

**PROVINSIALE TESOURIE • PROVINCIAL TREASURY •
UNONDYEBO WEPHONDO**



Verwysing
Reference
Isalathiso

PT14\4\3

Navrae
Enquiries
Imibuzo

Nadia Ebrahim

TREASURY CIRCULAR NO. 05 /2007

THE PREMIER

THE MINISTER OF AGRICULTURE
THE MINISTER OF COMMUNITY SAFETY
THE MINISTER OF CULTURAL AFFAIRS, SPORT AND RECREATION
THE MINISTER OF EDUCATION
THE MINISTER OF ENVIRONMENT, PLANNING AND ECONOMIC DEVELOPMENT
THE MINISTER OF FINANCE AND TOURISM
THE MINISTER OF HEALTH
THE MINISTER OF LOCAL GOVERNMENT AND HOUSING
THE MINISTER OF SOCIAL SERVICES AND POVERTY ALLEVIATION
THE MINISTER OF TRANSPORT AND PUBLIC WORKS

THE SPEAKER: PROVINCIAL PARLIAMENT
THE DEPUTY SPEAKER: PROVINCIAL PARLIAMENT

ALL OTHER MEMBERS OF PARLIAMENT

THE ACCOUNTING OFFICER: VOTE 1: PREMIER (DR GA LAWRENCE)
THE ACCOUNTING OFFICER: VOTE 2: PROVINCIAL PARLIAMENT (MR P WILLIAMS)
THE ACCOUNTING OFFICER: VOTE 3: PROVINCIAL TREASURY (DR JC STEGMANN)
THE ACCOUNTING OFFICER: VOTE 4: COMMUNITY SAFETY (MR M DELIWE)
THE ACCOUNTING OFFICER: VOTE 5: EDUCATION (MR RB SWARTZ)
THE ACCOUNTING OFFICER: VOTE 6: HEALTH (PROF KG HOUSEHAM)
THE ACCOUNTING OFFICER: VOTE 7: SOCIAL DEVELOPMENT (MS K LUBELWANA) (ACTING)
THE ACCOUNTING OFFICER: VOTE 8: LOCAL GOVERNMENT AND HOUSING (MS S MAJLET)
THE ACCOUNTING OFFICER: VOTE 9: ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING (MR T TOLMAY)
THE ACCOUNTING OFFICER: VOTE 10: TRANSPORT AND PUBLIC WORKS (MR T MANYATHI)
THE ACCOUNTING OFFICER: VOTE 11: AGRICULTURE (MS J ISAACS)
THE ACCOUNTING OFFICER: VOTE 12: ECONOMIC DEVELOPMENT AND TOURISM (DR H FAST) (ACTING)
THE ACCOUNTING OFFICER: VOTE 13: CULTURAL AFFAIRS AND SPORT (MR MN LINDIE)

THE CHIEF FINANCIAL OFFICER: VOTE 1: PREMIER (MR H ARENDSE)
THE CHIEF FINANCIAL OFFICER: VOTE 2: PROVINCIAL PARLIAMENT (MS A SMIT)
THE CHIEF FINANCIAL OFFICER: VOTE 3: PROVINCIAL TREASURY (MR A GILDENHUYS)
THE CHIEF FINANCIAL OFFICER: VOTE 4: COMMUNITY SAFETY (MR M MACIKAMA) (ACTING)
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: LOCAL GOVERNMENT AND HOUSING (MR PAE BREDEKAMP)
THE CHIEF FINANCIAL OFFICER: VOTE 9: ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING (MR AA GAFFOOR)
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 (MR A ASSIM)

