

Reference: T16/P

TREASURY CIRCULAR NO. 36 /2014

THE PREMIER

THE MINISTER OF AGRICULTURE, ECONOMIC DEVELOPMENT AND TOURISM
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

} For information

THE SPEAKER: PROVINCIAL PARLIAMENT
THE DEPUTY SPEAKER: PROVINCIAL PARLIAMENT

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 (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 (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 GILDENHUYS)
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 GILDENHUYS)
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 (DR M MATSAPOLA)
THE CHIEF EXECUTIVE OFFICER: WESTERN CAPE NATURE CONSERVATION BOARD (DR R OMAR)
THE CHIEF EXECUTIVE OFFICER: WESTERN CAPE INVESTMENTS AND TRADE PROMOTION AGENCY (MR N FLAATTEN)
THE CHIEF EXECUTIVE OFFICER: WESTERN CAPE CULTURAL COMMISSION (MS J MOLELEKI)
THE CHIEF EXECUTIVE OFFICER: WESTERN CAPE LANGUAGE COMMITTEE (MS J MOLELEKI)
THE CHIEF EXECUTIVE OFFICER: WESTERN CAPE HERITAGE (MR A HALL)
THE CHIEF EXECUTIVE OFFICER: CASIDRA (MR M BRINKHUIS)
THE CHIEF EXECUTIVE OFFICER: WESTERN CAPE LIQUOR AUTHORITY (MR T GILIOME)

THE CHIEF FINANCIAL OFFICER: WESTERN CAPE GAMBLING AND RACING BOARD (MR P ABRAHAMS)
 THE CHIEF FINANCIAL OFFICER: WESTERN CAPE NATURE CONSERVATION BOARD (MR A PRESTON)
 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 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 (VACANT)
 THE SENIOR MANAGER: GOVERNMENT MOTOR TRANSPORT (MR J KOEGELENBERG)
 THE HEAD OFFICIAL: PROVINCIAL TREASURY (DR JC STEGMANN)
 THE HEAD: BRANCH FISCAL AND ECONOMIC SERVICES (MR H MALILA)
 THE HEAD: BRANCH GOVERNANCE AND ASSET MANAGEMENT (MR Z HOOSAIN)
 THE HEAD: PUBLIC POLICY SERVICES (MR H MALILA) (PRO TEM)
 THE HEAD: PROVINCIAL GOVERNMENT PUBLIC FINANCE (MS JD GANTANA)
 THE HEAD: LOCAL GOVERNMENT PUBLIC FINANCE (MR H MALILA) (PRO TEM)
 THE HEAD: ASSET MANAGEMENT (MR IG SMITH)
 THE HEAD: FINANCIAL GOVERNANCE AND ACCOUNTING (MR A HARDIEN)
 THE CHIEF FINANCIAL OFFICER (MR A GILDENHUIJS)
 THE HEAD: OFFICE OF THE FINANCE MINISTRY (ADV E PRETORIUS)
 THE SENIOR MANAGER: BUSINESS INFORMATION AND DATA MANAGEMENT (MR PP PIENAAR)
 THE SENIOR MANAGER: FINANCIAL GOVERNANCE (MR B VINK)
 THE SENIOR MANAGER: FISCAL POLICY (MR H MALILA) (PRO TEM)
 THE SENIOR MANAGER: INFRASTRUCTURE (MS JD GANTANA) (PRO TEM)
 THE SENIOR MANAGER: LOCAL GOVERNMENT ACCOUNTING (MS N OLIPHANT)
 THE SENIOR MANAGER: LOCAL GOVERNMENT BUDGET OFFICE (MR ML BOOYSEN)
 THE SENIOR MANAGER: LOCAL GOVERNMENT REVENUE AND EXPENDITURE (GROUP ONE) (MR F SABBAT)
 THE SENIOR MANAGER: LOCAL GOVERNMENT REVENUE AND EXPENDITURE (GROUP TWO) (MR M SIGABI)
 THE SENIOR MANAGER: LOCAL GOVERNMENT SUPPLY CHAIN MANAGEMENT (MR TL RADEBE)
 THE SENIOR MANAGER: PROVINCIAL GOVERNMENT ACCOUNTING (MR A REDDY)
 THE SENIOR MANAGER: PROVINCIAL GOVERNMENT BUDGET OFFICE (MS M KORSTEN)
 THE SENIOR MANAGER: PROVINCIAL GOVERNMENT FINANCE (EXPENDITURE MANAGEMENT) (MS A PICK)
 THE SENIOR MANAGER: PROVINCIAL GOVERNMENT SUPPLY CHAIN MANAGEMENT (MS N EBRAHIM)
 THE SENIOR MANAGER: STRATEGIC AND OPERATIONAL MANAGEMENT SUPPORT (MS A SMIT)
 THE SENIOR MANAGER: SUPPORTING AND INTERLINKED FINANCIAL SYSTEMS (MR A BASTIAANSE)
 THE PROVINCIAL AUDITOR
 MASTER RECORDS OFFICIAL: BUSINESS INFORMATION AND DATA MANAGEMENT
 THE DEPUTY DIRECTOR-GENERAL: CORPORATE ASSURANCE, DEPARTMENT OF THE PREMIER (MS H ROBSON)

BBBEE CODES OF GOOD PRACTICE AND WESTERN CAPE BIDDING DOCUMENT 4 (WCBD4)

1. PURPOSE

1.1 The purpose of this Circular is to:

- (a) provide clarity in respect of the implementation of the new BBBEE Codes;
- (b) issue the revised WCBD 4;
- (c) issue a guideline in respect of the completion of WCBD 4 as well as frequently asked questions (FAQ).

2. BBBEE GENERIC AND SECTOR CODES

- (a) There has been a revision of the BBBEE Generic Codes issued by the Department of Trade and Industry, which has an impact on the preference

point's allocation for Exempted Micro Enterprises (EMEs) and Qualified Small Enterprises (QSEs) specifically. It is also required that an affidavit indicating turnover for EMEs rather than a SANAS approved certificate is acceptable. The Sector Codes have however not been revised and aligned to the revised BBBEE codes.

- (b) Upon review of the Codes, the following challenges amongst others have been identified:
 - (i) the risk of fronting by the supplier and the inability of procuring institutions to verify the credibility of the information;
 - (ii) discrepancies and/ disjuncture between the Generic and Sector specific Codes given that the Sector Codes have not been revised; and
 - (iii) areas of vagueness and where the Codes are silent and/or are prone to interpretation.
- (c) This poses a huge legal risk to the Province in giving effect to the revised Codes. It must be noted that the transitional period within which time the Codes become compulsory was extended to April 2015 (Government Gazette 37453 dated 18 March 2014).

The WCG will utilise the transitional period to seek clarity on the legal issues and conclude a process for implementation. The Provincial Treasury is already in the process of putting together a position paper on the analysis of the codes and will solicit legal advice on the legal concerns and implementation of the revised codes.

- (d) ***In the interim the BBBEE Generic and Sector Codes issued in 2007 will be applied uniformly so that no bidder is unduly prejudiced in the process.***

3. WCBD 4

- (a) Attached herewith (Annexure A) is the revised WCBD 4. The WCBD 4 issued with the PTIs, 2012 has been condensed from eight pages to seven pages for practical considerations however the content has not been amended.

The commissioner of oath's signature has been moved from page 8 to page 7, given the risk of the signature being on the last page as bidder's can replace the page preceding the commissioner of oaths signature.

