUNICIPAL MANAGER, SALDANHA BAY MUNICIPALITY: MR G SMITH (ACTING)
THE MUNICIPAL MANAGER, SWARTLAND MUNICIPALITY: MR J SCHOLTZ
THE MUNICIPAL MANAGER, CAPE WINELANDS DISTRICT MUNICIPALITY: MR M MGAJO
THE MUNICIPAL MANAGER, WITZENBERG MUNICIPALITY: MR D NASSON
THE MUNICIPAL MANAGER, DRAKENSTEIN MUNICIPALITY: DR J LEIBBRANDT
THE MUNICIPAL MANAGER, STELLENBOSCH MUNICIPALITY: MS G METLER
THE MUNICIPAL MANAGER, BREEDE VALLEY MUNICIPALITY: MR D McTHOMAS
THE MUNICIPAL MANAGER, LANGEBOEG MUNICIPALITY: MR SA MOKWENI
THE MUNICIPAL MANAGER, OVERBERG DISTRICT MUNICIPALITY: MR D BERETTI
THE MUNICIPAL MANAGER, THEEWATERSKLOOF MUNICIPALITY: MR J BARNARD (ACTING)
THE MUNICIPAL MANAGER, OVERSTRAND MUNICIPALITY: MR C GROENEWALD
THE MUNICIPAL MANAGER, CAPE AGULHAS MUNICIPALITY: MR D O'NEILL
THE MUNICIPAL MANAGER, SWELLENDAAM MUNICIPALITY: MR CM AFRICA
THE MUNICIPAL MANAGER, EDEN DISTRICT MUNICIPALITY: MR M STRATU
THE MUNICIPAL MANAGER, KANNALAND MUNICIPALITY: MR R STEVENS
THE MUNICIPAL MANAGER, HESSEQUA MUNICIPALITY: MR J JACOBS
THE MUNICIPAL MANAGER, MOSSEL BAY MUNICIPALITY: ADV MG GILIOME
THE MUNICIPAL MANAGER, GEORGE MUNICIPALITY: MR T BOTHA

THE MUNICIPAL MANAGER, OUDTSHOORN MUNICIPALITY: MR R SMIT (ACTING)
THE MUNICIPAL MANAGER, BITOU MUNICIPALITY: MR T NDLOVU
THE MUNICIPAL MANAGER, KNYSNA MUNICIPALITY: MR K CHETTY
THE MUNICIPAL MANAGER, CENTRAL KAROO DISTRICT MUNICIPALITY: MR S JOOSTE
THE MUNICIPAL MANAGER, LAINGSBURG MUNICIPALITY: MR SC PIETERSE
THE MUNICIPAL MANAGER, PRINCE ALBERT MUNICIPALITY: MR H METTLER
THE MUNICIPAL MANAGER, BEAUFORT WEST MUNICIPALITY: MR K HAARHOFF (ACTING)

THE CHIEF FINANCIAL OFFICER, CITY OF CAPE TOWN: MR K JACOBY
THE CHIEF FINANCIAL OFFICER, WEST COAST DISTRICT MUNICIPALITY: MR J KOEKEMOER
THE CHIEF FINANCIAL OFFICER, MATZIKAMA MUNICIPALITY: MR G SEAS
THE CHIEF FINANCIAL OFFICER, CEDERBERG MUNICIPALITY: MR E ALFRED
THE CHIEF FINANCIAL OFFICER, BERGRIVIER MUNICIPALITY: MR G GOLIATH
THE CHIEF FINANCIAL OFFICER, SALDANHA BAY MUNICIPALITY: MR S VORSTER
THE CHIEF FINANCIAL OFFICER, SWARTLAND MUNICIPALITY: MR M BOLTON
THE CHIEF FINANCIAL OFFICER, CAPE WINELANDS DISTRICT MUNICIPALITY: MS FA DU RAAN-GROENEWALD
THE CHIEF FINANCIAL OFFICER, WITZENBERG MUNICIPALITY: MR C KRITZINGER
THE CHIEF FINANCIAL OFFICER, DRAKENSTEIN MUNICIPALITY: MR J CARSTENS
THE CHIEF FINANCIAL OFFICER, STELLENBOSCH MUNICIPALITY: MR M WÜST
THE CHIEF FINANCIAL OFFICER, BREEDE VALLEY MUNICIPALITY: MR R ONTONG (ACTING)
THE CHIEF FINANCIAL OFFICER, LANGEBERG MUNICIPALITY: MR B BROWN
THE CHIEF FINANCIAL OFFICER, OVERBERG DISTRICT MUNICIPALITY: DR J TESSELAAR
THE CHIEF FINANCIAL OFFICER, THEEWATERSKLOOF MUNICIPALITY: MR D LOUW
THE CHIEF FINANCIAL OFFICER, OVERSTRAND MUNICIPALITY: MS S REYNEKE-NAUDE
THE CHIEF FINANCIAL OFFICER, CAPE AGULHAS MUNICIPALITY: MR H VAN BILJON
THE CHIEF FINANCIAL OFFICER, SWELLENBAM MUNICIPALITY: MR H SCHLEBUSCH
THE CHIEF FINANCIAL OFFICER, EDEN DISTRICT MUNICIPALITY: MS L HOEK
THE CHIEF FINANCIAL OFFICER, KANNALAND MUNICIPALITY: MR B STRYDOM
THE CHIEF FINANCIAL OFFICER, HESSEQUA MUNICIPALITY: MS HJ VILJOEN
THE CHIEF FINANCIAL OFFICER, MOSSEL BAY MUNICIPALITY: MR L FOURIE (ACTING)
THE CHIEF FINANCIAL OFFICER, GEORGE MUNICIPALITY: MR K JORDAAN
THE CHIEF FINANCIAL OFFICER, OUDTSHOORN MUNICIPALITY: MR F LÖTTER
THE CHIEF FINANCIAL OFFICER, BITOU MUNICIPALITY: MR V MKHEFA
THE CHIEF FINANCIAL OFFICER, KNYSNA MUNICIPALITY: MR M MEMANI
THE CHIEF FINANCIAL OFFICER, CENTRAL KAROO DISTRICT MUNICIPALITY: MS U BAARTMAN
THE CHIEF FINANCIAL OFFICER, LAINGSBURG MUNICIPALITY: MS A GROENEWALD
THE CHIEF FINANCIAL OFFICER, PRINCE ALBERT MUNICIPALITY: MR J NEETHLING
THE CHIEF FINANCIAL OFFICER, BEAUFORT WEST MUNICIPALITY: MR CJ KYMDELL (ACTING)