THE HEAD OFFICIAL: PROVINCIAL TREASURY (DR JC STEGMANN)
THE HEAD: SUSTAINABLE RESOURCE MANAGEMENT (MS SMA ROBINSON)
THE HEAD: ASSET MANAGEMENT (MR TD PILLAY)
THE HEAD: FINANCIAL GOVERNANCE (MR TC ARENDSE)
THE HEAD: PUBLIC FINANCE (MR H MALILA)
THE CHIEF FINANCIAL OFFICER (MR A GILDENHUYS)
THE SENIOR MANAGER: HUMAN RESOURCE MANAGEMENT (MS C MILES) (ACTING)
THE SENIOR MANAGER: ACCOUNTING (MR A REDDY)
THE SENIOR MANAGER: NORMATIVE FINANCIAL MANAGEMENT (MR F JACOBS) (ACTING)
THE SENIOR MANAGER: ENTERPRISE RISK MANAGEMENT AND GOVERNANCE SYSTEMS (MR L NENE)
THE CHIEF AUDIT EXECUTIVE (MS R JAFTHA)
THE SENIOR MANAGER: ECONOMIC ANALYSIS (MS B BOQWANA)
THE SENIOR MANAGER: FISCAL POLICY (MR D CORNELISSEN) (ACTING)
THE SENIOR MANAGER: BUDGET MANAGEMENT (MS AJ HICKEY)
THE SENIOR MANAGER: PROVINCIAL GOVERNMENT FINANCE (MR DG BASSON)
THE SENIOR MANAGER: LOCAL GOVERNMENT FINANCE (MR G PAULSE)
THE SENIOR MANAGER: IMMOVEABLE ASSET MANAGEMENT (MR NB LANGENHOVEN)
THE SENIOR MANAGER: MOVEABLE ASSET MANAGEMENT (MS N EBRAHIM) (ACTING)
THE SENIOR MANAGER: SUPPORTING AND INTERLINKED FINANCIAL SYSTEMS (MR A BASTIAANSE)
THE HEAD: OFFICE OF THE MINISTRY (MR G GESWINDT)

} For information

THE PROVINCIAL AUDITOR
MASTER RECORDS OFFICIAL: FINANCIAL MANAGEMENT

RE: PROVINCIAL TREASURY CIRCULAR ON TRANSVERSAL CONTRACTS

PURPOSE

1. To issue Provincial Treasury Instructions on the facilitation and the administration of transversal contracts for the Western Cape Provincial Departments.
2. The Provincial Treasury deems this Circular necessary to ensure uniformity within the Province with regard to the arrangement of transversal contracts and to ensure that all parties involved in such contracts have the necessary knowledge and a clear understanding of their responsibilities when participating in such contracts.
3. The aim of this Instructions are to further charter the course of Provincial Departments moving from a level 2 and 3 organisation to a level 4 organisation having functioning controls in place and being able to focus on performance, monitoring and evaluation.

BACKGROUND

4. Although there has been a process in place in terms of the National Treasury Regulations dated March 2005 and issued in terms of the Public Finance Management Act, 1996 (Act 1 of 1999) for the procurement of goods and services giving effect to the regulatory framework for the tender and award process through a competitive bidding process as envisaged by Section 217 of the Constitution of the Republic of South Africa Act, 1996 (Act 108 of 1996) there has been a need for an expansion of the process to give effect to a policy framework when contracts of a transversal nature are entered into by Provincial Departments.
5. Such contracts as referred to above are entered into when more than one Provincial Department enters into a contract for goods or services or both thereby pursuant to establishing a common need.
6. The National Treasury Regulations, dated March 2005, empowers Provincial Treasury to facilitate the arrangement of transversal contracts for the procurement of goods and

services required by more than one department, provided that the arrangement of such a contract is both cost-effective and in the provincial interest.

REGULATORY FRAMEWORK

7. Section 217 of the Constitution of the Republic of South Africa, 1996, provides as follows:

“When an organ of state in the National, Provincial or Local sphere of government, or any other institution identified in the national legislation contracts for goods and services it must do so with a system which is fair, equitable, transparent, competitive and cost effective.”

8. Regulation 38(1) and 76 (4) of the Public Finance Management Act, 1999 (Act 1 of 1999) give effect to Section 217 of the Constitution.
9. Regulation 16A3.2 of the National Treasury Regulations (the ‘NTRs’) issued in terms of the PFMA, dated March 2005, states as follows:

“A supply chain management system referred to in paragraph 16A.3.1 must:–

- (a) Be fair, equitable, transparent, competitive and cost effective;***
- (b) Be consistent with the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);***
- (c) Be consistent with the Broad Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003); and***
- (d) Provide for at least the following: –***
 - (i) Demand management;***
 - (ii) Acquisition management;***
 - (iii) Logistics management;***
 - (iv) Disposal management;***
 - (v) Risk management; and***
 - (vi) Regular assessment supply chain performance.”***

10. In terms of Regulation 16A6.5 and 16A6.6 of the NTR’s :

“The accounting officer or accounting authority may opt to participate in transversal term contracts facilitated by the relevant treasury. Should the accounting officer or accounting authority opt to participate in a transversal contract facilitated by the

relevant treasury, the accounting officer or accounting authority may not solicit bids for the same or similar product or service during the tenure of the transversal term contract.”