(b) *The attached WCBD 4 replaces the WCBD 4 issued with the PTIs in 2012. Suppliers on the Western Cape Supplier Database (WCSD) should not be re-engaged to resubmit the revised WCBD 4; however it is required that for every new registration process and when bidders are annually requested to update their status that the revised WCBD4 bid documents are duly completed and housed on the WCSD.*

(c) Attached herewith is:

- i. Annexure B - a guideline that will assist suppliers in completing the WCBD 4; and
- ii. Annexure C - frequently asked questions with answers in respect of WCBD 4.

4. REQUEST

4.1 Accounting officers/ accounting authorities are requested to:

- (a) Note and adhere to the content of this Circular; and
- (b) Ensure that the content of this Circular is brought to the attention of all relevant officials within their institution.


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HEAD: ASSET MANAGEMENT

PROVINCIAL TREASURY

DATE: 29/08/14

PROVINCIAL GOVERNMENT OF WESTERN CAPE

DECLARATION OF INTERESTS, BIDDERS PAST SCM PRACTICES AND INDEPENDENT BID DETERMINATION

1. To give effect to the requirements of the Western Cape Provincial Treasury Instructions, 2012: Supply Chain Management (Goods and Services), Practice Note 4 of 2006 Declaration of Bidders Past SCM Practices-(SDB8), Instruction note Enhancing Compliance Monitoring and Improving Transparency and Accountability in Supply Chain Management SBD 4 Declaration of Interest, Practice Note 2010 Prohibition of Restrictive practices SBD9, Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998 as amended together with its associated regulations, the Prevention and Combating of Corrupt Activities Act No 12 of 2004 and regulations pertaining to the tender defaulters register, Paragraph 16A9 of the National Treasury Regulations and/or any other applicable legislation.
2. All prospective bidders intending to do business with the Institution must be registered on the central supplier database.

3. Definitions

“**Bid**” includes a price quotation, advertised competitive bid, limited bid or proposal

“**Bid rigging (or collusive bidding)**” occurs when businesses, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods and / or services for purchasers who wish to acquire goods and / or services through a bidding process. Bid rigging is, therefore, an agreement between competitors

“**business interest**” means —

- (a) a right or entitlement to share in profits, revenue or assets of an entity;
- (b) a real or personal right in property;
- (c) a right to remuneration or any other private gain or benefit, and includes any interest contemplated in paragraphs (a), (b) or (c) acquired through an intermediary and any potential interest in terms of any of those paragraphs;

“**Consortium or Joint Venture**” means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract;

“**employee**” means a person employed by the Provincial Government or a provincial public entity, whether permanently or temporarily, including –

- (a) an employee as contemplated in section 8 of the Public Service Act, 1994 (Proclamation 103 of 1994);

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If you know of any corrupt, fraudulent or collusive actions in the Institution, please report it by calling the National Hotline 0800 701 701

This registration form must be completed annually. Should the information herein declared change in the course of the year or before the next renewal or in relation to any bid, quotation or contract, it is the entity's responsibility to advise the Institution in writing of the change in such details.

- (b) a person appointed in terms of section 12A of the Public Service Act;
- (c) a person transferred or seconded to the Provincial Government or a provincial public entity in terms of section 15 of the Public Service Act; and
- (d) an educator as defined in the *Employment of Educators Act, 1998* (Act 76 of 1998), and includes a member of the board or other controlling body of a provincial public entity;

“entity” means any —

- (a) association of persons, whether or not incorporated or registered in terms of any law, including a company, corporation, trust, partnership, close corporation, joint venture or consortium; or
- (b) sole proprietorship;

“entity conducting business with the Institution” means an entity that contracts or applies or tenders for the sale, lease or supply of goods or services to the Province

“Family member” means a person’s —

- (a) spouse; or
- (b) child, parent, brother or sister, whether such a relationship results from birth, marriage or adoption;

“intermediary” means a person through whom an interest is acquired, and includes—

- (a) a person to whom is granted or from whom is received a general power of attorney; and
- (b) a representative or agent;

“Institution” means —

Provincial Government of the Western Cape

“Provincial Government Western Cape (PGWC)” means

- (a) the Institution of the Western Cape, and
- (b) a provincial public entity;