THE HEAD OF SCM, CITY OF CAPE TOWN: MR B CHINASAMY
THE HEAD OF SCM, WEST COAST DISTRICT: MR M MARKUS
THE HEAD OF SCM, MATZIKAMA MUNICIPALITY: MR. C KOTZE (ACTING)
THE HEAD OF SCM, CEDERBERG MUNICIPALITY: MS J MAARMAN (ACTING)
THE HEAD OF SCM, BERGRIVIER MUNICIPALITY: MR. G GOLIATH (ACTING)
THE HEAD OF SCM, SALDANHA BAY MUNICIPALITY: MS H MEEDING
THE HEAD OF SCM, SWARTLAND MUNICIPALITY: MR P SWART
THE HEAD OF SCM, CAPE WINELANDS DISTRICT: MR GJP FALCK
THE HEAD OF SCM, WITZENBERG MUNICIPALITY: MR M FRIESLAAR
THE HEAD OF SCM, DRAKENSTEIN MUNICIPALITY: MR H VERGOTINE
THE HEAD OF SCM, STELLENBOSCH MUNICIPALITY: MR I SAUNDERS
THE HEAD OF SCM, BREEDE VALLEY MUNICIPALITY: MR M POTGIETER
THE HEAD OF SCM, LANGEBERG MUNICIPALITY: MR S NGCONGOLO (ACTING)
THE HEAD OF SCM, OVERBERG DISTRICT: MS D KAPOT-WITBOOI (ACTING)
THE HEAD OF SCM, THEEWATERSKLOOF MUNICIPALITY: MR A HENDRICKS
THE HEAD OF SCM, OVERSTRAND MUNICIPALITY: MR C LE ROUX
THE HEAD OF SCM, CAPE AGULHAS MUNICIPALITY: MR R SEFOOR
THE HEAD OF SCM, SWELLENBAM MUNICIPALITY: MR B BEYERS
THE HEAD OF SCM, EDEN DISTRICT: MR T MPURU
THE HEAD OF SCM, KANNALAND MUNICIPALITY: MR D LINKS
THE HEAD OF SCM, HESSEQUA MUNICIPALITY: MR R BENT
THE HEAD OF SCM, MOSSEL BAY MUNICIPALITY: MR D SCHOLTZ
THE HEAD OF SCM, GEORGE MUNICIPALITY: MR B GERICKE
THE HEAD OF SCM, OUDTSHOORN MUNICIPALITY: MR JC LADOUCE
THE HEAD OF SCM, BITOU MUNICIPALITY: MR P PETERS
THE HEAD OF SCM, KNYSNA MUNICIPALITY: MS F KRUGER
THE HEAD OF SCM, CENTRAL KAROO DISTRICT: MS A LENDERS (ACTING)
THE HEAD OF SCM, LAINGSBURG MUNICIPALITY: MR K GERTSE
THE HEAD OF SCM, PRINCE ALBERT MUNICIPALITY: MS C BAADTJIES (ACTING)
THE HEAD OF SCM, BEAUFORT WEST MUNICIPALITY: MS SA POTHBERG

THE HEAD OFFICIAL: PROVINCIAL TREASURY (MR Z HOOSAIN)
THE DEPUTY DIRECTOR GENERAL: FISCAL AND ECONOMIC SERVICES (MR H MALILA)
THE DEPUTY DIRECTOR GENERAL: GOVERNANCE AND ASSET MANAGEMENT (MR A HARDIEN)
THE CHIEF DIRECTOR: PUBLIC POLICY SERVICES (MS M KORSTEN)
THE CHIEF DIRECTOR: PROVINCIAL GOVERNMENT PUBLIC FINANCE (MS JD GANTANA)

THE CHIEF DIRECTOR: LOCAL GOVERNMENT PUBLIC FINANCE (MR A DYAKALA) (ACTING)
 THE CHIEF DIRECTOR: ASSET MANAGEMENT (MR IG SMITH)
 THE CHIEF DIRECTOR: FINANCIAL GOVERNANCE AND ACCOUNTING (MR L BRINDERS) (ACTING)
 THE CHIEF FINANCIAL OFFICER (MR A GILDENHUY)
 THE HEAD: OFFICE OF THE FINANCE MINISTRY (ADV E PRETORIUS)
 THE DIRECTOR: BUSINESS INFORMATION AND DATA MANAGEMENT (MR PP PIENAAR)
 THE DIRECTOR: FINANCIAL GOVERNANCE (MS M VAN NIEKERK) (ACTING)
 THE DIRECTOR: FISCAL POLICY (DR N NLEYA)
 THE DIRECTOR: INFRASTRUCTURE (MR K LANGENHOVEN)
 THE DIRECTOR: LOCAL GOVERNMENT ACCOUNTING (MR T MADONDILE) (ACTING)
 THE DIRECTOR: LOCAL GOVERNMENT BUDGET OFFICE (MR ML BOOYSEN)
 THE DIRECTOR: LOCAL GOVERNMENT REVENUE AND EXPENDITURE (GROUP ONE) (MR A DYAKALA)
 THE DIRECTOR: LOCAL GOVERNMENT REVENUE AND EXPENDITURE (GROUP TWO) (MR M SIGABI)
 THE DIRECTOR: LOCAL GOVERNMENT SUPPLY CHAIN MANAGEMENT (MR R MOOLMAN)
 THE DIRECTOR: PROVINCIAL GOVERNMENT ACCOUNTING (MR A REDDY)
 THE DIRECTOR: PROVINCIAL GOVERNMENT BUDGET OFFICE (MS RH SLINGER)
 THE DIRECTOR: PROVINCIAL GOVERNMENT FINANCE (EXPENDITURE MANAGEMENT) (MS A PICK)
 THE DIRECTOR: PROVINCIAL GOVERNMENT SUPPLY CHAIN MANAGEMENT (MS N EBRAHIM)
 THE DIRECTOR: STRATEGIC AND OPERATIONAL MANAGEMENT SUPPORT (MS A SMIT)
 THE DIRECTOR: SUPPORTING AND INTERLINKED FINANCIAL SYSTEMS (MR A MAZOMBA)

 THE PROVINCIAL AUDITOR
 MASTER RECORDS OFFICIAL: BUSINESS INFORMATION AND DATA MANAGEMENT
 THE HEAD OF DEPARTMENT: LOCAL GOVERNMENT
 THE CHIEF DIRECTOR: LOCAL GOVERNMENT BUDGET ANALYSIS – NATIONAL TREASURY (MR J HATTINGH)
 THE CHIEF DIRECTOR: MFMA IMPLEMENTATION – NATIONAL TREASURY (MR TV PILLAY)

RE: NATIONAL TREASURY DESIGNATED SECTOR INSTRUCTION NOTES ON THE INVITATION AND EVALUATION OF BIDS BASED ON A STIPULATED MINIMUM THRESHOLD FOR LOCAL PRODUCTION AND CONTENT

1. PURPOSE

- 1.1 The purpose of this Provincial Treasury Circular is to inform Municipalities and Municipal Entities regarding the National Treasury's Instruction Notes pertaining to the invitation and evaluation of bids relating to the designated sectors for local production and content.
- 1.2 The following National Treasury Instruction Notes aims to regulate the environment within which an Accounting Officer procure in terms of the designated sectors as determined by the National Treasury.
- 1.3 The following Instruction Notes are attached hereto marked **Annexure A to P:**
 - a) Invitation and Evaluation of bids based on a stipulated minimum threshold for local production and content for **Two - Way Radio Terminals and Associated Equipment** with an effective date of 1 January 2018.
 - b) Invitation and Evaluation of bids based on a stipulated minimum threshold for local production and content for **Solar Photovoltaic System and Components** with an effective date of 15 July 2016.

- c) Invitation and Evaluation of bids based on a stipulated minimum threshold for local production and content for **Solar Water Heater Components** with an effective date of 27 July 2016. *(The previous Instruction Note, dated 17 June 2014 has been repealed.)*
- d) Invitation and Evaluation of bids based on a stipulated minimum threshold for local production and content for the **Rail Rolling Stock Sector** with an effective date of 27 July 2016. *(The previous Instruction Note, dated 12 June 2014 has been repealed.)*
- e) Invitation and Evaluation of bids based on a stipulated minimum threshold for local production and content for **Electrical Cables Products** with an effective date of 27 July 2016. *(The previous Instruction Note, dated 8 May 2013 has been repealed.)*
- f) Invitation and Evaluation of bids based on a stipulated minimum threshold for local production and content for **Furniture Products** with an effective date of 27 July 2016. *(The previous Instruction Note, dated 15 November 2012 has been repealed.)*
- g) Invitation and Evaluation of bids based on a stipulated minimum threshold for local production and content for **Large Bore Spiral submerged ARC welded steel conveyance pipes: 500 mm to 350 mm (Conveyance Pipes)** with an effective date of 27 July 2016.
- h) Invitation and Evaluation of bids based on a stipulated minimum threshold for local production and content for **Working Vessels (boats)** with an effective date of 27 July 2016. *(The previous Instruction Note, dated 11 August 2014 has been repealed.)*
- i) Invitation and Evaluation of bids based on a stipulated minimum threshold for local production and content for **Steel Pylons** with an effective date of 27 July 2016 for the following:
 - **Steel Power Pylons;**
 - **Monopole Pylons;**
 - **Steel Substation Structures;**
 - **Powerline Hardware;**
 - **Street Lighting steel poles; and**
 - **Steel lattice towers and Masts.**

(The previous Instruction Note, dated 28 September 2015 has been repealed.)

- j) Invitation and Evaluation of bids based on a stipulated minimum threshold for local production and content for **Rail Signalling System and Associated Components** with an effective date of 27 July 2016. *(This Instruction Note is mainly applicable to Transnet and PRASA.)*
 - k) Invitation and Evaluation of bids based on a stipulated minimum threshold for local production and content for **Valves Products and Actuators** with an effective date of 18 February 2016. *(The previous Instruction Note, dated 6 February 2014 has been repealed.)*
 - l) Invitation and Evaluation of bids based on a stipulated minimum threshold for local production and content for **Transformers Shunt Reactors and Associated Equipment** with an effective date of 24 August 2016. *(The previous Instruction Note, dated 28 September 2015 has been repealed.)*
 - m) Invitation and Evaluation of bids based on a stipulated minimum threshold for local production and content for **Plastic Wheelie Bins** with an effective date of 19 September 2016.
 - n) Invitation and Evaluation of bids based on a stipulated minimum threshold for local production and content for **Fire Fighting Vehicles** with an effective date of 15 December 2016.
 - o) Invitation and Evaluation of bids based on a stipulated minimum threshold for local production and content for **Steel Products and Components for Construction** with an effective date of 1 February 2017.
 - p) Invitation and evaluation of bids based on a stipulated minimum threshold for local production and content for **Residential Electricity Meters and Water Meters** with an effective date of 22 June 2017. *(The previous Instruction Note, dated 21 August 2014 has been repealed.)*
- 1.4 The above Instruction Notes are issued in terms of Regulation 9(1) of the Preferential Procurement Regulations, 2011 and were issued on National Treasury's website on 1 July 2016 however, except the Instruction Note for **Residential Electricity Meters and Water Meters** were issued in terms of Regulation 8(1) of the Preferential Procurement Regulations, 2017.
- 1.5 The Municipalities must take cognisance of the fact that all previous and subsequent **Instruction Notes must adhere to the requirements in terms of Regulation 8(1) of the Preferential Procurement Regulations, 2017.**

2. THRESHOLD FOR LOCAL PRODUCTION AND CONTENT

- 2.1 In terms of the Instruction Notes on local production and content did not specifically indicate the threshold when local content is applicable.
- 2.2 **Subsequent the National Treasury indicated (in a presentation and in writing) that the R30 000.00 threshold is applicable to all Instruction Notes issued in terms of local production and content.**
- 2.3 The Department of Trade and Industry indicated in a meeting on the 7 August 2014 that all National Treasury Instruction Notes are applicable from R0.00 onwards.
- 2.4 Regardless of the above-mentioned, **the Western Cape Provincial Government will apply the R30 000.00 thresholds to all bids issued in terms of local production and content, as per the National.**
- 2.5 Municipalities must take cognisance of products may not deliberately be split into parts or items of lesser value merely for the sake of procuring the products otherwise than through the directives contained in the NT Instruction Note.

3. REQUEST

- 3.1 The Accounting Officers of municipalities and municipal entities are hereby requested to disseminate the content of this Provincial Treasury Circular Mun to the attention of all relevant officials within their institutions.

4. NOTIFICATION TO THE AUDITOR-GENERAL

- 4.1 A copy of this Provincial Treasury Circular Mun will be forwarded to the Auditor-General for notification.
- 4.2 The Provincial Government had a meeting with the AGSA on 28 June 2017 in Stellenbosch of which they highlighted that the AGSA will audit local production and content on the following areas as highlighted in the PPPFA Regulations, 2017:
 - a) **The advertisement must indicate that the local production and content requirements must be indicated in the bid documentations;**
 - b) **The declaration of interest (MBD 6.2 form);**
 - c) **If the Municipality meet the minimum requirements of local production and content; and**
 - d) **The AGSA noted that the Local Production and Content application will be audited as from R30 000 onwards as per the NT PPPFA Regulations, 2017.**

- 4.3 The municipalities must also take cognisance that the AGSA also confirmed that the higher the percentage of the local content goods and services of the bids awarded, the more AGSA will increase its focus on those specific bids.

5. CONTACT INFORMATION

- 5.1 Any enquiries relating to local production and content and all required documentation to be submitted to the Department of Trade and Industry (**the dti**) as indicated in the Instruction Notes must be directed to:

**The Department of Trade and Industry
Private Bag X84
Pretoria
0001**

**For attention: Dr Tebogo Makube
Chief Director: Industrial Procurement
Industrial Development Division**

Tel: (012) 394 3927

Fax: (012) 394 4927

Cell: 082 481 8173

E-mail: TMakube@thedti.gov.za

- 5.2 Any further enquiries may also be directed to the Provincial Treasury:

**For attention: Ms Letitia Sallies
MFMA Supply Chain Management Helpdesk
Western Cape Provincial Treasury
4 Dorp Street
Tower Block
Cape Town
8000**

Tel: 021 483 3180

E-mail: SupplyChainManagement.HDMFMA@westerncape.gov.za

6. EFFECTIVE DATE

6.1 Accounting Officers of municipalities and municipal entities are requested to:

- a) Note the effective dates and utilise the annexed Instruction Notes when implementing local production and content requirements.

Your co-operation will be highly appreciated.



MR SAKHUMZI MAYEKISO

ACTING DIRECTOR: LOCAL GOVERNMENT SUPPLY CHAIN MANAGEMENT

DATE: 14 July 2017



**Western Cape
Government**

Provincial Treasury

Position Paper

IMPLEMENTATION OF LOCAL PRODUCTION AND CONTENT

TABLE OF CONTENTS

- A. Introduction (Policy issue)**
- B. Legal Mandate**
- C. Challenges**
- D. Scope of Application**
- E. Implementation strategy**
- F. Implementation of local content Instruction Notes**
- G. Date of Decision (Approved)**
- H. Date of implementation (enforcement)**
- I. ANNEXURES (MBD 6.2, A, C, D, E, F, G and a guidance document)**

A. Introduction

The National Treasury (NT) in collaboration with the Department of Trade and Industry (DTI) issued Practice/Instruction notes to designate sectors which aim to regulate the environment within which an Accounting Officer or Chief Executive Officer may procure, for designated sectors of local production and content.

