

Reference: RCS/C.6

TREASURY CIRCULAR NO. 6/2017

THE PREMIER

THE MINISTER OF ECONOMIC OPPORTUNITIES

THE MINISTER OF COMMUNITY SAFETY

THE MINISTER OF CULTURAL AFFAIRS AND SPORT

THE MINISTER OF EDUCATION

THE MINISTER OF FINANCE

THE MINISTER OF HEALTH

THE MINISTER OF HUMAN SETTLEMENTS

THE MINISTER OF LOCAL GOVERNMENT, ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

THE MINISTER OF SOCIAL DEVELOPMENT

THE MINISTER OF TRANSPORT AND PUBLIC WORKS

THE SPEAKER: PROVINCIAL PARLIAMENT

THE DEPUTY SPEAKER: PROVINCIAL PARLIAMENT

THE EXECUTIVE AUTHORITY: WESTERN CAPE GAMBLING AND RACING BOARD (MINISTER IH MEYER)

THE EXECUTIVE AUTHORITY: WESTERN CAPE NATURE CONSERVATION BOARD (MINISTER A BREDELL)

THE EXECUTIVE AUTHORITY: WESTERN CAPE INVESTMENTS AND TRADE PROMOTION AGENCY (MINISTER A WINDE)

THE EXECUTIVE AUTHORITY: SALDANHA BAY IDZ LICENCING COMPANY (MINISTER A WINDE)

THE EXECUTIVE AUTHORITY: WESTERN CAPE CULTURAL COMMISSION (MINISTER A MARAIS)

THE EXECUTIVE AUTHORITY: WESTERN CAPE LANGUAGE COMMITTEE (MINISTER A MARAIS)

THE EXECUTIVE AUTHORITY: WESTERN CAPE HERITAGE (MINISTER A MARAIS)

THE EXECUTIVE AUTHORITY: CASIDRA (MINISTER A WINDE)

THE EXECUTIVE AUTHORITY: WESTERN CAPE LIQUOR AUTHORITY (MINISTER D PLATO)

THE ACCOUNTING OFFICER: VOTE 1: PREMIER (ADV B GERBER)

THE ACCOUNTING OFFICER: VOTE 2: PROVINCIAL PARLIAMENT (DR G LAWRENCE)

THE ACCOUNTING OFFICER: VOTE 3: PROVINCIAL TREASURY (MR Z HOOSAIN)

THE ACCOUNTING OFFICER: VOTE 4: COMMUNITY SAFETY (MR G MORRIS)

THE ACCOUNTING OFFICER: VOTE 5: EDUCATION (MR BK SCHREUDER)

THE ACCOUNTING OFFICER: VOTE 6: HEALTH (DR B ENGELBRECHT)

THE ACCOUNTING OFFICER: VOTE 7: SOCIAL DEVELOPMENT (DR R MACDONALD)

THE ACCOUNTING OFFICER: VOTE 8: HUMAN SETTLEMENTS (MR T MGULI)

THE ACCOUNTING OFFICER: VOTE 9: ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING (MR P VAN ZYL)

THE ACCOUNTING OFFICER: VOTE 10: TRANSPORT AND PUBLIC WORKS (MS J GOOCH)

THE ACCOUNTING OFFICER: VOTE 11: AGRICULTURE (MS J ISAACS)

THE ACCOUNTING OFFICER: VOTE 12: ECONOMIC DEVELOPMENT AND TOURISM (MR S FOURIE)

THE ACCOUNTING OFFICER: VOTE 13: CULTURAL AFFAIRS AND SPORT (MR B WALTERS)

THE ACCOUNTING OFFICER: VOTE 14: LOCAL GOVERNMENT (MR G PAULSE)

THE CHIEF FINANCIAL OFFICER: VOTE 1: PREMIER (MR D BASSON)

THE CHIEF FINANCIAL OFFICER: VOTE 2: PROVINCIAL PARLIAMENT (MS N PETERSEN)