“RWOPS” means —

Remunerative Work Outside the Public Service

“spouse” means a person’s —

- (a) partner in marriage;
- (b) partner in a customary union according to indigenous law; or
- (c) partner in a relationship in which the parties live together in a manner resembling a marital partnership or customary union;

4. Any legal person, including persons employed by the Institution, or their family members, may make an offer or offers in terms of this invitation to bid. In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons employed by the

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PG, or to their family member, it is required that the bidder or his/her authorised representative declare his/her position in relation to the evaluating/adjudicating authority where the bidder is employed by the Institution; and/or

5. The bid of any bidder may be disregarded if that bidder or any of its directors have abused the institution's supply chain management system; committed fraud or any other improper conduct in relation to such system; or failed to perform on any previous contract.
6. Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging). Collusive bidding is a *per se* prohibition meaning that it cannot be justified under any grounds.
7. Communication between partners in a joint venture or consortium will not be construed as collusive bidding
8. In addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

SECTION A: DETAILS OF THE ENTITY	
A1.	<i>Name of the Entity</i>
A2.	<i>Entity registration Number (where applicable)</i>
A3.	<i>Entity Type</i>
A4.	<i>Tax Reference Number</i>
A5. <i>Full details of directors, shareholder, member, partner, trustee, sole proprietor or any persons with a right or entitlement to share in profits, revenue or assets of an entity, of the entity should be disclosed in the Table A below.</i>	

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TABLE B

Details of persons connected with the bidder who are employees of the Institution as defined should be disclosed in Table B below.

FULL NAME OF INSTITUTION EMPLOYEE	IDENTITY NUMBER	PROVINCIAL DEPARTMENT/ ENTITY OF EMPLOYMENT	DESIGNATION / RELATIONSHIP TO BIDDER**	INSTITUTION EMPLOYEE NO./PERSAL NO. (Indicate if not known)

SECTION C: PERFORMANCE MANAGEMENT AND BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

To enable the prospective bidder to provide evidence of past and current performance with the Institution.

C1. Did the entity conduct business with the Institution in the last twelve months?
(If yes complete Table C)

NO YES

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C2. Table C

Complete the below table to the maximum of the last 5 contracts.

NAME OF CONTRACTOR	PROVINCIAL DEPARTMENT OR PROVINCIAL ENTITY	TYPE OF SERVICES OR COMMODITY	CONTRACT / ORDER NUMBER	PERIOD OF CONTRACT	VALUE OF CONTRACT

C3. Is the entity or its principals listed on the National Database as companies or persons prohibited from doing business with the public sector? NO YES

C4. Is the entity or its principals listed on the National Treasury Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No. 12 of 2004)? NO YES
(To access this Register enter the National Treasury's website, www.treasury.gov.za, click on the icon "Register for Tender Defaulters" or submit your written request for a hard copy of the Register to facsimile number (012) 3265445.)

C5. If yes to C3 or C4, were you informed in writing about the listing on the database of restricted suppliers or Register for Tender Defaulters by National Treasury? NO YES

C6. Was the entity or persons listed in Table A convicted for fraud or corruption during the past five years in a court of law (including a court outside the Republic of South Africa)? NO YES

SECTION D: DULY AUTHORISED REPRESENTATIVE TO DEPOSE TO AFFIDAVIT

The form should be signed by a duly authorised representative of the entity before a commissioner of oaths.