The following sectors have been designated:

Industry/sector/sub-sector	Minimum threshold for local content
Buses (bus body)	80%
Textile, clothing, leather and footwear	100%
Steel Power pylons	100%
Canned / processed vegetables	80%
Rail Rolling stock	65%
Set-top boxes for TV digital migration	30%
Pharmaceutical Products: <ul style="list-style-type: none">• OSD Tender• Family Planning Tender	<ul style="list-style-type: none">• 70% (volumes)• 50% value
Furniture Products <ul style="list-style-type: none">• Office Furniture• School Furniture• Base and Mattress	<ul style="list-style-type: none">• 85%• 100%• 90%
Solar Water Heater Components	70%
Electrical and telecom cables	90%
Valves products and Actuators	70%
Working Vessels (Boats)	60%
Residential Electricity Meters: <ul style="list-style-type: none">• Prepaid Electricity Meters• Postpaid Electricity Meters• SMART Meters	<ul style="list-style-type: none">• 70%• 70%• 50%

However, the DTI has advised that only the **textile, clothing, leather and footwear; canned/processed vegetables; furniture products; and electrical**

and electrical telecom cable sectors, residential electricity meters, valves and actuators are applicable to Provinces.

Municipalities and municipal entities are legally bound to implement local production and content as it is a legislative requirement and the aim of this position paper is to communicate the Western Cape Provincial Government's (WCPG) requirements for implementing local production and content.

The Position Paper does not apply to Emergency Procurement as this method of procurement will be dealt with as indicated in the SCM Regulations 36 – Deviation from and ratification of minor breaches of procurement processes.

B. Legal Mandate

The Preferential Procurement Regulations, 2011 (the "Regulations") made in terms of section 5 of the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000) which came into effect on 7 December 2011 make provision for the DTI to designate sectors in line with national development and industrial policies for local production.

In terms of Preferential Procurement Regulation 9(1), 2011 "An organ of state must, in the case of designated sectors, where in the award of tenders local production and content is of critical importance, advertise such tenders with a specific tendering condition that only locally produced goods, services or works or locally manufactured, with a stipulated minimum threshold for local production and content will be considered."

To this end, the DTI has designated and determined the stipulated minimum threshold for local production and content.

Whenever it is deemed necessary to evaluate bids on the basis of functionality, the prescripts contained in Regulation 4 of the Preferential Procurement Regulations, 2011 and paragraphs 6 and 11 of the Implementation Guide and Instructions as issued by the National Treasury must be followed.

C. Challenges

The WCPG experienced various challenges in implementing local production and content from a practical perspective and these are enumerated and discussed hereunder for ease of reference under the section "*Implementation of local content Instruction Notes*".

Secondly, the fact that the requirements for local production and content emanate out of two specific pieces of enabling legislation, namely the Broad Based Black Economic Empowerment Act and the Preferential Procurement Policy Frameworks Act which are specifically driven by two different custodian departments, each with its own mandate and objectives as well as a joint one, exacerbates the challenges as the two are not always aligned in approach and requirements.

This has resulted in implementation impracticalities and challenges from a procurement perspective. The WCPG in an initiative to fast-track and resolve challenges, decided to include and co-opt the two custodian Departments, the Department of Trade and Industry (*hereafter referred to as DTI*) and the National Treasury (*hereafter referred to as NT*) in an attempt to resolve the implementation challenges it was experiencing and whilst the DTI has responded positively and accepted the Province's invitation to assist, the WCPG is still awaiting feedback from NT on certain issues raised.

In brief, the following challenges / concerns are addressed in this position paper:

- the readiness and availability of the market to respond to the requirements in the Western Cape; The focus on local production and manufacture and not on supply;
- the awareness of the legislative requirements in the supplier community;
- impact on total cost of ownership, value for money and the cost to government;
- impact on service delivery;

- unpacking of technical legislative requirements to the supplier community;
- vetting and development of specifications by the DTI and its impact on the procurement process;
- vetting of vendors;
- applicability of the requirements to services and works;
- deviations, deviation requests and approval for deviations;
- requirements when no bids are received or when bids are unresponsive;
- Research done by DTI is questionable based on all the problems institutions are experiencing especially at a Provincial level;
- Processes with regard to validating specifications from institutions are impractical based on the available resources of DTI;
- Insufficient support to bidders is available with regards to the completion of the Annexures;
- Self-assessment by bidders might not be credible and what are the legal implications when verification by SABS proves otherwise;
- Negative impact on service delivery because of non-awards;
- Processes with regard to exemption are problematic as bidders leave it up to institutions to finalise;
- Cost of the verification is not factored into the bidding price with result that bidders might be setting themselves up for failure;
- The cost for the verification by SABS can only be determined after the scoping has been done, which leaves the bidders with a dilemma of calculating the cost upfront;
- The database of DTI with bidders that comply with local content is nowhere to be found;
- Western Cape local offices of both the DTI and SABS cannot deal with suppliers and public official's queries with regard to local content;
- SABS is a state owned institution and yet they charge for everything that they do;
- Affordability for the institution to deliver on their mandates becomes questionable based on additional cost related to local content; and

- Audit risk for all intuitions that cannot comply with provisions of local content.

D. Scope of application

This policy applies to all Local Municipalities and schedule 3C and D Municipal Entities and the Metro in the Western Cape.

- National and Provincial Departments;
- Constitutional Institutions;
- Public Entities listed in schedules 2 and 3 of the PFMA; and
- Municipalities and Municipal Entities to which the MFMA applies.

This policy must be read in conjunction with the Preferential Procurement Regulations, 2011 and local content Instruction Notes issued by the National Treasury.

