

Reference number: RCS/C.5

Private Bag X9165
CAPE TOWN
8000

TREASURY CIRCULAR MUN NO. 19/2022

THE MAYOR, CITY OF CAPE TOWN: MR G HILL-LEWIS
THE MAYOR, WEST COAST DISTRICT MUNICIPALITY: MR R STRYDOM
THE MAYOR, MATZIKAMA MUNICIPALITY: MR J VAN DER HOVEN
THE MAYOR, CEDERBERG MUNICIPALITY: MR W FARMER
THE MAYOR, BERGRIVIER MUNICIPALITY: MR R VAN ROOY
THE MAYOR, SALDANHA BAY MUNICIPALITY: MR A TRUTER
THE MAYOR, SWARTLAND MUNICIPALITY: MR H CLEOPHAS
THE MAYOR, CAPE WINELANDS DISTRICT MUNICIPALITY: DR H VON SCHLICHT
THE MAYOR, WITZENBERG MUNICIPALITY: MR H SMIT
THE MAYOR, DRAKENSTEIN MUNICIPALITY: MR C POOLE
THE MAYOR, STELLENBOSCH MUNICIPALITY: ADV. G VAN DEVENTER
THE MAYOR, BREEDE VALLEY MUNICIPALITY: MS A STEYN
THE MAYOR, LANGEBERG MUNICIPALITY: MR S VAN EEDEN
THE MAYOR, OVERBERG DISTRICT MUNICIPALITY: MR A FRANKEN
THE MAYOR, THEEWATERSKLOOF MUNICIPALITY: MR K PAPIER
THE MAYOR, OVERSTRAND MUNICIPALITY: DR A RABIE
THE MAYOR, CAPE AGULHAS MUNICIPALITY: MR P SWART
THE MAYOR, SWELLENDAM MUNICIPALITY: MR F DU RAND
THE MAYOR, GARDEN ROUTE DISTRICT MUNICIPALITY: MR M BOOYSEN
THE MAYOR, KANNALAND MUNICIPALITY: MR N VALENTYN
THE MAYOR, HESSEQUA MUNICIPALITY: MR G RIDDLES
THE MAYOR, MOSSEL BAY MUNICIPALITY: MR D KOTZE
THE MAYOR, GEORGE MUNICIPALITY: MR L VAN WYK
THE MAYOR, OUDTSHOORN MUNICIPALITY: MR C MACPHERSON
THE MAYOR, BITOU MUNICIPALITY: MR D SWART
THE MAYOR, KNYSNA MUNICIPALITY: MR A TSENGWA
THE MAYOR, CENTRAL KAROO DISTRICT MUNICIPALITY: MR G MCKENZIE
THE MAYOR, LAINGSBURG MUNICIPALITY: MS J BOTHA
THE MAYOR, PRINCE ALBERT MUNICIPALITY: MS L JAQUET (ACTING)
THE MAYOR, BEAUFORT WEST MUNICIPALITY: MS T PRINCE

THE MUNICIPAL MANAGER, CITY OF CAPE TOWN: ADV. L MBANDAZAYO
THE MUNICIPAL MANAGER, WEST COAST DISTRICT MUNICIPALITY: MR D JOUBERT
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THE MUNICIPAL MANAGER, CEDERBERG MUNICIPALITY: MR B KANNEMEYER (ACTING)
THE MUNICIPAL MANAGER, BERGRIVIER MUNICIPALITY: ADV. H LINDE
THE MUNICIPAL MANAGER, SALDANHA BAY MUNICIPALITY: MR H METTLER
THE MUNICIPAL MANAGER, SWARTLAND MUNICIPALITY: MR J SCHOLTZ
THE MUNICIPAL MANAGER, CAPE WINELANDS DISTRICT MUNICIPALITY: MR H PRINS
THE MUNICIPAL MANAGER, WITZENBERG MUNICIPALITY: MR D NASSON
THE MUNICIPAL MANAGER, DRAKENSTEIN MUNICIPALITY: DR J LEIBBRANDT
THE MUNICIPAL MANAGER, STELLENBOSCH MUNICIPALITY: MS G METTLER
THE MUNICIPAL MANAGER, BREEDE VALLEY MUNICIPALITY: MR D McTHOMAS
THE MUNICIPAL MANAGER, LANGEBERG MUNICIPALITY: MR A EVERSON (ACTING)
THE MUNICIPAL MANAGER, OVERBERG DISTRICT MUNICIPALITY: MR R BOSMAN
THE MUNICIPAL MANAGER, THEEWATERSKLOOF MUNICIPALITY: MR B NGUBO
THE MUNICIPAL MANAGER, OVERSTRAND MUNICIPALITY: MR D O'NEILL
THE MUNICIPAL MANAGER, CAPE AGULHAS MUNICIPALITY: MR E PHILLIPS
THE MUNICIPAL MANAGER, SWELLENDAM MUNICIPALITY: MS A VORSTER
THE MUNICIPAL MANAGER, GARDEN ROUTE DISTRICT MUNICIPALITY: MR M STRATU
THE MUNICIPAL MANAGER, KANNALAND MUNICIPALITY: MR K JORDAAN (ACTING)
THE MUNICIPAL MANAGER, HESSEQUA MUNICIPALITY: MR A DE KLERK
THE MUNICIPAL MANAGER, MOSSEL BAY MUNICIPALITY: MR C PUREN
THE MUNICIPAL MANAGER, GEORGE MUNICIPALITY: DR M GRATZ
THE MUNICIPAL MANAGER, OUDTSHOORN MUNICIPALITY: MR G DE JAGER (ACTING)
THE MUNICIPAL MANAGER, BITOU MUNICIPALITY: MR M MEMANI
THE MUNICIPAL MANAGER, KNYSNA MUNICIPALITY: MR R BUTLER (ACTING)

THE MUNICIPAL MANAGER, CENTRAL KAROO DISTRICT MUNICIPALITY: DR R LINK (ACTING)
THE MUNICIPAL MANAGER, LAINGSBURG MUNICIPALITY: MR J BOOYSEN
THE MUNICIPAL MANAGER, PRINCE ALBERT MUNICIPALITY: MR A HENDRICKS (ACTING)
THE MUNICIPAL MANAGER, BEAUFORT WEST MUNICIPALITY: MR G NYATHI (ACTING)

THE CHIEF FINANCIAL OFFICER, CITY OF CAPE TOWN: MR K JACOBY
THE CHIEF FINANCIAL OFFICER, WEST COAST DISTRICT MUNICIPALITY: DR J TESSELAAR
THE CHIEF FINANCIAL OFFICER, MATZIKAMA MUNICIPALITY: MR E ALFRED
THE CHIEF FINANCIAL OFFICER, CEDERBERG MUNICIPALITY: MR C APPEL (ACTING)
THE CHIEF FINANCIAL OFFICER, BERGRIVIER MUNICIPALITY: MR D LOUW
THE CHIEF FINANCIAL OFFICER, SALDANHA BAY MUNICIPALITY: MR S VORSTER
THE CHIEF FINANCIAL OFFICER, SWARTLAND MUNICIPALITY: MR M BOLTON
THE CHIEF FINANCIAL OFFICER, CAPE WINELANDS DISTRICT MUNICIPALITY: MS F DU RAAN-GROENEWALD
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THE CHIEF FINANCIAL OFFICER, BREEDE VALLEY MUNICIPALITY: MR R ONTONG
THE CHIEF FINANCIAL OFFICER, LANGEBERG MUNICIPALITY: MR M SHUDE
THE CHIEF FINANCIAL OFFICER, OVERBERG DISTRICT MUNICIPALITY: MR N KRUGER
THE CHIEF FINANCIAL OFFICER, THEEWATERSKLOOF MUNICIPALITY: MR A RIDDLES (ACTING)
THE CHIEF FINANCIAL OFFICER, OVERSTRAND MUNICIPALITY: MS S REYNEKE-NAUDÉ
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THE CHIEF FINANCIAL OFFICER, KANNALAND MUNICIPALITY: MR G GROENEWALD (ACTING)
THE CHIEF FINANCIAL OFFICER, HESSEQUA MUNICIPALITY: MS H VILJOEN
THE CHIEF FINANCIAL OFFICER, MOSSEL BAY MUNICIPALITY: MR O FREDERICKS
THE CHIEF FINANCIAL OFFICER, GEORGE MUNICIPALITY: MR R DU PLESSIS
THE CHIEF FINANCIAL OFFICER, OUDTSHOORN MUNICIPALITY: MR B METEMBO (ACTING)
THE CHIEF FINANCIAL OFFICER, BITOU MUNICIPALITY: MR F LÖTTER (ACTING)
THE CHIEF FINANCIAL OFFICER, KNYSNA MUNICIPALITY: MS L SOTSHEDE (ACTING)
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THE DEPUTY DIRECTOR-GENERAL: GOVERNANCE AND ASSET MANAGEMENT (MS J GANTANA)
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THE DIRECTOR: LOCAL GOVERNMENT REVENUE AND EXPENDITURE (GROUP ONE) (MR T NTSHINGILA)
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THE DIRECTOR: SUPPORTING AND INTERLINKED FINANCIAL SYSTEMS (MR A MAZOMBA)

