



**Western Cape
Government**

Provincial Treasury

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File Reference: T7/2/1

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TREASURY CIRCULAR NO. 28/2012

THE PREMIER

- THE MINISTER OF AGRICULTURE AND RURAL DEVELOPMENT
- THE MINISTER OF COMMUNITY SAFETY
- THE MINISTER OF CULTURAL AFFAIRS AND SPORT
- THE MINISTER OF EDUCATION
- THE MINISTER OF FINANCE, ECONOMIC DEVELOPMENT AND TOURISM
- 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

} For information

- THE ACCOUNTING OFFICER: VOTE 1: PREMIER (ADV B GERBER)
- THE ACCOUNTING OFFICER: VOTE 2: PROVINCIAL PARLIAMENT (MR R HINDLEY)
- THE ACCOUNTING OFFICER: VOTE 3: PROVINCIAL TREASURY (DR JC STEGMANN)
- THE ACCOUNTING OFFICER: VOTE 4: COMMUNITY SAFETY (DR GA LAWRENCE)
- THE ACCOUNTING OFFICER: VOTE 5: EDUCATION (MS P VINJEVOLD)
- THE ACCOUNTING OFFICER: VOTE 6: HEALTH (PROF KC HOUSEHAM)
- THE ACCOUNTING OFFICER: VOTE 7: SOCIAL DEVELOPMENT (MR M RICHARDSON)
- THE ACCOUNTING OFFICER: VOTE 8: HUMAN SETTLEMENTS (MR M TSHANGANA)
- THE ACCOUNTING OFFICER: VOTE 9: ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING (MR P VAN ZYL)
- THE ACCOUNTING OFFICER: VOTE 10: TRANSPORT AND PUBLIC WORKS (MR J FOURIE)
- 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 (DR H FAST)

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

- THE CHIEF EXECUTIVE OFFICER: WESTERN CAPE GAMBLING AND RACING BOARD (MR R BENNIT) (ACTING)
- THE CHIEF EXECUTIVE OFFICER: WESTERN CAPE NATURE CONSERVATION BOARD (MS M MOROKA)
- THE CHIEF EXECUTIVE OFFICER: WESTERN CAPE INVESTMENTS AND TRADE PROMOTION AGENCY (MR N FLAATTEN)
- THE CHIEF EXECUTIVE OFFICER: CAPE TOWN ROUTES UNLIMITED (DMO) (MR C GILFELLAN)
- THE CHIEF EXECUTIVE OFFICER: WESTERN CAPE CULTURAL COMMISSION (MS J MOLELEKI)
- THE CHIEF EXECUTIVE OFFICER: WESTERN CAPE LANGUAGE COMMISSION (MS J MOLELEKI)
- THE CHIEF EXECUTIVE OFFICER: WESTERN CAPE HERITAGE COMMISSION (MS J MOLELEKI)
- THE CHIEF EXECUTIVE OFFICER: CASIDRA (MS T MLONYENI) (ACTING)
- THE CHIEF EXECUTIVE OFFICER: WESTERN CAPE LIQUOR BOARD (MR S FOURIE)

- THE CHIEF FINANCIAL OFFICER: WESTERN CAPE GAMBLING AND RACING BOARD (MR P ABRAHAMS)
- THE CHIEF FINANCIAL OFFICER: WESTERN CAPE NATURE CONSERVATION BOARD (MR A PRESTSON)
- THE CHIEF FINANCIAL OFFICER: WESTERN CAPE INVESTMENTS AND TRADE PROMOTION AGENCY (MR I BLACKIE)
- THE CHIEF FINANCIAL OFFICER: CAPE TOWN ROUTES UNLIMITED (DMO) (MR H BONESCHANS)
- THE CHIEF FINANCIAL OFFICER: WESTERN CAPE CULTURAL COMMISSION (MS B RUTGERS)
- THE CHIEF FINANCIAL OFFICER: WESTERN CAPE LANGUAGE COMMISSION (MS B RUTGERS)
- THE CHIEF FINANCIAL OFFICER: WESTERN CAPE HERITAGE COMMISSION (MS B RUTGERS)