THE CHIEF FINANCIAL OFFICER: VOTE 3: PROVINCIAL TREASURY (MR A GILDENHUIS)

THE CHIEF FINANCIAL OFFICER: VOTE 4: COMMUNITY SAFETY (MR M FRIZLAR)

THE CHIEF FINANCIAL OFFICER: VOTE 5: EDUCATION (MR L ELY)

THE CHIEF FINANCIAL OFFICER: VOTE 6: HEALTH (MR A VAN NIEKERK)

THE CHIEF FINANCIAL OFFICER: VOTE 7: SOCIAL DEVELOPMENT (MR JO SMITH)

THE CHIEF FINANCIAL OFFICER: VOTE 8: HUMAN SETTLEMENTS (MR F DE WET)

THE CHIEF FINANCIAL OFFICER: VOTE 9: ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING (MR T GILDENHUIS)

THE CHIEF FINANCIAL OFFICER: VOTE 10: TRANSPORT AND PUBLIC WORKS (MR CR ISMAY)

THE CHIEF FINANCIAL OFFICER: VOTE 11: AGRICULTURE (MR F HUYSAMER)

THE CHIEF FINANCIAL OFFICER: VOTE 12: ECONOMIC DEVELOPMENT AND TOURISM (MS M ABRAHAMS)

THE CHIEF FINANCIAL OFFICER: VOTE 13: CULTURAL AFFAIRS AND SPORT (MS BG RUTGERS)

THE CHIEF FINANCIAL OFFICER: VOTE 14: LOCAL GOVERNMENT (MS B SEWLALL-SINGH)

For information

THE ACCOUNTING AUTHORITY: WESTERN CAPE GAMBLING AND RACING BOARD (MR T ARENDSE)
 THE ACCOUNTING AUTHORITY: WESTERN CAPE NATURE CONSERVATION BOARD (PROF G MANEVELDT)
 THE ACCOUNTING AUTHORITY: WESTERN CAPE INVESTMENTS AND TRADE PROMOTION AGENCY (MR B FIGAJI)
 THE ACCOUNTING AUTHORITY: SALDANHA BAY IDZ LICENCING COMPANY (DR J STEGMANN)
 THE ACCOUNTING AUTHORITY: WESTERN CAPE CULTURAL COMMISSION (MS J MOLELEKI)
 THE ACCOUNTING AUTHORITY: WESTERN CAPE LANGUAGE COMMITTEE (MS J MOLELEKI)
 THE ACCOUNTING AUTHORITY: WESTERN CAPE HERITAGE (MR M DLAMUKA)
 THE ACCOUNTING AUTHORITY: CASIDRA (ADV GA OLIVER)
 THE ACCOUNTING AUTHORITY: WESTERN CAPE LIQUOR AUTHORITY (MR M JONES)
 THE CHIEF EXECUTIVE OFFICER: WESTERN CAPE GAMBLING AND RACING BOARD (MR P ABRAHAMS)
 THE CHIEF EXECUTIVE OFFICER: WESTERN CAPE NATURE CONSERVATION BOARD (DR R OMAR)
 THE CHIEF EXECUTIVE OFFICER: WESTERN CAPE INVESTMENTS AND TRADE PROMOTION AGENCY (MR T HARRIS)
 THE CHIEF EXECUTIVE OFFICER: SALDANHA BAY IDZ LICENCING COMPANY (MR D SOUTHGATE) (ACTING)
 THE CHIEF EXECUTIVE OFFICER: CASIDRA (MR M BRINKHUIS)
 THE CHIEF EXECUTIVE OFFICER: WESTERN CAPE LIQUOR AUTHORITY (DR L MDUNYELWA)
 THE CHIEF FINANCIAL OFFICER: WESTERN CAPE GAMBLING AND RACING BOARD (MR T SWART) (ACTING)
 THE CHIEF FINANCIAL OFFICER: WESTERN CAPE NATURE CONSERVATION BOARD (MR M BHAYAT)
 THE CHIEF FINANCIAL OFFICER: WESTERN CAPE INVESTMENTS AND TRADE PROMOTION AGENCY (MS K ZAMA)
 THE CHIEF FINANCIAL OFFICER: SALDANHA BAY IDZ LICENCING COMPANY (MR H BONESCHANS)
 THE CHIEF FINANCIAL OFFICER: WESTERN CAPE CULTURAL COMMISSION (MS B RUTGERS)
 THE CHIEF FINANCIAL OFFICER: WESTERN CAPE LANGUAGE COMMITTEE (MS B RUTGERS)
 THE CHIEF FINANCIAL OFFICER: WESTERN CAPE HERITAGE (MS B RUTGERS)
 THE CHIEF FINANCIAL OFFICER: CASIDRA (MR F VAN ZYL)
 THE CHIEF FINANCIAL OFFICER: WESTERN CAPE LIQUOR AUTHORITY (MS V LETSWALO)
 THE SENIOR MANAGER: GOVERNMENT MOTOR TRANSPORT (MR J KOEGELENBERG)
 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 M SIGABI) (ACTING)
 THE CHIEF DIRECTOR: ASSET MANAGEMENT (MR IG SMITH)
 THE CHIEF DIRECTOR: FINANCIAL GOVERNANCE AND ACCOUNTING (MR B VINK)
 THE CHIEF FINANCIAL OFFICER (MR A GILDENHUIS)
 THE HEAD: OFFICE OF THE FINANCE MINISTRY (ADV E PRETORIUS)
 THE DIRECTOR: BUSINESS INFORMATION AND DATA MANAGEMENT (MR PP PIENAAR)
 THE DIRECTOR: FINANCIAL GOVERNANCE (MR AD THOMAS) (ACTING)
 THE DIRECTOR: FISCAL POLICY (DR N NLEYA)
 THE DIRECTOR: INFRASTRUCTURE (MR R DANIELS) (ACTING)
 THE DIRECTOR: LOCAL GOVERNMENT ACCOUNTING (MR L BRINDERS)
 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 DEPUTY DIRECTOR GENERAL: CORPORATE ASSURANCE, DEPARTMENT OF THE PREMIER (MS H ROBSON)

NATIONAL TREASURY SCM CIRCULAR 10 OF 2016/2017 ICT SOFTWARE, PRODUCTS AND SERVICES COST CONTAINMENT PROJECTS; AND

NATIONAL TREASURY SCM CIRCULAR 11 OF 2016/2017 MICROSOFT SOFTWARE PRODUCTS AND SERVICES COST CONTAINMENT PROJECT IMPLEMENTATION

1. PURPOSE

- 1.1 The purpose of this communicate is to issue the below mentioned National Treasury Circulars to inform accounting officers and accounting authorities of the cost containment projects relating to ICT Software, Products and Services:

- (a) **ICT Software, Products and Services Cost Containment Project** issued via **National Treasury's SCM Circular No. 10 of 2016/2017** (attached as Annexure "A"); and
- (b) **Microsoft Software, Products and Services Cost Containment Project Implementation** issued via **National Treasury SCM Circular No. 11 of 2016/2017** which repeals and replaces **National Treasury SCM Circular No. 7 of 2016/2017** (attached as Annexure "B").

2. **NATIONAL TREASURY'S SCM CIRCULAR NO. 10 OF 2016/2017**

- 2.1 National Treasury in collaboration with SITA are in the process of reviewing the most cost effective and efficient contracting and licencing model in order to reduce costs with regards to fragmented procurement, duplication of effort, different pricing arrangements, licencing models and service offerings. The NT Circular aims to inform accounting officers and accounting authorities of the transitional arrangements up to 31 March 2017 whilst NT is finalising the review.
- 2.2 The Circular is applicable to software, products and services sold or licenced by Government's top software suppliers. The Circular is applicable to the following OEMs and their respective resellers of the listed products and services:
 - (a) IBM;
 - (b) Oracle;
 - (c) SAP;
 - (d) Software AG;
 - (e) EMC;
 - (f) CA Technologies;
 - (g) Adobe;
 - (h) Microfocus;
 - (i) CISCO; and
 - (j) ESRI.

2.3 Departments are advised to:

- (a) Not renew and/or procure any additional software, products and/or services effective from 7 December 2016 to 31 March 2017 from software suppliers for software, products or services listed in paragraph 2.2 above;
- (b) Where current ICT related contracts expire before 31 March 2017, Organs of State must consult with the National Treasury and SITA for guidance on alternative contracting arrangements;
- (c) In urgent cases and/or where departments have already issued tenders and are in the process of finalising these awards, the relevant departments must consult with the relevant Provincial Treasury or National Treasury, as well as SITA prior to conclusion of the tender process and awarding of the contracts; and
- (d) Where contracts are expiring after 31 March 2017, these contracts must be honoured until completion or further notice from National Treasury.

2.4 **National Treasury's SCM Circular No. 10 of 2016/2017** is applicable to all Provincial departments and Public entities listed in Schedule 3A and 3C to the PFMA.

3. **NATIONAL TREASURY'S SCM CIRCULAR NO. 11 OF 2016/2017**

3.1 National Treasury, SITA and Microsoft engaged in reviewing the current contracting and pricing arrangements of Government's procurement of Microsoft software, and services. Negotiations resulted in a Memorandum of Understanding (MOU) signed by SITA and the National Treasury on behalf of Government and Microsoft. The MOU was signed on 6 December 2016 and principles that would govern the amended licencing and services framework agreements entered into by SITA on behalf of Government and Microsoft.

3.2 **National Treasury's SCM Circular No. 11 of 2016/2017** at this stage is only applicable to all Public entities listed in Schedule 3C to the PFMA.

3.3 Departments are advised that:

- (a) The transitional agreements do not have an immediate impact on provincial departments as Ce-I signed a three year agreement with Microsoft in June 2016.
- (b) The three year agreement commenced on 1 June 2016 and will be terminated on 31 May 2019. Departments will be further engaged towards the end date of the three year agreement.
- (c) Hence departments will be contractually bound to the Microsoft contract for its tenure ending 31 May 2019.

4. **REQUEST**

4.1 Accounting Officers and Accounting Authorities are hereby advised to note the contents of this circular and to apply the interim arrangements indicated herein.

4.2 Any enquiries relating to this circular may be directed to:

SCM Helpdesk: SupplyChainManagement.HDPFMA@westerncape.gov.za



NADIA EBRAHIM

DIRECTOR: PROVINCIAL GOVERNMENT SUPPLY CHAIN MANAGEMENT

DATE: 21/3/2017



national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

Ref: 2/2/9

**TO: ACCOUNTING OFFICERS OF DEPARTMENTS AND CONSTITUTIONAL INSTITUTIONS
ACCOUNTING AUTHORITIES OF ALL PUBLIC ENTITIES
ACCOUNTING OFFICERS OF ALL MUNICIPALITIES
ACCOUNTING AUTHORITIES OF ALL MUNICIPAL ENTITIES
HEAD OFFICIALS OF ALL PROVINCIAL TREASURIES**

NATIONAL TREASURY SCM CIRCULAR NO 10 OF 2016/2017

ICT SOFTWARE, PRODUCTS AND SERVICES COST CONTAINMENT PROJECT

1. PURPOSE

- 1.1 The purpose of this SCM Circular is to inform Accounting Officers and Accounting Authorities to whom this Circular applies about the implementation of National Treasury's cost containment project relating to Information and Communication Technology (ICT) software, products and services.
- 1.2 This Circular is also aimed at informing Accounting Officers and Accounting Authorities of the transitional arrangements from the date of this Circular to the 31st of March 2017.

