



TO ALL : ACCOUNTING OFFICERS OF DEPARTMENTS
: ACCOUNTING AUTHORITIES OF PUBLIC ENTITIES
: CHIEF FINANCIAL OFFICERS
: HEADS OF SUPPLY CHAIN MANAGEMENT

**KWAZULU-NATAL PROVINCIAL TREASURY SCM CIRCULAR NO. 7 OF 2020/ 2021:
DEPARTURE FROM PUBLICATION OF BIDS AND BID AWARDS IN THE GOVERNMENT
TENDER BULLETIN: DEPARTMENTS AND PUBLIC ENTITIES**

1. PURPOSE

The purpose of this circular is to advise Departments and Public Entities on the interim measures to be followed to ensure compliance with the appeals process in line with National Treasury instruction note No. 12 of 2020/2021 as issued on the 24th of February 2020.

2. BACKGROUND

- 2.1. Section 217 (1) of the Constitution of the Republic of South Africa, Act 108 of 1996 states that "When an organ of state in the national, provincial or local sphere of government or any other institution identified in national legislation, contracts for goods and services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost-effective.
- 2.2. Treasury Regulation 16A6.3 (c) prescribes that "The accounting officer or accounting authority must ensure that bids are advertised in at least the Government Tender Bulletin for a minimum of 21 days before the closure, except in urgent cases when bids may be advertised for such shorter period as the accounting officer or accounting authority may determine".
- 2.3. Treasury Regulation 16A6.3 (d) prescribes that "The accounting officer or accounting authority must ensure that awards are published in the Government Tender Bulletin and other media by means of which the bids were advertised.
- 2.4. The KwaZulu-Natal Supply Chain Management Policy Framework of 2006, Section 19, prescribes a process where an entity (a department/ a bidder) aggrieved by the decision of a departmental Bid Adjudication Committee or a delegate of an accounting officer may appeal to the Bid Appeals Tribunal in a prescribed manner.
- 2.5. On the 15th of February 2021, the Acting Chief Procurement Officer received a formal communique from the Government Printing Works (GPW) indicating that GPW had



KWAZULU-NATAL PROVINCE

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run into technical difficulties from the 4th of February 2021, which made it difficult for the GPW to adhere to its mandate for advertising bid invitations and bid awards submitted by institutions in the Government Tender Bulletin.

- 2.6. Your attention is drawn to section 3 (3.1) (3.2) and (3.3) of the National Treasury instruction note No. 12 of 2020/ 2021 which details the departure as approved and issued by the Acting Chief Procurement Officer on the 24th of February 2021.
- 2.7. In light of the above information, Departments and Public Entities within the KwaZulu-Natal province are requested to utilise all available means of advertisement as stated in section 3.3 of the National Treasury instruction note No. 12 of 2020/ 2021, including, but not limited to departmental notice boards and local newspapers, and advise Provincial Treasury where **intention to award** bids has been advertised to allow Provincial Treasury to monitor and determine when to close off time allowed for appeals.
- 2.8. Intention to award advertisements must be reported to the Bid Appeals Tribunal Section at Provincial Treasury at **BATSecretariat@kzntreasury.gov.za**

3. APPLICABILITY

This circular applies to all departments, and public entities within the province of KwaZulu-Natal.

4. DISSEMINATION OF INFORMATION CONTAINED IN THIS CIRCULAR

Accounting Officers and Accounting Authorities must bring the contents of this circular to the attention of all Supply Chain Management practitioners.

5. EFFECTIVE DATE

This Circular will be effective from **the date of the signature** of the Provincial Treasury Head of Department.

6. CONTACT INFORMATION

Any enquiries in respect of this circular must be directed to: Ms Nomzamo Kubheka on (033) 897 4407 or nomzamo.kubheka@kzntreasury.gov.za.

Mrs N. Shezi

Acting Head of Department

Date: 05 March 2021



TO ALL: ACCOUNTING OFFICERS OF DEPARTMENTS
ACCOUNTING OFFICERS OF CONSTITUTIONAL INSTITUTIONS
ACCOUNTING AUTHORITIES OF SCHEDULE 3A AND 3C PUBLIC ENTITIES
HEAD OFFICIALS OF PROVINCIAL TREASURIES

NATIONAL TREASURY INSTRUCTION NO. 12 OF 2020/2021

DEPARTURE FROM PUBLICATION OF BIDS AND BID AWARDS IN THE GOVERNMENT TENDER BULLETIN

1. PURPOSE

- 1.1 The purpose of this instruction is to provide a directive to accounting officers of departments and constitutional institutions, and accounting authorities of public entities listed in Schedule 3A and 3C to the Public Finance Management Act (PFMA), 1999 (Act No. 1 of 1999) regarding:
- 1.2 Government Printing Works' (GPW) inability to publish bids and bid awards in the Government Tender Bulletins (GTB); and
- 1.3 the interim measures to be followed until such time that the Government Printing Works is able to publish Tender Bulletins.

2. BACKGROUND

- 2.1 Section 217(1) of the Constitution of the Republic of South Africa, Act 108 of 1996 states that "When an organ of state in the national, provincial or local sphere of government, or any other institution identified in national legislation, contracts for goods and services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost-effective.
- 2.2 Treasury Regulation 16A6.3(c) prescribes that "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.

- 2.3 Treasury Regulation 16A6.3(d) prescribes that “The accounting officer or accounting authority must ensure that awards are published in the Government Tender Bulletin and other media by means of which the bids were advertised
- 2.4 In February of 2021, OCPO became aware of a number of challenges experienced by institutions when attempting to publish bid advertisements or bid awards in the GTB as prescribed in the Treasury Regulations.
- 2.5 The Acting Chief Procurement Officer received formal communique from the GPW, dated 15 February 2021, indicating that GPW had run into technical difficulties from the 4th of February 2021, which made it difficult for the GPW to adhere to its mandate for advertising bid invitations and bid awards submitted by institutions in the GTB. Furthermore, the GTB indicated that it currently has a backlog of advertisements that need to be published and requested the Acting Chief Procurement Officer to consider:-
- a. “a waiver to bypass gazetting some of their notices with GPW prior publication whilst GPW's eGazette system is offline;
 - b. alternative platforms to publish their notices and tenders whilst GPW's eGazette system is offline.”

3. APPROVED DEPARTURE

- 3.1 In line with section 79 of the PFMA, the Acting Chief Procurement Officer has approved a departure from the provisions of Treasury Regulation 16A6.3(c) and 16A6.3(d), in as far as they relate to the publication of bid advertisements and bid awards in the GTB only. Institutions are therefore advised that advertisement period indicated in Treasury Regulation 16A6.3(c) must still be complied with.
- 3.2 In the interim, accounting officers/ authorities must utilise the eTender Publication Portal, and where deemed necessary, the institutional website or any other means until GPW is able to publish bid advertisements and bid awards in the GTB.
- 3.3 The **departure applies from 04 February 2021** until such time as the Acting Chief Procurement Officer of the notifies institutions of the withdrawal of the approved departure.

4. APPLICABILITY

This Instruction applies to all departments, constitutional institutions and public entities listed in Schedule 3A and 3C to the PFMA.

5. EFFECTIVE DATE

This National Treasury SCM Instruction takes effect from date when technical challenges occurred as per paragraph 3.3 of this instruction.

6. DISSEMINATION OF INFORMATION CONTAINED IN THIS TREASURY INSTRUCTION

6.1 Accounting officers of departments and constitutional institutions must bring the contents of this Instruction to the attention of all:

- a) Chief Financial Officers and supply chain management officials of their respective departments and constitutional institutions
- b) Accounting authorities of public entities reporting to their executive authorities.

6.2 Heads of provincial treasuries are requested to bring the contents of this Instruction to the attention of all accounting officers, chief financial officers and supply chain management officials in their respective provincial departments.

6.3 Accounting authorities of Schedule 3A and 3C public entities must bring the contents of this Instruction to the attention of Chief Financial Officers and supply chain management officials of their respective public entities.

7. AUTHORITY FOR THIS INSTRUCTION

This National Treasury SCM Instruction is Issued in terms of section 76(4)(c) of the Public Finance Management Act, 1999.

8. CONTACT INFORMATION

Enquiries related to this Treasury Instruction may be directed to:

Office of the Chief Procurement Officer

E-mail: cpo@treasury.gov.za



ESTELLE SETAN
ACTING CHIEF PROCUREMENT OFFICER
DATE: 24-Feb-2021