THE PROVINCIAL AUDITOR

MASTER RECORDS OFFICIAL: BUSINESS INFORMATION AND DATA MANAGEMENT

THE HEAD OF DEPARTMENT: LOCAL GOVERNMENT

THE CHIEF DIRECTOR: LOCAL GOVERNMENT BUDGET ANALYSIS – NATIONAL TREASURY (MR J HATTINGH)

THE CHIEF DIRECTOR: MFMA IMPLEMENTATION – NATIONAL TREASURY (MR TV PILLAY)

LOCAL GOVERNMENT SCM INDABA: PREFERENTIAL PROCUREMENT AND THE IMPACT ON SUPPLY CHAIN MANAGEMENT AND LOCAL ECONOMIC DEVELOPMENT: 1 – 2 DECEMBER 2022, OVERBERG DISTRICT: THE DUNES – ARNISTON.

1. PURPOSE

- 1.1 To inform all municipalities and municipal entities of the 5th Annual Local Government SCM Indaba: on the Preferential Procurement Regulations, that is scheduled to take place dated, 01 – 02 December 2022.
- 1.2 The SCM Indaba will be hosted in collaboration with the West Coast District, Central Karoo District, Cape Winelands District, Garden Route District and the Overberg District municipalities.
- 1.3 To request all municipalities and municipal entities to submit at least three (3) representatives, preferably the, SCM Manager, SCM Practitioner, SCM Accountant who will attend the Indaba.
- 1.4 A special request has been made to invite the District Municipality's Local Economic Development (LED) Manger of the five (5) District Municipalities to the SCM Indaba.
- 1.5 Where the senior official is unable to attend the Indaba the municipality and municipal entity may nominate a representative, preferably an official of the municipality's Supply Chain Management unit.

2. BACKGROUND

- 2.1 Following the Constitutional Court's judgment of 16 February 2022 on the matter between the Minister of Finance and Afribusines regarding the 2017 Preferential Procurement Regulations (the 2017 Regulations), the Minister of Finance launched an application to the Constitutional Court seeking clarity on its judgement of 16 February 2022. Judgment was handed down by the Constitutional Court on 30 May 2022.
- 2.2 The SCA declared the entire Procurement Regulations invalid on the basis that the content of the Regulations exceeded the Minister's power on what could permissibly be regulated on in terms of section 5 of the Procurement Act and section 217 of the Constitution. The following areas were determined unconstitutional:
 - local content and production;
 - functionality;
 - subcontracting after the award of a tender;
 - cancellation of tenders;
 - prequalification for preferential procurement;
 - subcontracting as a condition; and
 - tender issuance of circulars and guidelines
- 2.3 Emanating from the Constitutional Court Judgment handed down dated 30 May 2022, in respect of the clarification sought by NT, confirmed that suspension of the declaration of the order of invalidity of the 2017 Preferential Procurement Regulations (PPR) is still valid for the remainder of the 12-month period, hence the 2017 Regulations are still in enforceable, until **26 January 2023**.