2. BACKGROUND

- 2.1 In terms of Section 38 (1) (a) (iii) and 51 (1) (iii) of the Public Finance Management Act (PFMA), the Accounting Officer of a Department or Constitutional Institution and the Accounting Authority of a Public Entity must ensure that their respective Institution has and maintains an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost effective.
- 2.2 In terms of Section 62 (1) (a) and 95 (1) (a) of the Municipal Finance Management Act (MFMA), the Accounting Officer of a Municipality and Accounting Authority of a Municipal Entity, must ensure that the resources of a Municipality or Municipal Entity are used effectively, efficiently and economically.
- 2.3 The South African Government spends a significant amount each year on ICT software, products and services, either directly through contractual arrangements with the Original Equipment Manufacturer (OEM) or indirectly through resellers. National Treasury in collaboration with State Information Technology Agency (SITA) are in the process of reviewing the most cost effective and efficient contracting and licensing model in order to reduce costs with regards to fragmented procurement, duplication of effort, different pricing arrangements, licensing models and service offerings.

3. TRANSITIONAL PERIOD

- 3.1 To avoid further duplication of effort and high State expenditure relating to ICT software, products and services costs and while the National Treasury is implementing cost containment and fiscal consolidation measures, institutions listed in this Circular will be required to apply the following interim measures for the transitional period:
- 3.1.1 Accounting Officers and Accounting Authorities are required, not to renew and/or procure any additional software, products and/or services effective from 7 December 2016 to 31 March 2017 for software, products or services listed in paragraph 4.2.
- 3.1.2 Where current ICT related contracts expire before 31 March 2017, Organs of State must consult with National Treasury and SITA for guidance on alternative contracting arrangements.
- 3.1.3 In urgent cases and/or where Departments have already issued tenders and are in the process of finalizing these for award, the relevant Department must consult with the relevant Provincial Treasury or National Treasury, as well as SITA, prior to conclusion of the tender process and awarding of the contracts.
- 3.1.4 Where contracts are expiring after 31 March 2017, these contracts must be honored until completion or further notice from National Treasury.
- 3.1.5 Where Departments are required to engage suppliers relating to ICT software, products and services, this should be done with guidance and participation by a SITA representative.

4. APPLICABILITY

- 4.1 This Circular applies to all National and Provincial Departments, Constitutional Institutions and Public Entities listed in Schedule 3A and 3C to the PFMA.
- 4.2 This Circular is applicable to the software, products and services sold or licensed by Government's top software suppliers. The Circular is applicable to the following OEM's and their respective resellers of the listed products and services:

- IBM
- Oracle
- SAP
- Software AG
- EMC
- CA Technologies
- Adobe
- Microfocus
- CISCO
- ESRI

5. DISEMINATION OF INFORMATION CONTAINED IN THIS CIRCULAR

- 5.1 Head Officials of Provincial Treasuries are requested to bring the contents of this Circular to the attention of Accounting Officers and Accounting Authorities of Departments, Public Entities in their respective Provinces.
- 5.2 Accounting Officers of National Departments are requested to bring the contents of this Circular to the attention of Accounting Authorities of Schedule 3A Public Entities reporting to their respective Executive Authorities.

6. STATUS OF THIS CIRCULAR

- 6.1 This Circular is issued to provide Departments, Constitutional Institutions and Public Entities with information related to implementation of the cost containment project related to agreements listed in par 4.2 software, products and services listed in par 4.2.