THE CHIEF FINANCIAL OFFICER: CASIDRA (MR F VAN ZYL)
 THE CHIEF FINANCIAL OFFICER: WESTERN CAPE LIQUOR BOARD (MS M ABRAHAMS)
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 THE HEAD: BRANCH FISCAL AND ECONOMIC SERVICES (MR H MALILA)
 THE HEAD: BRANCH GOVERNANCE AND ASSET MANAGEMENT (VACANT)
 THE HEAD: PUBLIC POLICY SERVICES (MR A PHILLIPS)
 THE HEAD: PUBLIC FINANCE (MR H MALILA) (PRO TEM)
 THE HEAD: LOCAL GOVERNMENT FINANCE (MR TC ARENDSE)
 THE HEAD: FINANCIAL GOVERNANCE (MR A HARDIEN)
 THE HEAD: ASSET MANAGEMENT (MR I SMITH)
 THE CHIEF FINANCIAL OFFICER (MR A GILDENHUYS)
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 THE SENIOR MANAGER: ACCOUNTING SERVICES: LOCAL GOVERNMENT (MS L NGXONONO)
 THE SENIOR MANAGER: CORPORATE GOVERNANCE (MR B VINK)
 THE SENIOR MANAGER: BUDGET MANAGEMENT: PROVINCIAL GOVERNMENT (MS M SHERATON-KORSTEN)
 THE SENIOR MANAGER: BUDGET MANAGEMENT: LOCAL GOVERNMENT (MR ML BOOYSEN)
 THE SENIOR MANAGER: PROVINCIAL GOVERNMENT FINANCE (MS A PICK)
 THE SENIOR MANAGER: LOCAL GOVERNMENT FINANCE (GROUP ONE) (MR F SABBAT)
 THE SENIOR MANAGER: LOCAL GOVERNMENT FINANCE (GROUP TWO) (MR M SIGABI)
 THE SENIOR MANAGER: PUBLIC FINANCE POLICY RESEARCH AND MODELLING (MS C HORTON)
 THE SENIOR MANAGER: IMMOVEABLE ASSET MANAGEMENT (MR NB LANGENHOVEN)
 THE SENIOR MANAGER: MOVEABLE ASSET MANAGEMENT (MS N EBRAHIM)
 THE SENIOR MANAGER: SUPPORTING AND INTERLINKED FINANCIAL SYSTEMS (MR A BASTIAANSE)
 THE SENIOR MANAGER: STRATEGIC AND OPERATIONAL MANAGEMENT SUPPORT (MS A SMIT)
 THE HEAD: OFFICE OF THE FINANCE MINISTRY (MS T EVANS)

 THE PROVINCIAL AUDITOR

 THE NATIONAL ACCOUNTANT-GENERAL (MR F NOMVALO)
 THE NATIONAL TREASURYBUDGET OFFICE (MR K BROWN)
 MASTER RECORDS OFFICIAL: FINANCIAL MANAGEMENT

ANNUAL FINANCIAL STATEMENTS 2011/12: DISCLOSURE REQUIREMENTS IRO CONTRACTS AWARDED IN THE ABSENCE OF TAX CLEARANCE CERTIFICATES

PURPOSE

1. The purpose of this circular is to inform Accounting Officers (AOs), Accounting Authorities, Chief Financial Officers (CFOs) and the Provincial Parliament of the disclosure requirements to be included in the 2011/12 annual financial statements regarding contracts awarded in the absence of tax clearance certificates.

BACKGROUND

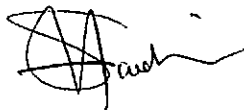
2. The legality of practise and instructions notes is once again a contentious issue in the current year.
3. The PPPFA Regulations 2001 state that "No contract may be awarded to a person who has failed to submit an original Tax Clearance Certificate from the South African Revenue Service ("SARS") certifying that the taxes of that person to be in order or that suitable arrangement have been made with SARS".
4. The PPPFA Regulations 2011, effective 07 December 2011 states that "No tender may be awarded to any person whose tax matters have not been declared by the South African revenue Service to be in order".
5. The Supply Chain Management Guide for Accounting Officers/ Authorities dated February 2004 and the Policy Strategy to Guide Uniformity in Procurement Reform

Processes in Government dated 07 April 2003 states that "..., suppliers must demonstrate "good standing" as far as all their tax, levy and service charge obligations are concerned as a prerequisite for doing business with government".

6. For the purposes of the Western Cape Provincial Departments "good standing" is normally confirmed by the issuing of a tax clearance certificate by SARS, or a letter confirming "good standing", or that the relevant company has made acceptable arrangements with SARS.
7. Government departments therefore do not have the authority to contract with suppliers in the absence of the aforementioned.
8. The absence of tax clearance certificates was reported as irregular expenditure in the accounting records of the Province in the 2010/2011 financial year. It is the view of the Provincial Treasury that, notwithstanding the National Treasury's response that in the absence of a Tax Clearance Certificate, the expenditure is not automatically irregular, the Provincial position that was adopted in 2010/2011 be maintained.

REQUIREMENT

9. To avoid any further disputes with the assurance providers, until the matter is appropriately addressed by National Treasury, the Departments and Entities are required to raise irregular expenditure in cases where the awards of contracts were not supported by a tax clearance certificate or a letter of good standing from SARS.
10. As this matter is still under discussion with National Treasury, Provincial Treasury will deal consistently with the condonation of irregular expenditure in the 2012/13 financial year.



PROVINCIAL ACCOUNTANT-GENERAL

DATE: 30 May 2012