I, hereby swear/affirm;

If you know of any corrupt, fraudulent or collusive actions in the Institution, please report it by calling the National Hotline 0800 701 701

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	<ul style="list-style-type: none"> i. that the information disclosed above is true and accurate; ii. that I understand the content of the document; iii. the entity undertakes to independently arrive at any offer at any time to the Institution without any consultation, communication, agreement or arrangement with any competitor. In addition, that there will be no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to the Institution. iv. that the entity or its representative are aware of and undertakes not to disclose the terms of any bid, formal or informal, directly or indirectly, to any competitor, prior to the awarding of the contract. <p style="text-align: right;">_____ DULY AUTHORISED REPRESENTATIVE'S SIGNATURE</p>
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I certify that before administering the oath/affirmation I asked the deponent the following questions and wrote down his/her answers in his/her presence:

1.1 Do you know and understand the contents of the declaration?
ANSWER:

1.2 Do you have any objection to taking the prescribed oath?
ANSWER:

1.3 Do you consider the prescribed oath to be binding on your conscience?
ANSWER:

1.4 Do you want to make an affirmation?
ANSWER:

2. I certify that the deponent has acknowledged that he/she knows and understands the contents of this declaration, which was sworn to/affirmed before me and the deponent's signature/thumbprint/mark was placed thereon in my presence.

.....
SIGNATURE FULL NAMES

Commissioner of Oaths

Designation (rank)ex officio: Republic of South Africa

Date:Place

Business Address:

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WCBD 4

PROVINCIAL GOVERNMENT OF WESTERN CAPE

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2. All prospective bidders intending to do business with the Institution must be registered on the central supplier database.
3. **Definitions**

"Bid" includes a price quotation, advertised competitive bid, limited bid or proposal

"Bid rigging (or collusive bidding)" occurs when businesses, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods and / or services for purchasers who wish to acquire goods and / or services through a bidding process. Bid rigging is, therefore, an agreement between competitors

"business interest" means —

- (a) a right or entitlement to share in profits, revenue or assets of an entity;
- (b) a real or personal right in property;
- (c) a right to remuneration or any other private gain or benefit, and includes any interest contemplated in paragraphs (a), (b) or (c) acquired through an intermediary and any potential interest in terms of any of those paragraphs;

"Consortium or Joint Venture" means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract;

"employee" means a person employed by the Provincial Government or a provincial public entity, whether permanently or temporarily, including –

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30/03/2012

WCBD 4

- (a) an employee as contemplated in section 8 of the Public Service Act, 1994 (Proclamation 103 of 1994);
- (b) a person appointed in terms of section 12A of the Public Service Act;
- (c) a person transferred or seconded to the Provincial Government or a provincial public entity in terms of section 15 of the Public Service Act; and
- (d) an educator as defined in the *Employment of Educators Act, 1998* (Act 76 of 1998), and includes a member of the board or other controlling body of a provincial public entity;

"entity" means any —

- (a) association of persons, whether or not incorporated or registered in terms of any law, including a company, corporation, trust, partnership, close corporation, joint venture or consortium; or
- (b) sole proprietorship;

"entity conducting business with the Institution" means an entity that contracts or applies or tenders for the sale, lease or supply of goods or services to the Province

"Family member" means a person's —

- (a) spouse; or
- (b) child, parent, brother or sister, whether such a relationship results from birth, marriage or adoption;

"intermediary" means a person through whom an interest is acquired, and includes—

- (a) a person to whom is granted or from whom is received a general power of attorney; and
- (b) a representative or agent;

"Institution" means —

Provincial Government of the Western Cape

"Provincial Government Western Cape (PGWC)" means

- (a) the Institution of the Western Cape, and
- (b) a provincial public entity;

"RWOPS" means —

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"spouse" means a person's —

- (a) partner in marriage;
- (b) partner in a customary union according to indigenous law; or
- (c) partner in a relationship in which the parties live together in a manner resembling a marital partnership or customary union;

4. Any legal person, including persons employed by the Institution, or their family members, may make an offer or offers in terms of this invitation to bid. In view of possible allegations of

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WCBD 4

favouritism, should the resulting bid, or part thereof, be awarded to persons employed by the PG, or to their family member, it is required that the bidder or his/her authorised representative declare his/her position in relation to the evaluating/adjudicating authority where the bidder is employed by the Institution; and/or

5. The bid of any bidder may be disregarded if that bidder or any of its directors have abused the institution's supply chain management system; committed fraud or any other improper conduct in relation to such system; or failed to perform on any previous contract.
6. Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging). Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.
7. Communication between partners in a joint venture or consortium will not be construed as collusive bidding
8. In addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

SECTION A: DETAILS OF THE ENTITY		
A1.	Name of the Entity	
A2.	Entity registration Number (where applicable)	
A3.	Entity Type	
A4.	Tax Reference Number	

Comment [SM1]: Supply the name of your business

Comment [SM2]: Supply your CK1; CK2; CM 3, CoR number, if applicable.

Comment [SM3]: Whether you trade as a (1) sole proprietor (own business); (2) Close corporation; (3) Private company; (4) Public Company; (5) Trust; Partnership; Co-operative; NGO etc.

Comment [SM4]: Complete with your tax number (refer to your Tax Clearance Certificate for this n)

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A5. Full details of directors, shareholder, member, partner, trustee, sole proprietor or any persons with a right or entitlement to share in profits, revenue or assets of an entity, of the entity should be disclosed in the Table A below.

TABLE A

FULL NAME	DESIGNATION <i>(Where a director is a shareholder, both should be confirmed.)</i>	IDENTITY NUMBER	PERSONAL TAX REFERENCE NO.	PERCENTAGE INTEREST IN THE ENTITY

Comment [SM5]: Table A must be completed in full. Indicate all shareholders, directors in company. Their title in the business (designation); identity nr's; tax nr's and percentage shareholding must be indicated.

SECTION B: DECLARATION OF THE BIDDER'S INTEREST

To disclose relationships between the bidding entity and persons listed in Table A and any employees of the Institution; and to restrict business interest of Institution employees' according to paragraph 3.8 of the Western Cape Provincial Treasury Instruction 2012, (Supply Chain Management Goods and Services), bidding entity must give the following details. An Institution employee taking remunerative work outside public enterprise should first obtain necessary approval (RWOP), failure to submit proof of such authority, where applicable, may result in the disqualification of the bid.

B1. Are any persons listed in Table A employees of the Institution?
(If yes, complete Table B and attach "RWOP")

NO YES

Comment [SM6]: Please indicate here, by ticking YES/ NO if any of the members indicated in TABLE A, above, are employees of the Western Cape Government. If you answered YES then you must ask the members if they have an RWOP from their work and attach it. If they work for government then they will know what an RWOP is (permission to work outside of Government)

If you know of any corrupt, fraudulent or collusive actions in the Institution, please report it by calling the National Hotline 0800 701 701

This registration form must be completed annually. Should the information herein declared change in the course of the year or before the next renewal or in relation to any bid, quotation or contract, it is the entity's responsibility to advise the Institution in writing of the change in such details.

B2.	Are any employees of the entity also employees of the Institution? (If yes complete Table B and attach "RWOP")	<input type="checkbox"/> NO	<input type="checkbox"/> YES
B3.	Are any family members of the persons listed in Table A employees of the Institution? (If yes complete Table B)	<input type="checkbox"/> NO	<input type="checkbox"/> YES

TABLE B

Details of persons connected with the bidder who are employees of the Institution as defined should be disclosed in Table B below.

FULL NAME OF INSTITUTION EMPLOYEE	IDENTITY NUMBER	PROVINCIAL DEPARTMENT/ ENTITY OF EMPLOYMENT	DESIGNATION / RELATIONSHIP TO BIDDER**	INSTITUTION EMPLOYEE NO./PERSONAL NO. (Indicate if not known)

Comment [SM7]: Here you must provide the details of family members of the shareholders who are employed in the Western Cape Government and also the details of anyone who is employed in your business who is also employed by the Western Cape Government. If there are no such persons then indicate, NOT APPLICABLE in this Table. Don't just leave it open.