1.1 Implementation strategy

In order to address the challenges encountered in the WCPG and for the WCPG not to fall foul of the legislative and regulatory requirements, an implementation strategy was required to facilitate and guide a phased-in implementation process that legitimately defines a practical approach to giving effect to the requirements without compromising audit outcomes in the Province.

In order to give effect to this requirement the WCPG formed a task team represented by a core group of SCM officials selected from the Province's SCM Focus Group, represented by SCM Heads in the Province, sector specific experts from the Department of Economic Development and Tourism and co-opting of technical advice, assistance and guidance from the DTI and the NT, whilst the latter has not yet taken up the invitation to assist in the process.

The task team's responsibility was in the main to put together a proposed implementation strategy and to find practical solutions to the challenges

raised and experienced by departments and municipalities and municipal entities. The task team was further required to draft an implementation plan and a position paper for the WCPG.

i. **Workgroup**

On 4 July 2013, the Western Cape Government established the abovementioned work group. The work group drafted an implementation plan for inviting and evaluating bids on local production and content. ***Copy of the implementation plan is attached hereto marked Annexure A.***

1.2 Implementation of local content Instruction Notes

a. **Instruction Note Workflow**

The following is required when an institution invites a bid for goods that have been designated:

- i. Local production and content/ local manufacturing must be included as a condition of bid.
- ii. Bid specification and price benchmarking must be done in collaboration with the DTI. Municipalities must therefore forward the draft specifications to the DTI and the DTI will respond in writing to the Municipality and Municipal Entity within 24-48 hours.
- iii. If the DTI does not respond to the Municipality and Municipal Entity within the specified time period the Municipality and Municipal Entity may advertise the bid without the DTI's written response.
- iv. The Municipalities and Municipal Entities must keep proof of communication with the DTI for audit purposes.
- v. The following must be stated in the bid documentation:

- the exchange rate used to calculate local production and content must be the exchange rate published by **SARB at 12:00** on the date of advertisement of the bid;
- only the SABS approved technical specification number SATS 1286:2011 must be used to calculate content;
- the formula $LC=(1-x/y)*100$, where x is the imported content in rand and y is the bid price in rand (excluding VAT) must be used to calculate local content;
- SABS approved technical specification number SATS 1286:2011 and guidance on the calculation of local content together with the local content declaration templates are accessible to all bidders on the DTI's website (a copy of these documents are attached hereto marked "Annexure A");
- the MBD 6.2 and Annexure C must be completed, duly signed and submitted by the bidder at the closing date and time of the bid; and
- the rates of exchange quoted by the bidder in paragraph 4.1 of the MBD 6.2 will be verified for accuracy.

vi. The evaluation of the bid will be a two phased approach, which are outlined below:

Phase 1:

- bids must be evaluated according to the minimum threshold for local production and content stipulated in the bid documents;
- functionality (if applicable) must also be evaluated in phase 1;
- bids must first be evaluated in terms of the minimum threshold for local production and content, thereafter functionality;
- if a bidder does not meet the minimum threshold stipulated in the bid documents for local production and content and functionality (if applicable) the Municipality and Municipal Entity must refer to paragraph e (i) Exemptions (textile only) or iii (No bidders meet threshold, prior to award) this Position Paper before it proceeds to phase 2.

Phases 2:

- the second phase of evaluation must be done in accordance with the 80/20 or 90/10 preference point systems (as advertised in the bid document);
- contracts must be awarded at market related prices, taking into account benchmark prices. If the Municipality and Municipal Entity has sufficient time it may approach the DTI to assist with benchmark prices, value for money and economies of scale; and
- prices may be negotiated with short listed/ preferred bidders however it must not prejudice other bidders. It is further subject to the Accounting Officer's/Chief Executive Officer approval and bidders have been identified as preferred bidders through a competitive bidding process.

b. Clarity on PPR, 2011 9 (1) “critical importance”

- i. The National Treasury in collaboration with the DTI agreed to designate the areas where local production and content is of “critical importance”. Instruction Notes issued/to be issued are in terms of these designated sectors.
- ii. Municipalities and Municipal Entities may designate non-designated sectors where local production and content is deemed to be of critical importance. This must however be done in consultation with the NT and DTI.
- iii. This requirement will not be dealt with in this position paper as the focus at this stage is to fully implement and meet the current prescribed requirements before embarking on any further initiatives. The Province will at a later stage review and address requirements for non-designated sectors once it has sufficiently met the requirements of its implementation plan.

c. Application of the Instruction Note on Local Production and Content in the Western Cape Government

i. Instruction Notes only applicable to goods

1. To date the National Treasury has issued the following Instruction Notes in terms of the invitation and evaluation of bids based on a stipulated minimum threshold for local production and content for:
 1. *Buses (Bus Body) - Issued on the 16 July 2012;*
 2. *Textile, Clothing, Leather and Footwear - Issued on the 16 July 2012;*
 3. *Steel Power Pylons - Issued on the 16 July 2012;*
 4. *Canned / Processed Vegetables - Issued on the 16 July 2012;*
 5. *Pharmaceutical Products:*
 - *OSD Tender; and*
 - *Family Planning Tender.*
 6. *Rail Rolling Stock – Issued on the 16 July 2012;*
 7. *Set Top Boxes (STB) - Issued on the 26 September 2012;*
 8. *Furniture Products- Issued 15 November 2012;*
 - *Office Furniture;*
 - *School Furniture; and*
 - *Base and Mattress.*
 9. *Solar Water Heater Components – Issued on the 17 July 2013;*
 10. *Valves products and Actuators- Issued on the 6 February 2014;*
 11. *Electrical and telecom cables - Issued on the 8 May 2013;*
 12. *Working Vessels (Boats)- Issued on the 1 August 2014; and*
 13. *Residential Electricity Meters: - Issued on the 1 August 2014.*
 - *Prepaid Electricity Meters;*
 - *Postpaid Electricity Meters; and*
 - *SMART Meters.*
2. On review of the above it is clear that at this stage the scope of application and designation speaks only to goods.

3. Until the National Treasury issues Instructions on the invitation and evaluation of bids based on a stipulated minimum threshold for local production and content for services and works, the Province's implementation process will focus only on the procurement of goods that the local production and manufacture is designated to.
4. Bids advertised in terms of the designated sectors must contain the below special condition in the advertisement.

It is a special condition of this bid:

- *That only locally produced or locally manufactured goods with a minimum threshold for local production and content will be considered; and*
- *That the exchange rate used to calculate local production and content must be the exchange rate published by the South African Reserve Bank (SARB) at 12:00 on the (date of bid advertisement).*

Note:

The DTI has appointed the South African Bureau of Standards (SABS) as the local production and content **verification office**.

The successful bidder's duly completed declaration certificate (MBD 6.2) and all relevant supporting documentation in respect of local production and content, submitted with the bid at the time of closing, will be forwarded to the DTI, which **may be** subject to a verification process by the SABS (to note that not all bids will be subject to a verification process).

If the verification process takes place, all associated costs stemming from this process and its certification will be borne by the bidder. SABS will contact the bidder in respect thereof. The WCPG will not be able to determine these associated costs.

5. The MBD 6.2 will not be housed on the Western Cape Supplier Database as it will differ for each bid, hence bidders will be required to complete the MBD 6.2 for each bid.

d. Threshold for local production and content

- i. Preliminary Instruction Notes on local production and content did not include the following: *"...the Instruction applies to all bids (written price quotations and advertised competitive bids in excess of R30 000.00 (all applicable taxes included))."*, **this requirement only formed part of the Electrical and telecom cables Instruction Note and the Solar Water Heater Components Instruction Note.**
- ii. The National Treasury indicated (in a presentation and in writing) that the R30 000.00 threshold is applicable to all Instruction Notes issued in terms of local production and content. *(Copies of these documents are attached hereto marked Annexures "B" and "C" respectively).*
- iii. The Department of Trade and Industry indicated in a meeting on the 7 August 2014 that all National Treasury instruction notes are applicable from R0.00 onwards.
- iv. The National Treasury indicated that it will issue an instruction Note confirming the abovementioned generic threshold. To date the Instruction Note regarding this has not been issued. **However the WCPG will apply the R30 000.00 thresholds to all bids issued in terms of local production and content.**
- v. Products may not deliberately be split into parts or items of lesser value merely for the sake of procuring the products otherwise than through the directives contained in the NT instruction Note.

e. Process to follow if no bidders meet the minimum threshold for local production and content

i. Exemptions (applicable to textiles, clothing, leather and footwear):

1. The request for exemption is only applicable to the textiles, leather, clothing and footwear sector which have a designated threshold of 100% for local

production and content, it is not mentioned in any of the other Instruction Notes.

2. The Instruction Note is clear, before the bid closes **the supplier** must request an exemption from the DTI if it does not meet the stipulated threshold; e.g. materials cannot be obtained locally.
3. The DTI will **not** issue out an exemption letter upon request from a Municipality or Municipal Entity on behalf of a supplier/contractor.
4. The DTI **may** consider exemption requests from suppliers after the closing date of a bid but prior to the award thereof.
5. The DTI will investigate the matter and grant an exemption to the bidder in the form of a letter.
6. Once the exemption letter has been obtained the bidder will be allowed to source the materials outside the borders of South Africa.
7. The bidder must submit a copy of the letter of exemption with its bid document.
8. The DTI will **not** issue standard letters of exemption.
9. The DTI will also **not** issue an exemption letter after a bid has been awarded.
10. The DTI made available a list of 100% compliant manufacturers and suppliers in the textile, clothing, leather and footwear sector for all 9 provinces.

ii. The following process must be followed if a supplier cannot meet the stipulated minimum threshold after award:

1. Paragraph 7.4 of the Instruction Notes state that *“where, after the award of a bid, contractors experience challenges in meeting the stipulated minimum threshold for local content the DTI must be informed accordingly in order for the DTI to verify and in consultation with the AO/CEO provide directives in this*

regard". This implies that the DTI in consultation with the AO/CEO will determine the way forward.

2. The DTI will respond to the Municipality and Municipal Entity within 24-48 hours.
3. If the DTI does not respond to a Municipality and Municipal Entity within 24-48 hours the Municipality and Municipal Entity will then be obliged to follow the applicable process as indicated in its SCM Policy that it would in the normal process follow when a contractor fails to meet the conditions of the contract.

iii. The following process must be followed if no bidders meet the local content threshold at the time of closing, prior to award:

1. Inform the DTI and the Provincial Treasury (who what and where).
2. The DTI indicated that if a sector is designated there must be manufacturers/suppliers in that sector.
3. The DTI made available a list of manufacturers available in each designated sector.
4. The DTI will respond to Municipalities and Municipal Entities within 24-48 hours and responses will be determined on a case by case basis.
5. If the DTI does not respond to Municipality and Municipal Entity within 24-48 hours it must follow the applicable procurement process as indicated in its SCM in the normal process following when unresponsive bids are received.