7. INFORMATION

- 7.1 Enquiries related to this Circular may be directed to:

Schalk Human
Chief Director: Strategic SCM ICT
Office of the Chief Procurement Officer
Email: schalk.human@treasury.gov.za
Telephone: 012 315 5886

Stera Senti
Executive: Multi Stakeholder Projects
SITA
Email: Sithembele.Senti@sita.co.za
Tel: (012) 482 2017

Regards



KENNETH BROWN
CHIEF PROCUREMENT OFFICER
DATE: 6/12/2016



national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

TO: ACCOUNTING OFFICERS OF DEPARTMENTS AND CONSTITUTIONAL INSTITUTIONS

ACCOUNTING AUTHORITIES OF ALL SCHEDULE 3A AND 3C PUBLIC ENTITIES

HEAD OFFICIALS OF ALL PROVINCIAL TREASURIES

NATIONAL TREASURY SCM CIRCULAR NO 11 OF 2016/2017

MICROSOFT SOFTWARE, PRODUCTS AND SERVICES COST CONTAINMENT PROJECT IMPLEMENTATION

1. PURPOSE

- 1.1 The purpose of this SCM Circular is to inform Departments, Constitutional Institutions and Public Entities listed in Schedule 3A and 3C to the Public Finance Management Act (PFMA), 1999 (Act No. 1 of 1999) of the outcome of National Treasury and State Information Technology Agency (SOC) Ltd's (SITA's) engagement with Microsoft on Government procurement of Microsoft software, products and services.
- 1.2 This Circular is also aimed at informing Accounting Officers and Accounting Authorities of the resultant withdrawal of Circular 7 of 2016/17 issued on 6 July 2016.

2. BACKGROUND

- 2.1 National Treasury, SITA and Microsoft engaged in reviewing the current contracting and pricing arrangements of Government's procurement of Microsoft software, and services. Negotiations resulted in a Memorandum of Understanding (MOU) signed by SITA and National Treasury on behalf of Government and Microsoft.
- 2.2 The MOU was signed on 6 December 2016 and principles that would govern the amended licencing and services framework agreement entered into by SITA on behalf of Government and Microsoft were agreed to.

- 2.3 The benefits of the revised framework agreements between Government and Microsoft will comprise the following for Organs of State:
 - 2.3.1 Amended Licence and Services Framework Agreements that are based on a three tier discount model which accommodates on premise, hybrid and cloud software solutions;
 - 2.3.2 Preferential pricing for Government users for licencing and services, irrespective of the number of seats an Organ of State may hold;
 - 2.3.3 An aligned, Microsoft Licence and Services Framework, ensuring deployment, usage that should reduce technology duplication and aid implementation and deployment of Microsoft software and solutions;
 - 2.3.4 The barrier of a minimum of 250 qualifying users and/or devices to participate under the framework agreement was removed, allowing organs of state that have 150 qualifying users and/or devices or more to enter into an Enterprise Agreement Enrolment directly with Microsoft through the Framework Agreement;
 - 2.3.5 Organs of state with less than 150 qualifying users and/or devices to also participate under the Framework Agreement by approaching SITA who will administer a single Enterprise Agreement Enrolment for all such qualifying Organs of State;
 - 2.3.6 Access to technical skills to assist with the deployment and consumption of software at preferential rates via the proposed amended Microsoft Services Framework allowing for either a "Time and Material" (T&M) or a "Fixed Fee" basis, with a defined set of deliverables;
 - 2.3.7 The negotiations resulted in the definition of standardized user profiles for Microsoft licences across on premise, hybrid and cloud Software Solutions at a preferential discount;
 - 2.3.8 This proposed Framework Agreement will provide significant flexibility for Organs of State to opt for on premise, hybrid or cloud licensing solutions;
 - 2.3.9 The new Framework Agreement facilitates the consolidation of licences and will allow SITA to optimize the deployment and usage of Microsoft software for Organs of State; and

2.3.10 The amended framework agreements between SITA and Microsoft will deliver significant savings to government through the Framework agreement concluded by SITA.

3. IMPLEMENTATION

- 3.1 Accounting Officers and Accounting Authorities must note that in terms of the SITA ACT, section 7 (3), departments must procure ICT related products, software licences and services through SITA and schedule 3A and C entities may opt to make use of such procurement arrangements.
- 3.2 All Microsoft licensing agreements (new or renewals), must in future be procured under the SITA Framework Agreement established for the purpose of procuring Microsoft software licences and services, through SITA's gCommerce platform. Government customers who are currently using Microsoft products and services are advised to take this into consideration before renewing or entering into new Microsoft licensing Agreements.
- 3.3 All Organs of State, enrolled through the Microsoft Licence Framework Agreement under SITA, will be billed directly by Microsoft Ireland Operations Limited in United States Dollars (USD).
- 3.4 Renewal of Enterprise Enrolments must be finalized 30 days before the expiry date of the existing Microsoft Enterprise Enrolment through SITA. Failure to do so will result in the specific Organ of State forfeiting any discounts passed on under the SITA framework Agreement. In order to ensure timely renewals, Microsoft will deliver the required documentation 90 days prior to the expiry date to allow Organs of State to complete necessary processes and obtain the required approvals. Given this, Organs of State together with SITA, must complete all contractual processes such as the final year true-up no later than 90 days prior to renewal.
- 3.5 Accounting Officers and Accounting Authorities must note the provisions of the PFMA section 38 (f) determining that the accounting officer for a Department, Trading Entity or Constitutional Institution must settle all contractual obligations and pay all money owing, including intergovernmental claims, within the prescribed or agreed period. A commitment for a three year (3) Enterprise Enrolment must therefore be appropriately budgeted for and promptly paid for in accordance with the prescribed Treasury norms and standards.
- 3.6 Every Organ of State must be fully compliant as per the terms and conditions of the Microsoft Enterprise Agreement to maintain framework eligibility. This will be driven through a yearly formal software asset management engagement (SAM).

- 3.7 Each Organ of State together with SITA must develop and maintain a demand plan relating to the deployment and utilization of Microsoft software licences for at least a 3-year period. Where an Organ of State has procured any Microsoft software licences that were not deployed, a deployment plan must be established together with the implementation costs to ensure efficient use of government's investment.

4. APPLICABILITY

- 4.1.1 This Circular applies to all National and Provincial Departments, Constitutional Institutions and Public Entities listed in Schedule 3A and 3C to the PFMA.
- 4.1.2 It should be noted that participation under the Microsoft Framework Agreements for Organs of State is determined by Microsoft's definition of "Government Eligibility".
- 4.1.3 Where an Organ of State does not qualify according to the definition as described under 4.1.2, representation should be made to Microsoft for inclusion by the specific Organ of State, together with SITA.

5. DISSEMINATION OF INFORMATION CONTAINED IN THIS CIRCULAR

- 5.1 Head Officials of Provincial Treasuries are requested to bring the contents of this Circular to the attention of Accounting Officers and Accounting Authorities of Departments and Public Entities in their respective Provinces.
- 5.2 Accounting Officers of National Departments are requested to bring the contents of this Circular to the attention of Accounting Authorities of Schedule 3A Public Entities reporting to their respective Executive Authorities.

6. STATUS OF THIS CIRCULAR

- 6.1 This Circular is issued to provide Departments, Constitutional Institutions and Schedule 3A and 3C Public Entities with information related to implementation of the cost containment project related to Microsoft software, products and services.

7. REPEAL OF CIRCULAR 7 of 2016/17

- 7.1 National Treasury SCM Circular 07 of 2016/ 2017 on Microsoft Software, products and services dated 6 July 2016 is hereby repealed.

