



Reference number: RCS/C.6

Private Bag X9165
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8000

TREASURY CIRCULAR NO. 35/2022

THE PREMIER

THE MINISTER OF AGRICULTURE

THE MINISTER OF CULTURAL AFFAIRS AND SPORT

THE MINISTER OF EDUCATION

THE MINISTER OF FINANCE AND ECONOMIC OPPORTUNITIES

THE MINISTER OF HEALTH

THE MINISTER OF INFRASTRUCTURE

THE MINISTER OF LOCAL GOVERNMENT, ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

THE MINISTER OF MOBILITY

THE MINISTER OF POLICE OVERSIGHT AND COMMUNITY SAFETY

THE MINISTER OF SOCIAL DEVELOPMENT

THE SPEAKER: PROVINCIAL PARLIAMENT

THE DEPUTY SPEAKER: PROVINCIAL PARLIAMENT

THE EXECUTIVE AUTHORITY: WESTERN CAPE GAMBLING AND RACING BOARD (MINISTER M WENGER)

THE EXECUTIVE AUTHORITY: WESTERN CAPE NATURE CONSERVATION BOARD (MINISTER A BREDELL)

THE EXECUTIVE AUTHORITY: WESTERN CAPE INVESTMENTS AND TRADE PROMOTION AGENCY (MINISTER M WENGER)

THE EXECUTIVE AUTHORITY: SALDANHA BAY IDZ LICENCING COMPANY (MINISTER M WENGER)

THE EXECUTIVE AUTHORITY: WESTERN CAPE CULTURAL COMMISSION (MINISTER A MARAIS)

THE EXECUTIVE AUTHORITY: WESTERN CAPE LANGUAGE COMMITTEE (MINISTER A MARAIS)

THE EXECUTIVE AUTHORITY: WESTERN CAPE HERITAGE (MINISTER A MARAIS)

THE EXECUTIVE AUTHORITY: CASIDRA (MINISTER IH MEYER)

THE EXECUTIVE AUTHORITY: WESTERN CAPE LIQUOR AUTHORITY (MINISTER R ALLEN)

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THE ACCOUNTING OFFICER: VOTE 2: PROVINCIAL PARLIAMENT (MR R ADAMS)

THE ACCOUNTING OFFICER: VOTE 3: PROVINCIAL TREASURY (MR D SAVAGE)

THE ACCOUNTING OFFICER: VOTE 4: COMMUNITY SAFETY (ADV. Y PILLAY)

THE ACCOUNTING OFFICER: VOTE 5: EDUCATION (MR B WALTERS)

THE ACCOUNTING OFFICER: VOTE 6: HEALTH (DR K CLOETE)

THE ACCOUNTING OFFICER: VOTE 7: SOCIAL DEVELOPMENT (DR R MACDONALD)

THE ACCOUNTING OFFICER: VOTE 8: HUMAN SETTLEMENTS (MS L SCHUURMAN)

THE ACCOUNTING OFFICER: VOTE 9: ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING (MR G GERBER)

THE ACCOUNTING OFFICER: VOTE 10: TRANSPORT AND PUBLIC WORKS (MS J GOOCH)

THE ACCOUNTING OFFICER: VOTE 11: AGRICULTURE (DR M SEBOPETSA)

THE ACCOUNTING OFFICER: VOTE 12: ECONOMIC DEVELOPMENT AND TOURISM (MR V DUBE)

THE ACCOUNTING OFFICER: VOTE 13: CULTURAL AFFAIRS AND SPORT (MR G REDMAN)

THE ACCOUNTING OFFICER: VOTE 14: LOCAL GOVERNMENT (MR G PAULSE)

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THE CHIEF FINANCIAL OFFICER: VOTE 3: PROVINCIAL TREASURY (MS A SMIT)

THE CHIEF FINANCIAL OFFICER: VOTE 4: COMMUNITY SAFETY (MR M FRIZLAR)

THE CHIEF FINANCIAL OFFICER: VOTE 5: EDUCATION (MR L ELY)

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THE CHIEF FINANCIAL OFFICER: VOTE 8: HUMAN SETTLEMENTS (MR F DE WET)

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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)

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MANDATORY UTILISATION OF THE E-TENDER PORTAL FOR PUBLICATION OF BID OPPORTUNITIES, BID AWARDS AND ANY BID RELATED NOTIFICATIONS; AND

CONFIRMATION OF THE STATUS OF THE APPROVED GOVERNMENT TENDER BULLETIN DEPARTMENT

1. PURPOSE

- 1.1 The purpose of this communiqué is to inform Accounting Officers (AO) and Accounting Authorities (AA) of:
- a) National Treasury (NT) Public Finance Management Act (PFMA) Supply Chain Management (SCM) Instruction No. 09 of 2022/2023 (hereafter referred to as NTI No. 09 of 2022/23) which prescribes the mandatory utilisation of the e-Tender Portal for the publication of bid opportunities, bid awards and any bid related notifications (attached hereto marked Annexure A); and
 - b) NT Circular No. 02 of 2022/2023 which confirms the status of the approved departure from the provision of Treasury Regulation 16A6.3 (c) and 16A6.3 (d) in as far as it relates to the publication the publication of bid advertisements, bid awards and related notifications in the Government Tender Bulletin (GTB) [attached hereto marked Annexure B].

2. BACKGROUND AND CONTEXT

- 2.1 National Treasury Regulation 16A 6.3 (c) and (d) prescribes that –
- (c) *“The accounting officer or accounting authority must ensure that bids are advertised in at least the Government Tender Bulletin for a minimum period of 21 days before closure, except in urgent cases when bids may be advertised for such shorter period as the accounting officer or accounting authority may determine; and*
 - (d) *awards are published in the Government Tender Bulletin and other media by means of which the bids were advertised”.*
- 2.2 On 7 April 2015, the NT introduced a web application in the form of the e-Tender publication Portal where all bids must be advertised, and awards must be published. This requirement was issued via NT Instruction no. 1 of 2015/16 and disseminated to accounting officers and accounting authorities via Provincial Treasury (PT) Circular 28 of 2015.
- 2.3 The PT issued NT Instruction no. 1 of 2020/21 via Treasury Circular No. 5 of 2021 informing accounting officers and accounting authorities of the departure to publish bid advertisements and awards in the Government Tender Bulletin (GTB) indicating that as an interim measure, accounting officers and authorities must utilise the e-Tender Portal, and where deemed necessary, the institutional website or any other means available to the institution until such time that the Government Printing Works (GPW) is able to publish bid advertisements and bid awards in the GTB.
- 2.4 Thereafter the PT issued Treasury Circular no. 10 of 2021 which defined the interim mechanism as established by PT to assist accounting officers and authorities to publish bid advertisements, cancellations and awards on the Western Cape Government (WCG) website to ensure standardisation of such publication in the public domain as the e-tender Portal was reported to be offline.

- 2.5 Since the issuance of the above-mentioned circulars, the NT issued NT Instruction No. 1 of 2021/22 permitting the departure from publication of bids, bid awards and related notifications in the GTB and the e-Tender Portal and to clarify the term “any other means” which has been defined as printed media and/or electronic media to publish bid advertisements, cancellations and bid awards which was disseminated via Treasury Circular no. 18 of 2022.
- 2.6 Departments and public entities are required to note that the NTI No. 09 of 2022-23 prescribes the “mandatory utilisation of the e-Tender Portal...”. The scope of the regulation which prescribes the Government Tender Bulletin as the minimum compulsory medium of advertisement emanates from Regulation 16A 6.3 (c) and (d). The NT is via NTI No. 9 authorising a departure from the Regulation in terms of its powers and functions under section 76 (4)(c) and (g) of the PFMA.
- 2.7 The Provincial Treasury sought clarity from NT in terms of the following as it relates to the requirements of NTI No. 09 of 2022 - 2023:
- a. The instruction is silent on the whether/not tenders advertised under the Construction Industry Development Board (CIDB) is exempted from the requirements of the instruction note.
 - b. Paragraph 3.3 (b) of the instruction requires institutions to capture the bidders list within 10 working days of open competitive bid closing date. This requirement is vague and left open for interpretation.
- 2.8 The National Treasury advised during a training session held on 1 November 2022 that:
- a. there is currently no integration between the CIDB and the e-Tender Portal;
 - b. to capture an award, a bid must be advertised on the e-Tender Portal; and
 - c. only the bidders' names are required to be captured or uploaded within 10 working days of the competitive bid closing date.

3. NATIONAL TREASURY PFMA SCM CIRCULAR NO. 02 OF 2022-23

- 3.1 NT PFMA SCM Circular No. 2 of 2022/23 is self-explanatory and reiterates the confirmation of the status in terms of departure from advertising in the GTB. Departments and public entities must refer to the NT circular for detailed information as it relates to the requirements not cited herein.
- 3.2 The interim mechanism as established by the Provincial Treasury which was defined in Treasury Circular No. 10 of 2021 will remain in place up until 31 December 2022. Departments and public entities are however required to note that the last submission date for advertising on the WCG website is **9 December 2022**. This is in order to ensure that a transition can occur from the current process followed within the Province and to ensure that departments and public entities give effect to the requirements of NTI No. 09 of 2022-23 by 02 January 2023.
- 3.3 In order to give effect to the reporting requirements, departments and public entities will still be required to place all cancellations and awards related to bid advertisements published on the WCG website during the period of November and December 2022.

4. NATIONAL TREASURY PFMA SCM INSTRUCTION NO. 09 OF 2022-23

- 4.1 This Circular aims to provide clarity on certain provisions of NTI No. 9 of 2022/23 on the mandatory utilisation of the e-Tender Portal for publication of bid opportunities, bid awards and any bid related notifications. Departments and public entities must refer to the instruction note for detailed requirements as it relates to requirements not cited herein.

4.2 The e-Tender Portal is deemed to be a transparent platform which caters for advertisement of bids and publication of awards, with an added functionality for submission and publication of procurement plans, list of bids received and contract register. It must be noted that the publication of procurement plans and contract management functionality is not compulsory until such time that the NT issues an instruction governing these functionalities. The Provincial Treasury is in regular engagement with the NT in terms of developing an interface between the automated procurement planning toolkit and the e-Tender Portal so as to avoid duplication.

4.3 In terms of publishing bid information on the e-Tender Portal, paragraph 3.1 of the NTI states that:

“Accounting officers and accounting authorities must publish open competitive bids (including the complete set of bid documents), amendments...” The e-Tender Portal makes provision for this requirement, however, should departments and public entities experience any difficulties in uploading of documentation, the NT must be notified via etenders@treasury.gov.za and the PT copied for reference purposes. Departments and public entities are required to indicate as part of the specification that the relevant Western Cape Bidding Documents (WCBD) must be completed. Should departments and public entities opt to utilise the bidding documents (WCBD 4 and WCBD 6.1) housed on the Western Cape Supplier Evidence Bank (WCSEB), departments and public entities must ensure that the information is relevant to the bid process at hand.

4.4 It was also further noted that the NTI No. 09 of 2022-23 is silent on when bids should be advertised. Although the advertising of bids on the e-Tender Portal is deemed to be an open-ended requirement, departments and public entities are required to ensure that it complies with the minimum advertising period of 21 days as stipulated by paragraph 3.1 of the NTI.

4.5 It is stated in paragraph 3.2 that the e-Tender publication is not compulsory in the case of procurement through price quotations and other means such as deviation. The institution may therefore at their own discretion utilise the e-Tender Portal to publish such procurement, including associated negotiations on the e-Tender Portal. Cognisance must be had of the WCG e-Procurement System (ePS) requirements, in this regard which serves as a bid advertisement and sourcing solution for price quotations in the province; if departments choose to exercise this option, noting that all CSD suppliers are not necessarily on the WCSEB and hence will not be in a position to receive RFQs via the ePS.

4.6 Departments and public entities must in terms of paragraph 3.3 of the NTI capture the following information on e-Tender Portal:

- a. *bid information;*
- b. *bidders' list within 10 working days of open competitive bid closing date;*
- c. *award information within 10 working days of successful bidder accepting the bid award;*
- d. *bid cancellation information; and*
- e. *bid amendments at least 10 working days before the bid closes. the e-Tender Portal.”*

4.7 Based on the clarity obtained from the NT, it was advised that “bidders list” would consist of uploading or capturing bidders' names. Paragraph 11.1.2 (d) (vi) of the Provincial Treasury Instruction, 2019 which currently states:

“Accounting officers or accounting authorities must within 7 working days of awarding bids, publish the required information on bids awarded/unsuccessful bids for all advertised competitive bids on the e-Tender Publication Portal.”

The above PTI will be amended to give effect to the reporting requirement of 10 working days, however in the interim departments and public entities must take note of the revised reporting requirement.

4.8 Paragraph 3.6 of the NTI states that:

“If the e-Tender Portal is not available for a period exceeding more than two working days, the accounting officers/authorities must utilise any of the following media:

a. own institutional websites; or

b. any other media, which can be accessed nationally (printed media and /or electronic media),

to publish bid advertisements, bid awards and related notifications, until such time that the e-Tender Portal has been restored. The downtime must be immediately communicated to the National Treasury’s SCM ICT Unit on the following email: etenders@treasury.gov.za.”

Departments and public entities are required to inform the NT and copy the PT as soon as it becomes aware of e-Tender Portal downtime.

5 ACCESS AND IMPLEMENTATION OF THE E-TENDER PORTAL

5.1 Paragraph 5 of the NTI states the AO/AA must designate officials that will be responsible for the publication of advertisements; amendments of advertisement; cancellations; the publication of bidders’ list and notification of final awards on the e-Tender Portal. The user account application forms must be approved by the AO/AA or delegated authority and submitted to the Office of the Chief Procurement Officer (OCPO). It was however noted based on a readiness assessment concluded by the PT that majority of the departments and public entities have not yet received the necessary access to the e-tender Portal which must be granted by the NT before the system can be utilised.

5.2 The Provincial Treasury communicated the User Account Application Form to departments and public entities on 19 October 2022 to ensure that the identified users will have the necessary profiles prior to the implementation date of 1 November 2022. Departments and public entities are required to ensure that system users are identified, and the necessary user account application form is completed and submitted to the OCPO.

5.3 Further to the above, the Provincial Treasury initiated training with the NT and the relevant departments and public entities in terms of the functionality on the e-Tender Portal to ensure that users are sufficiently trained to effectively utilise the e-Tender Portal. Should departments and public entities require further training on the e-Tender Portal, such training may be requested via etenders@treasury.gov.za.

5.4 The NT Instruction takes effect on 1 November 2022. The Provincial Treasury has requested an extension of the implementation date from 1 November 2022 to 2 January 2023 in order to afford WCG sufficient time to obtain the necessary access and to transition to the e-Tender Portal, however at the date of this Circular, the PT has not received a written response from the NT. For uniformity and standardisation in application and governance requirements in the Province, the requirements as articulated in this Circular will take effect from 02 January 2023, given that most of our 13 departments will not be placed in a position to have implemented the requirements by 1 November 2022.

6 REPEALMENT

6.1 NTI No. 09 of 2022-23 repeals:

- a. Paragraph 7.2 of Practice Note Number SCM 3 of 2004 and the Monthly Reporting questionnaire (to be completed for each contract awarded);
- b. National Treasury Instruction No. 1 of 2015/2016: Advertisement of Bids and the Publications of Awards on the e-Tender Publication Portal; and
- c. SCM Instruction No. 01 of 2021/2022: Departure from Publication of Bids, Bid awards and Related Notifications in the Government Tender Bulletin.

6.2 This circular therefore repeals the following circulars issued by the Provincial Treasury:

- a. Treasury Circular 28 of 2015: NT Instruction 1 of 2015/16, Advertisement of bids and the publication of awards on the e-Tender publication Portal;
- b. Treasury Circular 5 of 2021: Departure from publication of bids and bid awards in the government tender bulletin;
- c. Treasury Circular 5 of 2021 (Supplementary 1 of 2021): Inability to publish bids and awards on the National Treasury e-Tender publication Portal;
- d. Treasury Circular 18 of 2021: NT Instruction No. 1 of 2021/22, Departure from publication of bids, bid awards and related notifications in the government tender bulletin and the e-tender Portal; and
- e. Paragraph 3 of Treasury Circular 14 of 2022.

7 REQUEST

7.1 Accounting officers and accounting authorities must note:

- a. the content of this Circular and communicate the requirements to officials under their control responsible for the functions depicted in this Circular;
- b. the requirements as articulated in this Circular will take effect from 2 January 2023;
- c. that the users must be nominated and the necessary application forms must be signed by the accounting officer/accounting authority or delegated official; and
- d. that users must complete the training to utilise the e-Tender Portal sufficiently and effectively.

8 ENQUIRIES

8.1 All enquiries in respect of this circular or any other enquiries in respect of procurement must be directed to: SupplyChainManagement.HDPFMA@westerncape.gov.za.

NADIA EBRAHIM
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