

Reference number: RCS/C.6

Private Bag X9165
CAPE TOWN
8000

TREASURY CIRCULAR NO. 9/2022

THE PREMIER

THE MINISTER OF AGRICULTURE

THE MINISTER OF COMMUNITY SAFETY

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 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

THE EXECUTIVE AUTHORITY: WESTERN CAPE GAMBLING AND RACING BOARD (MINISTER D MAYNIER)

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

THE EXECUTIVE AUTHORITY: WESTERN CAPE INVESTMENTS AND TRADE PROMOTION AGENCY (MINISTER D MAYNIER)

THE EXECUTIVE AUTHORITY: SALDANHA BAY IDZ LICENCING COMPANY (MINISTER D MAYNIER)

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 A MARAIS) (ACTING)

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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 P MAYISELA)

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 S FOURIE)

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 2: PROVINCIAL PARLIAMENT (MS N PETERSEN)

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)

THE CHIEF FINANCIAL OFFICER: VOTE 6: HEALTH (MR S KAYE)

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 RT MOSOME)

THE CHIEF FINANCIAL OFFICER: VOTE 10: TRANSPORT AND PUBLIC WORKS (ADV. C SMITH)

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)

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THE ACCOUNTING AUTHORITY: WESTERN CAPE NATURE CONSERVATION BOARD (PROF. D HENDRICKS)

THE ACCOUNTING AUTHORITY: WESTERN CAPE INVESTMENTS AND TRADE PROMOTION AGENCY (VACANT)

THE ACCOUNTING AUTHORITY: SALDANHA BAY IDZ LICENCING COMPANY (DR J STEGMANN)

THE ACCOUNTING AUTHORITY: WESTERN CAPE CULTURAL COMMISSION (MS J MOLELEKI)

For information

THE ACCOUNTING AUTHORITY: WESTERN CAPE LANGUAGE COMMITTEE (MS J MOLELEKI)
 THE ACCOUNTING AUTHORITY: WESTERN CAPE HERITAGE (MR M DLAMUKA)
 THE ACCOUNTING AUTHORITY: CASIDRA (PROF. J KIRSTEN)
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 THE CHIEF EXECUTIVE OFFICER: CASIDRA (MR S SYMINGTON)
 THE CHIEF EXECUTIVE OFFICER: WESTERN CAPE LIQUOR AUTHORITY (ADV. L PETERSEN) (ACTING)
 THE CHIEF EXECUTIVE OFFICER: ATLANTIS SPECIAL ECONOMIC ZONE (MR P VOGES)
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 THE CHIEF FINANCIAL OFFICER: SALDANHA BAY IDZ LICENCING COMPANY (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 (MR S GCWABE)
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 MASTER RECORDS OFFICIAL: BUSINESS INFORMATION AND DATA MANAGEMENT
 THE DEPUTY DIRECTOR-GENERAL: CORPORATE ASSURANCE, DEPARTMENT OF THE PREMIER (MS H ROBSON)

ROLLOVER OF UNSPENT FUNDS AND RETENTION OF OVER-COLLECTED OWN REVENUE FROM 2021/22 TO 2022/23: PRINCIPLES AND PROGRAMME

PURPOSE

1. With regards to the rollover of unspent 2021/22 funds to 2022/23 and the retention of over collected own revenue received in 2021/22 for use in 2022/23, to –
 - (a) Inform votes of the guiding statutory limitations, principles and process;
 - (b) Provide votes with National Treasury's annual Division of Revenue Circular regarding the rollover of unspent national conditional grant funds and information required on unspent transfers made to entities and implementing agencies from schedule 5 grants;

- (c) Provide votes with the programme and formats to be used for submission of rollover and revenue retention requests; and
 - (d) Advise Accounting Officers that the prescribed submission date as per Treasury Regulation 6.4.2 is on or before the last working day of April 2022 (i.e., 29 April 2022).
2. This Circular applies to the Provincial Parliament to the extent that the Provincial Parliament must inform the Provincial Treasury of the outcome of their rollover and revenue retention processes.

GUIDING STATUTORY LIMITATIONS

Public Finance Management Act, 1999 (Act 1 of 1999) (PFMA)

- 3. Section 31(2)(a) of the PFMA stipulates that an adjusted budget of a province may provide for the appropriation of funds that have become available to the province (such as over-collected own revenue).
- 4. In terms of section 31(2)(g) of the PFMA, an adjusted budget of a province may also provide for the rollover of unspent funds from the previous financial year.

Treasury Regulations

- 5. In terms of Treasury Regulation 6.4.1, funds appropriated but not spent in a particular financial year may be rolled over to a subsequent year subject to approval of the relevant treasury. Such approval will be guided by the following limitations:
 - (a) *Payments for capital assets:* Unspent funds on payments for capital assets may only be rolled over to finalise projects or asset acquisitions still in progress.
 - (b) *Transfers and subsidies:* Savings on transfers and subsidies may not be rolled over for purposes other than originally voted for.
 - (c) *Current payments:* Savings on compensation of employees may not be rolled over. A maximum of five per cent of a department's payments for goods and services may be rolled over.
- 6. In terms of Treasury Regulation 6.4.2 requests for rollovers must be submitted to the relevant treasury on or before the last working day of April, and must include -
 - (a) The purpose for which the funds were appropriated;
 - (b) The reasons why the funds were not spent;
 - (c) Proposed changes to the use of the funds, if any; and
 - (d) A disbursement schedule indicating the month(s) in which the expenditure is expected to be incurred.
- 7. Funds for a specific purpose may not be rolled over for more than one financial year, unless approved in advance by the relevant treasury in terms of Treasury Regulation 6.4.3.

National Treasury's Annual Division of Revenue Circular

- 8. The National Treasury's annual Division of Revenue Circular (see attached, dated 22 March 2022), prescribes that the approval of rollover of unspent national conditional grants must be sought from National Treasury. Uncommitted balances on such grants must be surrendered to the National Revenue Fund.

2021 Division of Revenue Act (Act 9 of 2021)

9. In terms of Section 21 (1) of the 2021 Division of Revenue Act, any conditional allocation that is not spent at the end of a financial year reverts to the National Revenue Fund, unless the relevant receiving officer can prove to the satisfaction of the National Treasury that the unspent allocation is committed to identifiable projects.
10. Furthermore, Section 21 (2) stipulates that the National Treasury may at the request of a transferring national officer, receiving officer or provincial treasury approve a rollover from a conditional allocation to the next financial year.

Western Cape Direct Charges Act, 2000 (Act 6 of 2000)

11. In terms of the Western Cape Direct Charges Act, 2000 (Act 6 of 2000) an Accounting Officer may, after approval of the rollover funds by the Provincial Treasury, but before appropriation thereof in an Adjustments Appropriation Act, spend such rollover funds for the approved purpose or purposes as a direct charge against the Provincial Revenue Fund.
12. Furthermore, this Act also enables accounting officers to spend funds pertaining to approved revenue retention requests, before appropriation thereof, as a direct charge against the Provincial Revenue Fund.

PRINCIPLES FOR ROLLOVER

13. Only requests for the rollover of unspent 2021/22 funds from the following sources will thus be considered:
 - National conditional grants, as per the prescripts in National Treasury's annual *Division of Revenue Circular on Unspent Conditional Grants*.
 - Any further unspent provincial funds from other sources where evidence/proof of commitments can be provided. In this regard, please see Paragraph 26 – 28 below on the impact of National Treasury's procurement Circular on the ability of departments to commit funds.
14. Underspending on CoE cannot be utilised for other purposes and any underspending on compensation of employees (CoE) will be surrendered to the Provincial Revenue Fund (PRF).

PRINCIPLES FOR REVENUE RETENTION

15. Requests for the retention of own revenue will be considered in terms of the following principles:
 - (a) The request to retain revenue must relate to the collection of revenue not anticipated at the time of the 2021/22 Adjusted Budgets, or alternatively relates to the implementation of efficiency measures regarding revenue collection, special initiatives to increase own revenue, donations, etc.
 - (b) The approval of requests for revenue retention is subject to current and future revenue budgets being credible.
 - (c) The revenue over collection firstly be used to offset overspending.
 - (d) The retained revenue be utilised to primarily fund once-off expenditure.

- (e) That, in cases where the unspent cash available (inclusive of increased own revenue collected) in a vote at the end of 2021/22 is less than the unspent budget available, approvals may take into account the available cash.
- (f) The relevant request should provide a detailed description of revenue sources that led to the over-collection as well as a detailed description of how the sources will be used.

NATIONAL CONDITIONAL GRANTS

- 16. The conditions pertaining to the rollover of national conditional grants are contained in National Treasury's *Division of Revenue Circular – Unspent conditional grants in respect of the 2021/22 financial year*, dated 22 March 2022 (copy attached).
- 17. To give effect to the above legal requirement the following procedure must be applied:
- 18. The Provincial Treasury must by **29 April 2022** indicate to the National Treasury and the transferring national officer in writing:
 - (a) The total amount of unspent funds for each relevant conditional grant as at 31 March 2022;
 - (b) The amount of unspent funds for the relevant grant not committed to identifiable projects;
 - (c) The amount of funds currently committed to identifiable projects; and
 - (d) Given that Section 21 of the Division of Revenue Act, 2021 (Act No.9 of 2021), requires proof of commitments, the Provincial Treasury must submit a list of the projects referred to in (c) above, clearly stipulating the tender details (pricing and numbers) related to each ongoing infrastructure project or invoices awaiting payment in respect of current expenditure.
- 19. Conditional grant funds for which no commitments and therefore no rollovers are being requested must be surrendered by the Provincial Treasury to the National Revenue Fund through the relevant national department by **31 May 2022**.
- 20. All funds already transferred to provincial departments but unspent must be surrendered and retained within the provincial revenue fund, pending finalisation of the rollover process.
- 21. Upon submission of the audited financial statements, the National Treasury will provide a final approval for rollovers of conditional grants or a request for the surrender of uncommitted and unspent conditional grants. Any conditional grant funds approved as a provincial rollover must be included in the *provincial adjusted estimates of 2022/23*.
- 22. The relevant Provincial Treasury must surrender any uncommitted funds as determined by the National Treasury to the relevant national department.
- 23. National departments must, upon receipt of these funds, promptly surrender the same to the National Revenue Fund.
- 24. Treasury Regulation 6.4 will apply with respect to requests for national conditional grant roll-overs, and Treasury Regulation 6.6 applies with respect to accounting for such in an adjustments budget. Therefore:
 - (a) Only funds for projects already in progress may be rolled-over;
 - (b) Conditional grant funds earmarked/budgeted for transfers and subsidies may not be rolled over unless they will be used for the same purpose already voted for;

- (c) Conditional grant funds that are budgeted for compensation of employees (such as those within the Human Settlements Development Grant) may not be rolled over if unspent.
 - (d) In the case of funds either withheld by a national department as at 31 March 2022 or where a province has surrendered funds, the relevant national department may submit to National Treasury a request for roll-overs. Any such request must be supported by the Provincial Treasury in the relevant province. The request must be accompanied by an appropriate motivation on behalf of the sector and the province.
25. Requests for the rollover of national conditional grants must be submitted to Viljoen.Bester@westerncape.gov.za on **Monday, 25 April 2022**.

CONSTITUTIONAL COURT JUDGMENT REGARDING PREFERENTIAL PROCUREMENT REGULATIONS, 2017 - STEPS TAKEN BY NATIONAL TREASURY

- 26. In the Western Cape, Treasury Circular No. 7/2022 dated 11 March 2022 was issued to communicate the interim arrangements, as endorsed by Provincial Cabinet on 09 March 2022, for the Western Cape Government (WCG) as it relates to Preferential Procurement in terms of the Preferential Procurement Policy Framework Act, 2000 (Act No. 5) given the recent Constitutional Court judgment declaring the Preferential Procurement Regulations, 2017, invalid.
- 27. This relates to a Circular dated 25 February 2022, issued by National Treasury, that advised organs of state that tenders issued before 16 February 2022 should be finalised, while tenders advertised on or after 16 February 2022 should be "held in abeyance" and no new tenders should be advertised.
- 28. Departments must please, in their applications for rollovers (Annexure A1: Rollover Application, under heading '*Reason(s) why not spend during 2021/22*') indicate which rollover application is a result of tenders held in abeyance and therefore not able to commit funds, both with regards to unspent national conditional grants and provincial funds.

APPROVAL OF APPLICATIONS

- 29. National Treasury will, after consultation with the relevant treasury and the transferring national officer, give provisional approval for funds committed to identifiable projects to be retained within the relevant Provincial Revenue Fund for the purposes of rolling-over to the 2022/23 financial year. Such approval will be communicated within 21 days of receipt of the project lists and the committed amounts as outlined above.
- 30. All provincial rollover and revenue retention applications will be finalised as part of the 2022/23 Adjusted Estimates process unless a department indicates otherwise with regards to a specific application.
- 31. Post approval, votes must reflect the expedited allocations from both sources, i.e., rollover and revenue retention, in the in-year monitoring (IYM) reports and, eventually, take it up in the Adjusted Estimates of Provincial Expenditure for 2022/23.

TOTAL REQUESTS: FORMATS

- 32. Votes must submit their total requests, inclusive of provincial rollovers and those requests pertaining to national conditional grants (to be submitted on 25 April 2022), as well as any requests for the retention of own revenue (over collected own receipts), by Friday, **29 April 2022** as per the prescribed submission date in terms of Treasury Regulation 6.4.2.

33. Submission must be done by completing the formats attached hereto, i.e., Annexures A, A1, B, B1, C and D. Completed requests must be submitted to the Provincial Treasury on the dates as per the programme below. The formats will be electronically provided to the Management Accounting Unit within the CFO office.
34. Any challenges experienced with the completion of the Annexures must be taken up with the relevant Provincial Government Finance expenditure analyst, or in the case of revenue retention, with the relevant official in the Fiscal Policy unit.
35. To enable the Provincial Treasury to make informed decisions regarding departmental requests, Annexure A1 and B1, which includes, inter alia, explanations on the under spending, additional revenue and remedial steps instituted, must be fully completed and motivated. Any further supporting/additional documentation regarding the rollover requests may also be submitted with Annexure A1.

PROGRAMME

36. The programme for the roll-over and revenue retention process is as follows:

ACTION	DATE
Accounting officers to submit their requests for national conditional grant rollovers to Provincial Treasury per e-mail. This must include information on unspent transfers made to entities and implementing agencies from schedule 5 grants.	Monday, 25 April 2022
Provincial Treasury to submit requests for national conditional grant rollovers to National Treasury .	Friday, 29 April 2022
Accounting officers to submit their requests for all rollovers (national conditional grant rollovers included) and revenue retention .	Friday, 29 April 2022
Accounting officers to submit suitably adjusted and firmed up requests after preliminary closure of books.	Tuesday, 31 May 2022
National Treasury to communicate the outcome of national conditional grant requests.	Within 21 days of receipt of the project lists and the committed amounts
Provincial Treasury to finalise and communicate considerations of provincial requests.	As part of 2022 Adjusted Budget allocations or as per expedited request by Departments

37. Please note that the timely submission of votes' requests as per the programme is a legal requirement in terms of Treasury Regulation 6.4.2. Requests must be submitted under cover of a letter signed by the Accounting Officer or equivalent.
38. After the preliminary closure of the books on 30 April 2022, the 2021/22 financial results/position will be determined and requests must, if required, be suitably adjusted and firmed up by **31 May 2022**.

ACTIONS REQUIRED

39. Departments to note -

- (a) The guiding statutory limitations, principles and process for rollover and revenue retention;
- (b) National Treasury's annual Division of Revenue Circular regarding the rollover of unspent national conditional grant funds and information required on unspent transfers made to entities and implementing agencies, as attached.
- (c) The programme and formats to be used for submission of rollover and revenue retention requests.
- (d) Accounting Officers to note that the prescribed submission date as per Treasury Regulation 6.4.2 is on or before the last working day of April.

A PICK

ACTING DEPUTY DIRECTOR-GENERAL: FISCAL AND ECONOMIC SERVICES

DATE: 8 April 2022