8. INFORMATION

8.1 Enquiries related to this Circular may be directed to:

Schalk Human
Acting Chief Director: SCM Policy and Legal
Email: Schalk.human@treasury.gov.za
Telephone: 012 315 5886

Stera Senti
Executive: Multi Stakeholder Projects
SITA
Email: Sithembele.Senti@sita.co.za
Telephone: 012 482 2017

Regards



KENNETH BROWN
CHIEF PROCUREMENT OFFICER

DATE:

6/12/2016



MINISTER: FINANCE
REPUBLIC OF SOUTH AFRICA

Private Bag X115, Pretoria, 0001, Tel: +27 12 323 8911, Fax: +27 12 323 3262
PO Box 29, Cape Town, 8000, Tel: +27 21 464 6100, Fax: +27 21 461 2934

Ref. M3/16/9 (2515/15)

Dr IH Meyer, MPL
MEC for Finance
Western Cape Provincial Government
Private Bag X 9165
CAPE TOWN
3200

Dear MEC Meyer

**COMPULSORY IMPLEMENTATION OF PURCHASING VIA RT (TRANSVERSAL)
CONTRACTS ENTERED INTO BY NATIONAL TREASURY**

I refer to your letter dated 16 March 2016 regarding compulsory implementation of purchasing through transversal term contracts arranged by the National Treasury.

Section 76(4)(c) of the Public Finance Management Act, 1999 (PFMA), enables the National Treasury to make regulations or issue instructions concerning the determination of a framework of an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective. As such, making regulations setting a framework for the compulsory purchasing via transversal contracts facilitated by the National Treasury falls within the scope of the National Treasury's mandate. The framework in the new Treasury Regulations to be promulgated in the near future requires prior consultation on the designation of commodities, the involvement of institutions in the procurement process and provides for exemptions.

Though instructions issued under the PFMA do not constitute subordinate legislation, they are binding on the institutions under the PFMA's scope and identified in each instruction. Their binding nature arises from the provisions of the PFMA (the definition of "this Act" in section 1, read with sections 3(1), 38(1)(n) and 51(1)(h) of the PFMA. A recent Supreme Court of Appeal judgment (*Minister of Transport NO v Prodiba (Pty) Ltd* [2015 JOL 33034 (SCA)]) confirmed that Treasury Instructions are mandatory prescripts that must be complied with.

Currently Treasury Regulation 16A6.5 provides for the optional participation in transversal term contracts arranged by the relevant treasury. During consultations on the revision of the Treasury Regulations, this matter was debated at length and was introduced to curb various inefficiencies in the procurement system that are perpetuated by having different centres of procurement on similar commodities. The new Treasury Regulations once promulgated will provide for mandatory participation but allows exemption. Should an institution demonstrate

good reason for non-participation in a transversal term contract, it will qualify for exemption. These Regulations also oblige the National Treasury to consult stakeholders on the commodities to be designated for transversal term contracting.

The circulars regarding the use of transversal term contracts provides information in preparation for the new Treasury Regulations when they are promulgated, and are not mandatory instruments. The new Treasury Regulations when promulgated will be the legislation that compels affected institutions to participate in transversal term contracts arranged by the National Treasury unless exempted.

I would like to assure you that the National Treasury will extensively consult with affected institutions before a list of commodities to be arranged centrally is finalised. The arrangement of transversal term contracts will require a cross functional effort in that all the institutions that would participate in those contracts would be involved in the procurement process.

It is trusted that this response provides clarity and addresses concerns that the National Treasury is embarking on this process without proper consultation and the required analysis of the impact involved.

Your cooperation and support in ensuring prudent and sound financial management in the State will be highly appreciated.

Kind regards



PRAVIN J GORDHAN, MP
MINISTER OF FINANCE

Date: 17-08-2016

Charmaine de Vos

From: Ministry Registry <Minreg.Registry@treasury.gov.za>
Sent: 17 August 2016 02:19 PM
To: Charmaine de Vos
Subject: Compulsory Implementation of Purchasing via RT (Transversal) Contracts entered into by National Treasury
Attachments: SKMBT_C554e16081714240.pdf

Dear Charmaine

Please find attached correspondence for MEC Meyer's attention.

① EP to send to LB.

Please acknowledge receipt.

② Court case ??

Kind regards

Joanne Scott

Ministry of Finance
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