“The accounting officer or accounting authority may, on behalf the department, constitutional institution or public entity, participate in any contract arranged by means of a competitive bidding process by any other organ of state, subject to the written approval of such organ of state and the relevant contractors.”

11. Section 16A2.3 of The Western Cape Provincial Treasury Instructions, issued on 13 October 2005 in terms of Section 18(2)(a) of the PFMA, states as follows:

“Where transversal contracts are deemed to be more cost – effective than individual departments’/ entities’ bidding processes, the Provincial Treasury must facilitate such a process and establish the necessary rules and mechanisms to accomplish this.”

WHY A TRANSVERSAL CONTRACT?

12. A primary consideration for entering into and facilitating the transversal contract process will be the achievement of economies of scale, standardisation of purchasing power / beneficial monopolistic behaviour, value for money, and/or achieving governmental procurement objectives (BBBEE / Preferential Procurement) as envisaged by Section 217 of the Constitution.
13. As purchasing is central to the management of any government programme, it is important to procure the right goods and services of the right quality at the right price and at the right time.
14. Such policy implementation will further streamline procurement processes in the Province.
15. For the purpose of this Circular, a transversal contract means any contract that is deemed to be economically cost effective and which provides for the supply of goods or services or both through a competitive bidding process and which has been identified as a common need that affects all or most of the Provincial Departments; where such transversal contract will benefit provincial departments in the following respects:

- a) Provincial Departments can exercise their buying power to secure better prices because suppliers have a guaranteed maximum level of sales;
- b) Minimum stock will be held by Provincial Departments as the supplier will be contracted to provide goods within a specified time period often at short notice or immediately to meet the requirements of the departments;
- c) Internal purchases, processing requirements and time is reduced as departmental staff may order directly from a supplier;
- d) Longer term contracts may, if managed properly, provide provincial departments with more influence to improve the quality of goods and services that are provided.

WHEN TO USE TRANSVERSAL CONTRACTS

16. When the demand for goods and services can be aggregated to minimise procurement costs and maximise better pricing and quality of goods and services,
- a) For high volume requirements;
 - b) Where goods and services are required over a fixed period; and
 - c) Where the requirements for goods and services can be approximated over an agreed time-scale, using a call-off arrangement.

IT MUST BE NOTED THAT:

17. The vested accountability for procurement and provisioning lies with the accounting officer of the various departments and no department may make decisions (on behalf of another department) that may have a financial impact on any other department(s) unless governed by a service level agreement.
18. The entering into and awarding of such contracts must follow the competitive process as envisaged by the requisite legislation.
19. The Provincial Treasury Instructions governing the transversal contract facilitation process are encapsulated hereunder in terms of Annexure "A".

20. Due to the urgency of the need for a framework governing the facilitation and arranging of transversal contracts, the Provincial Treasury deems the said instructions be read as a replacement of Section 16A2.3 of the Provincial Treasury Instructions, issued on 13 October 2005 in terms of Section 18(2)(a) of the PFMA.
21. The Provincial Treasury is further in the process of amending the current Chapter 16A of the Provincial Treasury Instructions issued on 13 October 2005.
22. The amended Chapter 16A will then be issued which will at that stage include the Section 16A2.3 as replaced hereunder in terms of Annexure "A".
23. In the event of any conflict between this instruction dated 1st March 2007 and the existing Chapter 16A of the Provincial Treasury Instructions dated 13 October 2005, the provisions of the replacement instructions shall prevail.
24. Any queries in this regard may be directed to:

Mr. TD Pillay
The Head: Asset Management
Tel: (021) 483 5600
Email: Tdpillay@pgwc.gov.za

25. Accounting Officers must ensure that the contents of this circular and the attached instruction are brought to the attention of all staff.



THE HEAD: ASSET MANAGEMENT

DATE: 2nd March 2007.