- 2.4 Municipalities are now required to put in place its own preferential procurement policy in terms of Section 2. (1) of the PPP Act. According to s217(2) of the Constitution, read with s2 of Procurement Act, organs of state must determine a preferential procurement policy, which states that “An organ of state must determine its preferential procurement policy and implement it within the following framework”.
- 2.5 Taking cognisance of the above, the Provincial Treasury in partnership with the municipalities and municipal entities will drive the implementation strategy that has been put in place to assist municipalities with the implementation of the Preferential Procurement Policies. National Treasury subsequently gazette the final 2022, Preferential Procurement Regulations which take effect on **16 January 2023**.
- 2.6 The **primary purpose** of the SCM Indaba is for the SCM fraternity to have a detailed discussion around the 2022, PPP Regulations and the PPP draft policies put forward by municipalities and Provincial Treasury for approval by each municipality’s respective Municipal Council.
- 2.7 The Provincial Treasury also intends to use this opportunity to communicate to municipalities how to structure and develop the Preferential Procurement policies in line with Section 2 (1) (d) (i) and (ii) of the Preferential Procurement Policy Framework Act, 2000 which refers to specific goals which should be included in the policies:
- (i) contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender or disability; and
 - (ii) implementing the programmes of the Reconstruction and Development Programme (RDP) as published in Government Gazette 16085 dated 23 November 1994.

3. OBJECTIVES TO BE ACHIEVED THROUGH THE SCM INDABA

- 3.1 Creating a “blue-print” Preferential Procurement Policy to be applied across all 30 municipalities which will encourage standardisation and uniformity.
- 3.2 Unpacking the use of strategic procurement as an instrument of local economic development.
- 3.3 To provide a socio-economic context for all 30 municipalities, which is imperative of the utilisation of procurement as a significant contributor to inclusive economic growth and development;
- 3.4 Through preferential procurement enhance strategic procurement to facilitate sustainable economic growth;
- 3.5 To promote, define and strengthen the supply chain management units;
- 3.6 To provide clarity and guidance on the Municipality’s approach to procurement and local economic development, particularly with regards to the requirements of preferential procurement.
- 3.7 To effectively implement the Preferential Procurement Policy Framework Act, 2000 and its subsequent regulations issued in 2022, which to comes into effective on **16 January 2023**;

4. LOGISTICS

4.1 The proposed SCM Indaba: is schedule to take place as follows:

- **Hosted by:** Overberg District, Overstrand, Swellendam, Theewaterskloof and Cape Agulhas Municipalities
- **Date:** 01 - 02 December 2022
- **Venue:** The Dunes, Arniston
- **Address:** Arniston Road, Arniston,
- **Office:** +27 28 445 2500
- **Email:** info@thedunesatarniston.co.za

5. ACCOMMODATION ARRANGEMENTS

5.1 Please note that a formal communication will be forward to all municipal officials relating to the accommodation arrangements and the reference number against which the municipalities need to book their respective accommodations.

5.2 For any further enquiries it may be directed to the official below:

- **Hosted by:** The Dunes, Arniston
- **Conference Coordinator:** Ms. Mary Viegeland – General Manager
- **Office:** +27 28 445 2500
- **Fax:** 27 (0)28 445 9254
- **Email:** info@thedunesatarniston.co.za
- **Website:** <https://www.thedunesatarniston.co.za/>

5.3 Municipalities must ensure that it makes the necessary accommodation arrangements within a timely manner.

5.4 The onus and responsibility still rely on the Municipality to bear the cost of any travel, substance and accommodation on the expense of the municipal official attending the SCM Indaba.

5.5 We therefore need to bring to your attention that any cancellations and non – attendance will have a negative effect in terms of financial implications, hence all attendees must ensure that they attend the Indaba.

6. REQUEST

6.1 Municipalities and Municipal Entities are requested to forward the name, designation and contact details of the representatives, who will be attending the SCM Indaba: Impact of Preferential Procurement on Local Economic Development and Supply Chain Management.

6.2 **Kindly complete the MS excel spreadsheet with the necessary details and return to the Provincial Treasury for consolidation.**

6.3 Failures to submit the requested information on time often makes it difficult to co-ordinate and arrange this event. To this effect the Provincial Treasury kindly request your cooperation.

6.4 It will be highly appreciated if all confirmations are submitted via e-mail to Loreal.Bilham@westerncape.gov.za or Sancho.Nomdo@westerncape.gov.za by latest **Friday, 11 November 2022**.

6.5 Any enquiries in this regard may be directed to **Ms Loreal Bilham on 021 483-8722**.

Your co-operation will be highly appreciated.

MS LETITIA A SALLIES

ACTING DIRECTOR: LOCAL GOVERNMENT SUPPLY CHAIN MANAGEMENT