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SECTION C: PERFORMANCE MANAGEMENT AND BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

To enable the prospective bidder to provide evidence of past and current performance with the Institution.

C1. Did the entity conduct business with the Institution in the last twelve months?
(If yes complete Table C)

NO YES

Comment [SM8]: If you have previously done work for Government, provide the details of such bids here. If not then indicate NO by C1. Don't just leave unanswered, indicate NO if not applicable.

C2. Table C

Complete the below table to the maximum of the last 5 contracts.

NAME OF CONTRACTOR	PROVINCIAL DEPARTMENT OR PROVINCIAL ENTITY	TYPE OF SERVICES OR COMMODITY	CONTRACT / ORDER NUMBER	PERIOD OF CONTRACT	VALUE OF CONTRACT

C3. Is the entity or its principals listed on the National Database as companies or persons prohibited from doing business with the public sector?

NO YES

Comment [SM9]: Don't leave open. Answer YES or NO. You will know if you have been prohibited from doing business with Government as you would have received a communication with regards to being restricted.

C4. Is the entity or its principals listed on the National Treasury Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No. 12 of 2004)?
(To access this Register enter the National Treasury's website, www.treasury.gov.za, click on the icon "Register for Tender Defaulters" or submit your written request for a hard copy of the Register to facsimile number (012) 3265445.)

NO YES

Comment [SM10]: The same as above. Answer NO if you are not on the list of Tender Defaulters (companies who have acted fraudulently against Government)

C5. If yes to C3 or C4, were you informed in writing about the listing on the database of restricted suppliers or Register for Tender Defaulters by National Treasury?

NO YES

Comment [SM11]: Indicate Not applicable if you have not been restricted or is a tender defaulter.

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C6.	Was the entity or persons listed in Table A convicted for fraud or corruption during the past five years in a court of law (including a court outside the Republic of South Africa)?	<table border="1" style="display: inline-table; border-collapse: collapse;"> <tr> <td style="padding: 2px 10px;">NO</td> <td style="padding: 2px 10px;">YES</td> </tr> </table>	NO	YES
NO	YES			
SECTION D: DULY AUTHORISED REPRESENTATIVE TO DEPOSE TO AFFIDAVIT				
<i>The form should be signed by a duly authorised representative of the entity before a commissioner of oaths.</i>				
<p>I, hereby swear/affirm;</p> <ul style="list-style-type: none"> i. that the information disclosed above is true and accurate; ii. that I understand the content of the document; iii. the entity undertakes to independently arrive at any offer at any time to the Institution without any consultation, communication, agreement or arrangement with any competitor. In addition, that there will be no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to the Institution. iv. that the entity or its representative are aware of and undertakes not to disclose the terms of any bid, formal or informal, directly or indirectly, to any competitor, prior to the awarding of the contract. <p style="text-align: right; margin-right: 50px;">_____</p> <p style="text-align: right; margin-right: 50px;">DULY AUTHORISED REPRESENTATIVE'S SIGNATURE</p>				
<p>I certify that before administering the oath/affirmation I asked the deponent the following questions and wrote down his/her answers in his/her presence:</p> <p>1.1 Do you know and understand the contents of the declaration? ANSWER:</p> <p>1.2 Do you have any objection to taking the prescribed oath? ANSWER:</p> <p>1.3 Do you consider the prescribed oath to be binding on your conscience? ANSWER:</p> <p>1.4 Do you want to make an affirmation? ANSWER:</p> <p>2. I certify that the deponent has acknowledged that he/she knows and understands the contents of this declaration, which was sworn to/affirmed before me and the deponent's signature/thumbprint/mark was place thereon in my presence.</p>				

Comment [SM12]: IF no members of your company have been convicted of fraud in past 5 years, just indicate NO.

Comment [SM13]: VERY IMPORTANT SECTIONS OF DOCUMENT. MUST BE COMPLETED AND SIGNED (IF NOT SIGNED THEN THIS DOCUMENT IS NOT VALID) BY THE DULY AUTHORISED PERSON MAKING THE AFFIDAVIT. All the question below must be answered

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..... SIGNATURE FULL NAMES
Commissioner of Oaths	
Designation (rank)	ex officio: Republic of South Africa
Date:	Place
Business Address:	

Comment [SM14]: The Commissioner of Oaths must Sign, date; indicate their designation and complete their business address here. All the sections must be completed. If not then this Affidavit will not be valid. PLEASE ENSURE THAT SECTION D is correctly filled in as Ariba will not process your application if the Declaration of interest is not correctly completed, signed by the duly authorised official and Commissioned property.

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FREQUENTLY ASKED QUESTIONS IN RESPECT OF WCBD 4

1. What are the minimum requirements for certification in respect of Section D: Duly authorised representative to depose to affidavit?

Regulation 4(1) and (2) of the Justices of the Peace and Commissioner of Oaths Act 16 of 1963 prescribes the minimum requirements for certification.

Reference to Regulation 4(1) and 4(2):

4. (1) *Below the deponent's signature or mark the commissioner of oaths shall certify that the deponent has acknowledged that he knows and understands the contents of the declaration and he shall state the manner, place and date of taking the declaration.*
- (2) *The commissioner of oaths shall—*
 - (a) *sign the declaration and print his full name and business address below his signature; and*
 - (b) *state his designation and the area for which he holds his appointment or the office held by him if he holds his appointment ex officio.*

2. If the WCBD4 document is duly completed and signed by the Commissioner, is it required that the document be stamped by the commissioner as well?

The WCBD 4 need not be stamped. Regulation 4(2) of the Justices of the Peace and Commissioner of Oaths Act 16 of 1963 provides for the minimum requirements. According to the requirements, a stamp is not required.

3. Must all commissioners have a rank number?

Not all commissioners, other than SAPS have rank numbers. All other commissioners hold are commissioners by virtue of the office they hold as indicated in the Justices of the Peace and Commissioner of Oaths Act 16 of 1963 and its associated regulations.

4. What fields can be left incomplete?

No fields are to be left blank. All fields are required to be completed. If a field does not apply then "N/A" should be written in the field, as it shows intent that the supplier understands what he read in each table or paragraph.

5. Must the shareholding correspond with WCSD or can the document be processed if the shareholding has changed and is not in line with WCSD and maintenance done on the shares?

The latest shareholding should be attached to the WCBD4 document at all times. The match between the data on the WCSD and the form should correspond at all times. See clause at bottom of each page (WCBD 4) where information must be amended as and when it changes.

6. Is it compulsory to include the ID numbers of directors/ shareholders etc. in table A?

The ID numbers are compulsory. These ID numbers of a director or shareholder is required for the WCG to do the match between PERSAL and WCSD for conflicts of interest amongst suppliers and the establishment of the WCG.

7. Signatures are often found to be on the wrong place on page 7, is this acceptable?

Signatures of the authorised representative must be on the correct place as the person signs in that capacity. Equally the commissioner should sign on the designated place as this is prescribed by the regulations. If this was not the case, then it is an indication that the parties didn't apply their mind to the process and also indicates that the certification had not been affected correctly.

8. If the signed date is different to the stamp, is this acceptable?

The dates should at all times correspond. When the oath or affirmation is taken, the signature date of the commissioner and the date stamp (where a stamp is used) should correspond as the action is being effected at the same time.

9. Is an electronic signature acceptable?

Electronic signatures are not acceptable.

10. Whether a supplier who is a board member of a public entity has to declare such position/interest on the WCBD 4 and or is regarded as an "employee" as defined.

A supplier who does business with WCG and is also a member of the board of a provincial public entity, is regarded as an "employee" in terms of the scope of the definition that is in the WCBD 4. Such interest must be indicated in section B of the WCBD 4 form.