iv. Bid closes and no offers/bids were received

1. In instances where no bids are received on bid closure, Municipalities and Municipal Entities are to inform the DTI before any decision is taken.
2. The DTI will respond to the Municipality and Municipal Entity in writing within 24-48 hours.
3. The response will be determined on a case by case basis.
4. If the DTI does not respond to the Municipality and Municipal Entity within 24-48 hours it must follow the applicable procurement process as indicated in

its SCM Policy that it would in the norm follow when no bids or unresponsive bids are received.

f. Issued Instruction Notes: Non-designated goods

1. If a good is not listed in the Instruction Note: invitation and evaluation of bids based on a stipulated minimum threshold for local production and content, it is **not** designated.
2. If a Municipality is uncertain it could before advertising approach the DTI for assistance.
3. The DTI will respond to the Municipality in writing within 24-48 hours, the response will be determined on a case by case basis.
4. If the DTI does not respond to the Municipality within 24-48 hours it must follow the applicable procurement process as indicated in its SCM Policy that it would in the normal process when no bids or unresponsive bids are received.

i. Targeting of brands for processed or canned vegetables

Instruction Note: invitation and evaluation of bids based on a stipulated minimum threshold for local production and content for processed and canned vegetables.

In instances where it is found that the manufacturer or production is not within the boundaries of South Africa and that the cost implications would not be economically viable or cost effective, the WCPG proposes that in order to enable the meeting of the legislative requirements, the following process is proposed:

1. That the DTI will provide a list of locally manufactured/produced processed canned vegetables to Municipalities and Municipal Entities via the Provincial Treasury;
2. Those Municipalities and Municipal Entities procure these listed brands directly from suppliers listed on the Western Cape Supplier Database.
3. Using brand names in these instances, will be the exception and permissible for this designated sector as it provides the only practical solution to giving

effect to the requirement without any unnecessary additional cost and risks to service delivery.

4. In such instances MBD 6.2 together with the annexures will not also be required to be completed.
5. Contracts will be awarded based on price and B-BBEE contributor status.
6. The DTI will update the list as the need arises and will forward it to the Provincial Treasury for circulation to all Municipalities and Municipal Entities.

g. SABS Verification

1. The SABS is responsible for the local production and content verification.
2. Once a bid has been awarded the successful bidder's MBD6.2 document with the Annexure C must be forwarded to the DTI.
3. The successful bidder's information can also be routed to the SABS via: drop box on the DTI's website.
4. The verification is done after award on request of the DTI.
5. The verification is at a cost to the successful bidder. Cost is based on how long the verification takes.
6. The SABS requested that Municipalities and Municipal Entities upon advertising inform suppliers of the cost involved in obtaining a local production and content certificate.
7. A certificate will be issued to the supplier; the certificate is valid for the duration of the contract.
8. The certificate will be hosted on a database on the SABS's website with online access for all organs of state.
9. A supplier cannot utilise the certificate for any other contract other than the contract it has been issued for. The certificate will contain the specific bid/quotation number.
10. All successful bidders could be vetted (manufacturers and suppliers) however based on the minimum threshold and exemptions the SABS will be instructed by the DTI to conduct its verification.
11. Where fraud is detected the province will be informed and the Municipality and Municipal Entity must institute action.
12. If the Municipality or the SABS detect false declarations or the successful bidder does not meet the percentage it indicated: It is expected of the

Municipalities and Municipal Entity to initiate the appropriate action as required by the revised PPPFA Regulation, 2011 paragraph 13: Remedies. Action to be determined on a case by case basis.

h. Reporting to Provincial Treasury

- i. Accounting Officer's and Chief Executive Officer must within **2 working days** of advertisement notify the Provincial Treasury of all bids above the threshold value of R30 000 advertised in terms of the local production and content requirements.
- ii. The head of the supply chain management unit of an institution must inform the Provincial Treasury of all awards made in terms of the local content requirements above the threshold value of R30 000, via the monthly report submitted to the Provincial Treasury within **5 working days** after submission to the Accounting Officer's and Chief Executive Officer.

i. Capacitation and Skills Development

To fast-track the implementation process and the meeting of the legislative requirements the Implementation strategy focuses on a holistic approach for implementation that is aimed at both municipal users and the supplier community. This includes but is not limited to the following:

Training

1. Training of municipal SCM officials through the bespoke training programme managed by the Provincial Treasury.
2. DTI -led training to WCPG suppliers and officials.
3. SABS can provide training (at a cost) to Municipalities and Municipal Entities:
 - local production and content requirements SATS 1286- Provincial Supply Chain, agencies and municipalities; and
 - Assist Supply Chain Management with ensuring adherence to minimum National Standards and specifications in the drafting of tender specifications- Quality products.

Initiatives

1. In order to educate and inform officials and suppliers of the requirements for inviting and evaluation bids based on a stipulated minimum threshold for local production and content the Western Cape Provincial Government arranged the following workshops and information sharing events:
 - Presentation by the National Treasury and the DTI (8 March 2013);
 - SCM Forum Meeting (16 August 2013);
 - Follow-up presentation by the DTI (21 August 2013);
 - Presentation by the SABS (3 October 2013);
 - Local Content and Production Supplier Open Day on the (21 November 2013);
 - Local Production and Content Roadshows (November 2013 / March 2014); and
 - SCM Forum Meeting: 15 August 2014.

E. Date of Decision (Approved)

The policy was approved on the2014.

F. Date of implementation (enforcement)

The policy will come into effect on the.....2014 to allow for training and acceptance.

The Policy will be reviewed on annual basis and will only be amended if changes must be adopted.

G. ANNEXURES (MBD 6.2, A, C, D, E, F, G and a guidance document)