



Western Cape
Government

Western Cape Education Department
Directorate: Procurement Management

Addendum 33

STANDARD OPERATING PROCEDURE FOR BUSINESS CONFLICT OF INTEREST

PROCESS TO ASSESS AND MITIGATE POTENTIAL CONFLICT OF INTEREST

ACTION	LEGISLATIVE REQUIREMENT
<p>Departments to interrogate and investigate any potential business interest an employee of an organ of state or related party may have prior to engaging in any business</p>	<p>Public Service Regulation 13 (c) prohibits an employee from conducting business with any organ of state or be a director of a public or private company conducting business with an organ of state, unless such employee is in an official capacity a director of a company listed in schedule 2 and 3 of the Public Finance Management Act;</p>
<p><u>Process to be followed:</u></p> <ol style="list-style-type: none"> 1) <u>Identify</u> <ol style="list-style-type: none"> a) Review the WCSEB/ CSD Registration Report to determine whether shareholders/ directors/ members/ partners or individuals are identified as a “Government Employee”. b) Review the quarterly insight report to identify the number of conflicts for employees that are registered on the CSD and the total number and value of payments, of payments made to suppliers who were flagged as having a potential conflict of interest on the CSD. 2) <u>Assess</u> <ol style="list-style-type: none"> a) Ascertain whether the identified employee is a SCM practitioner that have or may be perceived to have an influence on the award of bids, including quotations; or b) If the identified employee is part of line function and have or may be perceived to have influence to direct the award of the bid or quotation. c) Verify if a “designated employee” has disclosed any financial interest in the relevant matter as prescribed in part 2 of the Public Service Regulations. d) If the identified employee is also employed outside of the public sector, confirm if the employee has official permission (RWOPS) to undertake such work. Approved RWOPS is only acceptable if such employment does not constitute any shareholding or ownership. e) Where the employee is employed in another department check if the employee has official permission (RWOPS) from that department to perform remunerative work outside of the public sector. 3) <u>Mitigate</u> - immediate corrective measures or disciplinary steps must be taken In terms of the transitional arrangements of Public Service Regulations 2016, Annexure 1 the following actions must be complied to: <ol style="list-style-type: none"> a) An employee, who at the time of the coming into effect of these Regulations, conducts business with an organ of state or is a director of a company which conducts business with an organ of state, other than an employee who is in his or her official capacity a director of company listed in schedule 2 or 3 of the Public Finance Management Act, shall – <ol style="list-style-type: none"> i. within one month, disclose that the employee is conducting business with an organ of state or is a director of a company that conducts business with the organ of state; ii. within six months - <ul style="list-style-type: none"> • cease conducting business with the organ of the state or resign as an employee; • resign as a director of a company that conducts business with an organ of state or resign as an employee; b) if the employee does not resign within the six-month period, the employee must submit proof that the employee has ceased conducting business or has resigned as a director 	

<p>of a company that conducts business with an organ of the state within a month of doing so.</p> <p>c) Department also to identify any other transactions involving the supplier but not yet paid to curb any potential irregular expenditure.</p>	
Departments to submit report to PT by the 26 th of each month.	<p>1) <u>NB</u>: Report as in attached format marked hereto "Annexure A" and attach copies of the following for each individual case:</p> <p>a) Declaration of business interest by employee.</p> <p>b) RWOPS</p> <p>2) The department to provide feedback in terms of the cases identified through the quarterly insight report.</p>
Definitions	<p>"designated employee" means—</p> <p>(a) any member of the SMS;</p> <p>(b) any other person in terms of section 36(3) of the Public Finance Management</p> <p>(c) Act approved or instructed by the relevant treasury to be the accounting</p> <p>(d) officer of a department; or</p> <p>(e) any other employee or category of employees determined by the Minister;</p> <p>"employee", in relation to –</p> <p>(a) a department, means a person contemplated in section 8 of the Public Service Act, 1994 but excludes a person appointed in terms of section 12A of that Act; and</p> <p>(b) a public entity, means a person employed by the public entity;</p>

ANNEXURE A

REPORTING FORMAT

Provincial Treasury

Attention:

COMPARISON BETWEEN CSD AND PERSAL INFORMATION: POTENTIAL CONFLICT OF INTEREST

1. The information provided by the [Department] for the month of [Month and Year] was scrutinised and the following findings were made:

NAME OF OFFICIAL	PERSAL NO.	SUPPLIER NAME	FINDING

2. The department have implemented the following steps to address each of the above findings and its associated risks:

FINDING	RISK	STEPS TAKEN TO ADDRESS RISK

3. Where the Department had not yet implemented the corrective measures to address the situation, the Department will now implement the following steps to address each of the above findings and its associated risks:

FINDING	RISK	STEPS TAKEN TO ADDRESS RISK

Head of Department

Date: